

# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Bond funds, bulk purchase could boost Maryland program

ANNAPOLIS, MD — Maryland Natural Resources Secretary John Griffin announced in November a plan to use bond funding to purchase easements en masse on Maryland's eastern shore, a major initiative that could move the state's farmland preservation program years ahead and beyond a funding void that has crippled acreage protection since the state's 1991 budget crisis.

The Maryland Agricultural Land Preservation Foundation has been included in talks to develop the bond proposal that will be drafted into legislation and introduced to the General Assembly when it convenes this month, according to Program Open Space director H. Grant Dehart.

"The Foundation is a partner in the proposal and has been at all the meetings," Dehart said.

Maryland's farmland preservation program, administered by the Agricultural Lands Preservation Foundation, operates out of the Department of Agriculture, but the majority of its funds come through the Department of Natural Resources' Program Open Space. The state's real property transfer tax provides funding to Program Open Space, 14.5 percent of which is allocated to the Foundation.

Griffin told a surprised audience at an awards dinner in Easton that a prioritized bulk purchase — perhaps hundreds — of easements, at one time, would not only save money, but that bond funds would provide better financial security for the farmland preservation program, whose funds

*please turn to page 2*

## Florida group sets up incentive-driven stewardship plan

BOCA RATON, FL — Landowners and large agricultural producers in Florida are the driving force behind a major initiative to protect natural resources on private lands by generating cost savings through regulatory streamlining and through changing the federal government's strategy for land protection.

The initiative, drawn up by the the newly formed Florida Stewardship Foundation and directed by former American Farmland Trust consultant Craig Evans, grew out of a federal project to preserve the habitat of the Florida panther on private lands.

"We did an economic analysis for the panther habitat and found the average cost of managing

public land in south Florida was \$30 an acre per year," Evans said, adding up to \$30 million a year for the one million acres targeted for purchase by

*please turn to page 4*

Volume 6, Number 3

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### inside this issue ...

- Wisconsin program rewards ag zoning ..... p.4
- Mass. watershed program spurs land protection ..... p. 4
- Review of new state takings laws ..... p. 5
- Legislative briefs ..... p. 6,7

## Bond initiative could rejuvenate ailing Maryland program

*continued from page 1*

were raided in 1991 and 1992 to help make up for deficits in the state general fund. Funds encumbered for debt retirement would be far less likely to be diverted, Griffin said.

The eastern shore initiative would serve as a pilot project that could be repeated in other important agriculture regions in the state, according to Dehart, who said the bond initiative has the support of Gov. Parris Glendening.

"The governor's been fairly interested in the proposal and is now waiting for the details," Dehart said. "We're trying to get the essential elements agreed to by the natural resources community and agencies and the farm community and agencies in the next few weeks, and to convert them as quickly as possible into a bill."

The Department of Natural Resources will meet some of its own objectives through the initiative, according to Dehart, since much of the land area being targeted includes waterfowl habitat. "We also have a considerable number of wildlife areas and state parks," in the region, he said.

It was during the state's 1991 fiscal crisis that Griffin, then deputy secretary of the Department of Natural Resources (DNR), first suggested that bond funding be used to purchase easements quickly during the recession, thus likely protecting more land with a smaller commitment of money, "but [the idea] was blocked because of the debt affordability problem," Dehart said.

Griffin's renewed proposal, and its implications for the eastern shore, came as a shock to most persons attending a dinner hosted by the Eastern Shore Land Conservancy, according to Gail Owings, a member of the Conservancy board and administrator of the Kent County farmland preservation program. "It was such a surprise to everyone," she said.

The plan could involve channeling funds to the Conservancy, which could purchase the easements using installment purchase agreements (IPAs), according to Dehart. If that option is carried through, it will be the first time a state has used the purchase method and the largest program through which it would be offered.

Currently, only four localities use installment purchase agreements for easement acquisition:

### Maryland farmland program

**Funding source: real estate and ag. transfer tax**  
**FY 1996 budget: \$10 million**  
**FY 1990 budget: \$28.3 million (program's peak)**  
**Acres preserved from FY 1986-1990: 61,535**  
**Acres preserved from FY 1991-1995: 23,441\***  
**Cumulative total, acres preserved: 117,319**  
**Cumulative total, number of farms: 809**

\* approximate figure

Howard and Harford Counties in Maryland, Virginia Beach, Va., which has just begun purchasing easements, and Peninsula Township in Michigan, also a newcomer to IPAs. Howard County has committed \$47 million in acquisitions using installment purchase agreements, according to Daniel P. O'Connell, of the firm Evergreen Capital Advisors Inc., and originator of the method.

In installment purchases, landowners are paid annual tax-free interest on the sum of the easement sale, for a period of 20 to 30 years, after which the principal is paid, thereby deferring capital gains tax. In Harford County, where farmers can choose either installment purchase or the traditional lump sum payment, installment purchase is by far the method of choice.

The Eastern Shore Land Conservancy's organizational strength and its legwork in identifying the region's important land resources was a major factor driving the Griffin initiative, according to Dehart.

Established in 1990, the Eastern Shore Land Conservancy has protected 12,715 acres of farmland and natural areas on 47 properties in five counties, mostly through donated easements, according to director Rob Etgen. Two and a half years ago, the conservancy began "to take a regional look, to target the most important resources," in order to be more strategic in carrying out its preservation goals, Etgen said.

The result was the designation of an "agricultural security corridor" of 400,000 acres across five counties that Etgen calls "the upland or crest of the Delmarva... it's a fairly consolidated and consistent

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*Maryland initiative, from previous page*

belt of Class I and Class II soils. It's really the heart of our agricultural production," Etgen said.

The region takes in a large part of Kent County, parts of Queen Anne's, eastern Talbot, all of Caroline County, where close to 19,000 acres are already preserved, and northeastern Dorchester County.

The Conservancy believes the area should be targeted for preservation using criteria that go beyond the established repertoire of the state program: while development pressure is present, natural resource importance is also a factor as well as whether there is already significant preservation underway.

The eastern shore is the breadbasket of the state's agricultural economy: it is the top producer of wheat and soybeans; the upper shore produced 43 percent of the state's total corn for grain harvest in 1994 and 48 percent of the state's total fresh commercial vegetables.

But despite the buffer the Chesapeake Bay provides between the region and the state's population centers, the eastern shore is under threat not only from sprawl generated by Baltimore and Washington, but also from population centers in Delaware, where growth is currently intense and where no agricultural zoning has yet been established.

And, nowhere else in the state is highly productive agriculture as prevalent over so large a contiguous critical mass of land as on the eastern shore, a region just slightly behind the curve of the proliferating sprawl that has devastated other important agricultural communities on the state's massive urban fringes.

Yet, targeting one part of the state to benefit from the first major preservation initiative in years isn't everyone's idea of a boon to farmland preservation goals.

Wayne C. McGinnis, vice chairman of the Maryland Agricultural Land Preservation Foundation Board of Trustees, said he favors a bond issue to boost the state program, but not to protect any particular area of the state.

"There are important areas throughout the state, areas close to population centers, that are equally important ... this initiative would [undermine] the program. The intent is good but the

results won't be for the good of the whole state program," McGinnis said.

The Foundation Board of Trustees has not yet met to discuss the initiative, according to McGinnis.

Contact: Grant Dehart, (410) 974-3581; Rob Etgen, (410) 827-8056; Wayne McGinnis, (410) 357-5969.

## Putting private stewardship to work in Florida

*continued from page 1*

the U.S. Fish and Wildlife Service at a purchase price of about \$1 billion.

"We're penalizing landowners and driving with the brakes on," Evans said, explaining that the Foundation's proposal is to keep the land in private ownership and use the proposed acquisition funds to pay landowners for maintaining the habitat.

"We're trying to create a new environmental ethic based on private stewardship," Evans said, that will create a strategy that moves away from "the regulation, legislation cycle" of most organizations and work instead on changing a market economy based on real estate development as the best use of land.

"Every acre in Florida, including wetlands, has a density assigned to it. We need to value land differently," Evans said. "If we pay landowners for habitat management, suddenly those activities have value."

One initiative that has inspired the effort was carried out by a member of the Foundation board of directors whose citrus company worked on consolidating the hundreds of environmental regulations from OSHA, EPA, and the Army Corps of Engineers. The effort resulted in a draft plan that was approved by the agencies that will create a cost savings to the company of \$1 million per year over the 20-year period of the plan.

The company will use part of the savings, Evans said, to fund conservation practices on thousands of acres of orange groves. "They will turn around and put \$10 million more into conservation practices that would have gone to lawyers and consultants fees. So, the public will save money and get more

*please continue to page 4*

## Habitat protection led to landowner, stewardship initiative in Florida

*continued from page 3*

environmental benefit," Evans said.

Most Foundation board members are agriculture and forestry landowners, all committed to stewardship, Evans said. That's the most vital element in creation of the organization, one that will give it political power and grassroots growth as well, he said.

"The crafting of the mission and purpose was carefully done to address the issues of private farm and forest owners and have the environmental community come back and say 'this makes sense,'" Evans said.

Evans' work with the AFT during an effort in Palm Beach County in 1993 to create a Purchase of Agricultural Conservation Easements (PACE) program, convinced him that more was needed to deal with the complex issues of land stewardship in Florida. In addition to the effort to establish a PACE program, which ultimately lost to political strife, the panther habitat project took a lot of his time.

"We thought of paying landowners to provide habitat. Along with that, we became involved in the Florida initiative to develop an ecosystem management program. Twelve committees did the strategy [for the program] and one recommendation in the June draft report was to create a stewardship program as an alternative to a regulatory program, recognizing that private ownership would have to deal with landowners."

The Florida Stewardship Foundation, which received its nonprofit, tax-exempt status in November, will work to create a statewide coalition of agriculture, forestry, government and conservation interests "to pursue a new environmental ethic that will recognize private property rights, be inclusive of all interests and rely on common sense solutions and incentives to promote private stewardship of natural resources," according to its statement of purpose.

Contact: Craig Evans, (407) 995-1474.

### etcetera ...

#### Wisconsin program rewards farmers for ag zoning

*Madison, Wis.* — About 23,900 Wisconsin farmers received a total of \$31.4 million in tax relief through the state's Farmland Preservation Credit Program in 1995, according to state revenue secretary Mark Bugher.

The circuit breaker tax relief, which establishes tax burden based on household income, is given to farmers whose land is restricted by agricultural zoning, or, where local governments do not have agricultural zoning, to farmers who have restrictive agreements with the state. Soil and water conservation practices are also required.

About 83 percent of those claiming farmland preservation tax credits, do so under local zoning qualifications rather than agreements with the state. Thirty-two of the state's 72 counties, as well as 391 towns and 36 cities and villages have exclusive ag zoning. An estimated 38.8 percent of all Wisconsin farmers claimed tax credits under the Farmland Preservation Credit program receiving benefits averaging \$1,317 per claimant.

Exclusive agricultural zoning minimum standards require a 35-acre minimum parcel size and prohibit construction of non-agricultural structures. A rollback penalty requires a payback of the preceding 10 years of credit for lands removed from the program for rezoning, but since 1993, only about 10 percent of the 1,900 agreements that have expired fall under the payback requirement.

The penalty once applied to all properties removed from enrollment, but that policy was rescinded by the legislature in 1993, the same year it was reported that over the preceding 12 months about 10,000 acres had been lost from the program through 775 rezonings. A total of 58,675 acres (out of 6.6 million acres covered under the program) had been lost to rezonings since the program's start in 1977. Contact: Kate Lawton, (608) 224-4621.

#### Aggressive Mass. watershed program acquiring land

*West Boylston, Mass.* — Protecting the drinking water of half the population of Massachusetts is the goal of a land acquisition initiative backed by a steady flow of funding from a \$130 million bond issue and a good track record: 9,000 acres already purchased in a prime

reservoir watershed and 100 more properties in the pipeline, according to program director James French of the Metropolitan District Commission.

"This is an aggressive land acquisition program that's going rather well," French said of the program that uses fee simple as well as conservation easements. "We purchased 1,500 acres last year and we're hoping to top 2,000 this year," he said.

The goal is to purchase 15,000 acres over the next 13 years, particularly targeting the watershed of the Wachusett Reservoir located north of Worcester at West Boylston. The Wachusett is one of two "on-line" reservoirs for eastern Massachusetts. The other is the massive Quabbin Reservoir that stretches through the center of the state in a more rural area east of Amherst.

The 1992 Watershed Protection Act prohibits any building as well as any storage of hazardous materials within 400 feet of the reservoirs and within 200 feet of tributaries and surface waters. Restrictions only affect the portion of a property within the buffer zones. Priority areas are targeted for fee simple acquisition while areas less critical are targeted for conservation easements. Since the program began acquisitions in 1986, more than 500 building rights have been retired from the critical areas.

Most of the land the program acquires in fee simple is not in active agricultural use, French said, and the program prefers it that way. "We discourage agriculture, particularly dairying," he said, because protecting a reservoir can't mean protecting chemical application to crops and animal waste runoff, he said. A few farms that have sold development rights to the state Agricultural Preservation Restriction Program are within the target areas, and French has discussed with APR director Rich Hubbard about possible collaboration, but "our missions are quite different."

Watershed protection initiatives must work with land uses in place, French said, referring to an initiative in New York, where New York City is providing funds for improved farming practices that curb runoff into the city's reservoirs, which are nestled in the Catskills amid dairy farms (see FPR, Oct. 1995). But "given the choice between dairy farms and subdivisions," watershed protection advocates would choose the latter, French said.

In Massachusetts this perspective is politically "affordable," French said, even with the operation of the farmland preservation program, because agriculture in Massachusetts is not as prevalent a use or as large a segment of the state economy as in New York. *Contact: Jim French, (508) 835-4816.*

### Property rights movement

## New laws nationwide could give boost to takings claims

Twelve states established new takings laws in 1995, and two states, Oregon and Washington, turned back the property rights movement by veto and by voter referendum, respectively. Other states failed to act on takings bills and may reintroduce them.

According to a survey by the National Conference of State Legislatures, new takings laws will require governments to either assess the implications and costs of new regulations before issuing them, or compensate landowners for reductions in property value resulting from a regulation, or, alternately, revise the law. Some states took both of these approaches.

In Oregon, one of the nation's most progressive states in land use planning, the governor vetoed a heavy-handed law that would have required compensation for any reduction in property value. Next door, the voters of Washington decided a takings bill passed by their legislators was not a good idea for a state that has also been progressive in growth management.

Many other states, including Pennsylvania, New Jersey, Massachusetts and New York, have stalled in moving takings legislation that was introduced last year.

### Oregon

In Oregon, the governor vetoed Senate Bill 600, which defined an "ecotake" as a government action that restricts property in order to protect an "eco resource" such as scenic areas, open space or wetlands.

The bill authorized a landowner to seek compensation in the form of a tax credit in the amount of the compensable loss of property value. Compensable loss in value was defined as the amount of reduction in property value minus 10 percent or \$10,000, whichever is less.

In response to claims, Oregon state and local agencies had several options: counter that an "ecotake" has not occurred; agree to pay; agree a taking has occurred but dispute the amount re-

## Planning states headed off takings bills

*continued from page 5*

quested; or, rescind the regulation. Binding arbitration was the final step where no agreement could be reached.

Advocates for Oregon's land use planning law had their hands full last legislative session with several bills that threatened the progress of planning goals created in 1973. But S.B. 600 was a matter of concern to 1000 Friends of Oregon, according to spokesman Kevin Kasowski.

"It wasn't our top priority, but we did what we could to work with other groups," opposed to it, he said. The bill passed by a tight margin in a legislature now dominated by the GOP for the first time in 40 years.

### Washington

In Washington, Initiative 164 became Referendum 48 in November following a petition drive by a number of groups with interests in environmental and community protection.

Last spring local governments in Washington were having a difficult time determining how Initiative 164 would affect implementation of the state's Growth Management Act, which requires most localities to plan for protection of natural resources including farmland. Localities that had not yet completed their plans feared the nature of zoning itself would conflict with the takings law. Planners at the state Growth Management Division predicted the law's effects would have to be sorted out in the courts.

The law would have required state or local government entities to pay full compensation for the reduction in property value resulting from land use restrictions and would have prohibited issuing of any further regulations of private property without first preparing a complete economic impact analysis.

But various environmental and public interest groups decided to petition to put the initiative on the Nov. 1995 ballot, and the gamble paid off: 60 percent of voters agreed Initiative 164 was an unreasonable burden on the public interest.

"It was a pretty definitive vote," said Nick Turnbull of the Growth Management Division. "I think everyone recognized the unworkability of [the law]," he said.

### Pennsylvania

In the Pennsylvania legislature, a takings bill rated as among the nation's most sweeping was introduced last March, and would require that any action that "has reduced or is expected to reduce the fair market value of any private agricultural property or other private property to less than 90% of the fair market value" would constitute a taking unless the agency could demonstrate the action was needed to protect public health and safety. Local government officials believe it

## legislative and program briefs ...

**In Pennsylvania ...** Sen. David J. Brightbill will introduce a resolution calling for the formation of a task force to study sprawl and to recommend ways to help contain it, according to a staff spokesperson. ... Lancaster County has exceeded 20,000 acres preserved and has scheduled a reception to take place in late March.

**In Maryland...** A move to merge the Maryland Environmental Trust with the state Department of Natural Resources in December was scratched. The move was strongly opposed by the MET Board of Trustees, as well as land trust professionals who said landowners prefer MET's autonomous nature to a bureaucratic system for negotiating and for holding conservation easements. Some negotiations were said to be in jeopardy by the move ... County program administrators continue to analyze the effects of a recent change in funding allocations that result in some counties losing matching funds ... The Baltimore County Planning Board has proposed a downzoning in the county's RC-4 zone, from one building right per five acres to one per 50, the density now allowed in the county's agricultural RC-2 zone. The rezoning, opposed by the county's farm bureau, would affect 12,000 acres and reduce the number of building lots from 2,400 to 240. The innovative but ill-fated RC-4 zone, which required clustering, has been opposed by communities where clustered subdivisions were proposed. *Contact: John Bernstein, (410) 337-6877.*

**In Arizona ...** Two counties are testing a water availability component for the Land Evaluation and Site Assessment system. Cochise County may become the first Arizona county to adopt LESA, according to Arizona State professor Fritz Steiner. Steiner, along with Jim Pease and Robert Coughlin, have recently completed an updated LESA Guidebook which will soon be published by the Soil and Water Conservation Society. *Steiner, (602) 965-7167.*

**In Wisconsin ...** AB 669 would require a local government to approve a petition for rezoning from agricultural use if 1) the parcel is less than 35 acres, and therefore ineligible for the state farmland preservation tax credit; or 2) the owner

has been eligible for the tax credit for three consecutive years because he produced less than \$6,000 in gross farm profits during each of those years. Farmland rezoned under these provisions would not be subject to the tax credit payback. *Contact Kate Lawton, Dept of Agriculture, Trade and Consumer Protection, (608) 224-4634.*

**In Utah ...** Legislation has been prepared that will change the state Soil Conservation Commission to the Land and Water Conservation Commission as well as appropriate \$350,000 for the restructured commission to make grants to localities and nonprofits for preservation planning. Two counties, working with local land trusts, are ready to apply for the funds. *Tani Downing, (801) 538-1032.*

**In Delaware ...** The newly funded program, established in 1991, will complete its first easement this month.

**In Minnesota ...** Rep. Myron Orfield is set to reintroduce legislation to create property tax revenue sharing that could reduce incentives to approve sprawl-type residential development. Last year the governor vetoed the Orfield bill, which had wide bi-partisan support. Orfield, (612) 296-9281.

**In Oregon ...** 1000 Friends of Oregon, after a tough year in the legislature defending the state's planning law, is working to develop a stronger grassroots network around the state, particularly working with farmers, who unlike in many states, favor land protections. "The majority within the farm bureau want land use planning," said Kevin Kasowski. Oregonians in Action, a property rights group, "got miffed because the farm bureau opposed a lot of their bills," he said.

**In New York ...** \$2 million has been designated for combatting non-point source pollution, as well as \$2 million for farmland protection.

**In Congress ...** The Farms for the Future act amendments now have 53 co-sponsors, according to the American Farmland Trust.



### **Takings legislation, from preceding page**

would have a dramatic and far-reaching impact on land use (see FPR, May 1995).

The bill, S.B. 805, remains in the Senate Environmental Resources and Energy Committee, whose chairman, David J. Brightbill, is an advocate of land resource protection, and will introduce a resolution to create a task force to study the effects of sprawl

The bill "attracted a lot of attention and hasn't gone anywhere," said Terry Fitzpatrick, counsel to the committee. The bill is strongly supported by a statewide coalition of business interests, but its opponents claim many provisions in the bill are unconstitutional. The bill's sponsor, Republican Sen. Roger Madigan, "had an outside counsel looking at it to remove some of the more strident objections," Fitzpatrick said.

### **New Jersey**

A hearing on SB 1935, a bill to require payment when regulations reduce land value by 20 percent or more, "was very long and very contentious," according to a staffer with the Senate State Government Committee, where the bill remained at session's end. The bill, which focuses on environmental regulations, particularly wetlands and coastal protections, was not amended. It could be reintroduced this session.

### **Virginia**

Among the more tame bills passed, Virginia's Senate Bill 1017 requires the Department of Planning and Budget, in its economic impact reports, to analyze how a proposed state agency regulation will affect the use and value of private property.

### **Florida**

House Bill 863 provides judicial relief for property owners affected by a state or local government action that restricts the use of real property in a way that blocks reasonable, investment-backed expectations of returns, or, that places a disproportionate share of the burden on the landowner in protecting the public good. Government actions pursuant to federal law are exempt.

### **Idaho**

In 1994 the legislature passed a law that required state agencies to evaluate proposed regulations to assure they didn't constitute a taking. In 1995 the legislature extended that requirement to local governments as well.

Other states that passed takings bills are Montana, North Dakota, Mississippi, Kansas, Wyoming, Louisiana, Arizona and Texas.

*(See resources section for a guide on takings law.) Contact: Larry Morandi, the National Conference on State Legislatures, (303) 830-2200.*

## resources ...

### Books and Publications

#### **Zoning for Farming: A Guidebook for Pennsylvania Municipalities on How to Protect Valuable Agricultural Lands**

**The Center for Rural Pennsylvania**  
A report on agricultural zoning in Pennsylvania conducted by Stan Lembeck at Penn State and written by Robert Coughlin a few years ago has been published by the Center for Rural Pennsylvania in an attractive booklet format with graphics and photos. The report covers the issue of farmland loss in Pennsylvania, elements for successful farmland protection at the local level, and how to develop an ag zoning ordinance. Expansive appendices provide sample ordinances and lots of useful data. Call the Center at (717) 787-9555.

#### **Takings Law in Plain English** by Christopher Duerksen and Richard Roddewig

**American Resources Information Network, 1994, 45 pp. Free.**

Duerksen and Roddewig, both with the progressive land use consulting firm of Clarion Associates in Denver, put together this important and readable report. Roddewig co-authored a popular report several years ago on TDR for the APA Planning Advisory Service. Call the Network at (202) 846-2746.

#### **Land Use in America**

**Henry L. Diamond and Patrick F. Noonan**  
**Island Press, 340 pp, \$26.95**

According to Island Press, this book by two heavy hitters in the land use arena, "is intended to help communities throughout the country accommodate growth in better, more environmentally sound, more fiscally responsible ways." The authors review land use over the past 25 years and "take a hard, even-handed look at why so little real progress has been made during a period of extraordinary gains in other environmental

areas." The book also contains contributions from Douglas Wheeler, William K. Reilly, Christopher Leinberger, Jean Hocker, and others on such topics as ecosystem management, science and the sustainable use of land and the private property rights issue. To order, call 1-800-828-1302.

### Conferences & Workshops

**Feb. 14, Gaithersburg, MD:** Agricultural Business Marketing Conference, sponsored by the Montgomery County Office of Economic Development, workshops will include a special session for local officials on the benefits of agricultural marketing programs. Earl Small, Chief of Marketing at the Maryland Dept. of Agriculture is the keynote speaker. A spokesman from Central Md. Farm Credit will also be a speaker. Cost: \$25 if pre-registered by Feb. 9, \$30 at the door. Includes breakfast, lunch and materials. Conference begins at 7:30, ends at 4 p.m. Program flier available by fax. Contact Jeremy Criss, (301) 217-2345.

**Mar. 31 - Apr. 2, Baltimore, MD:** *Rally II: Working for America's Real Places*, sponsored by the National Coalition for Heritage Areas. The coalition works to promote the concept of heritage areas and to assist local or regional efforts striving to protect places of historic and cultural interest. Conference sessions will look at current heritage area legislation in Congress, lessons from grassroots efforts, marketing and promoting heritage areas, creating trails, and building partnerships. Call Sarah Polster at (202) 673-4204.

**April 26-27, San Francisco:** 3rd Annual "Putting Our Communities Back on Their Feet" a western U.S. conference on land use planning issues produced by the Local Government Commission and sponsored by 120 organizations. The focus is on pedestrian and transit-oriented, compact, mixed use development and growth strategies for 13 western states and British Columbia. Executive summaries from the two preceding conferences are available. Contact Michele

Kelso at (916) 448-1198. The LGC is a California nonprofit, nonpartisan organization of local elected officials.

**May 18 - 23, State College, PA:** *The 6th International Symposium on Society and Resource Management*, hosted by Pennsylvania State University Department of Agricultural Economics and Rural Sociology. Will focus on the usefulness of the social sciences to natural resource decision makers and managers. For information contact A.E. Luloff, (814) 863-8643.

**Summer 1996, Burlington, VT:** The University of Vermont is sponsoring its second two-week Land Conservation Program in late July and early August that consists of short courses, workshops and a two-day conference for students, professionals and others in the land conservation community. Dates to be announced. Workshops on site assessments and resource inventories, conservation easements, land stewardship and management; courses in ecology and field science, land conservation aims and methods, ecological restoration; a two-day conference on the effects of fragmentation of working and natural landscapes and developing solutions through linkages and partnerships. To receive the official program announcement, call (802) 656-4055 or send name, address and phone number to Summer Land Conservation Program, Environmental Prg., Univ. of Vermont, 153 South Prospect St., Burlington, VT 05401.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Farmland preservation initiative in Ohio gaining strength

MEDINA, OH — An initiative to build support for farmland preservation at the local and state level in Ohio is gaining momentum and spurring interest in the purchase of development rights. Spearheaded by the Ohio State University Extension in Medina County, the effort has already grown to include major environmental interest groups that have a stake in land preservation.

A series of public meetings will take place this month to introduce the concept of PDR and discuss the need for farmland preservation, according to Medina County Extension agent Joe Daubinmire, who is coordinating the meetings in a state where planning and zoning has not made farmland protection a priority.

The meetings are sponsored by the Ohio Farm Bureau, the Natural Resources Conservation Service and the Soil and Water Conservation District, as well as the OSU Extension.

Daubinmire, who attended an AFT-sponsored conference for PDR program administrators in New York last fall, said he is concentrating on convening a task force to study PDR and to generate interest in the legislature.

Daubinmire's effort began when Ohio State University obtained through bargain sale a 1500-acre property in Bath Township, Summit County. Township officials and citizens became worried

*please turn to page 3*

Bucks County, Pa.

## Townships plan to use PDR programs to curb school costs

DOYLESTOWN, PA — Five townships in Bucks County, Pennsylvania have either committed or could commit local funds of between \$1.2 million and \$4 million to boost farmland preservation efforts in their localities. The township-level efforts would add more than \$10 million to Bucks County farmland preservation over the next several years.

Such local efforts are unique in the state, according to Rich Harvey, administrator of the state farmland preservation program in Bucks County.

According to Harvey, the township initiatives are driven by soaring school construction costs and a realization that purchasing easements, or even purchasing land outright, is a cost-effective way to control school populations and curb the cost of

development.

"It was never an issue until school taxes were so great ... that was the spark, the school issue.

*please turn to page 2*

Volume 6, Number 4

February 1996

### inside this issue ...

Oregon land use statutes on shaky ground .....	p. 6
TDR active in Manheim Township .....	p. 4
Howard Co. IPA program due to close shop .....	p. 5
Suffolk Co. NY program still the same - slow .....	p. 4
Legislative briefs .....	p. 6,7

## Township officials take a lesson from state PDR program

*continued from page 1*

The underlying theme is, it costs more to build the schools than to preserve the land," Harvey said.

Township managers have been talking with Harvey about the purchase of development rights for the last few years, but Harvey said he has made it clear that the state farmland preservation program was not designed to be a growth management technique.

But at the township and school district level, local officials have taken a lesson from the purchase of development rights, and believe that some extra money applied to the right places can achieve more than the preservation of a farm operation.

According to Ray Stepnoski, chairman of the board of supervisors of Buckingham Township, last year a school district comprised of seven townships examined the possibility of seeking legislative authority for school districts to purchase easements, or, to purchase land in fee simple as a way to control school construction needs.

Buckingham Township, two-thirds of which is still farmland according to Stepnoski, is establishing a local purchase of development rights program backed by voter approval last fall of up to \$4 million to fund it; and, a transfer of development rights (TDR) program already seeing activity.

Public support for farmland preservation in Buckingham Township was stronger than township supervisors predicted when they prepared ballot language. A "PR" meeting before the election revealed support for more than twice the \$4 million they had written into the ballot language.

"People wanted \$8 to \$10 million, so we may go back for more," Stepnoski said.

The board will likely obtain the \$4 million through bond issue, then work with farmers on how best to finance the purchases. Installment purchases will be examined, Stepnoski said. The township has already committed to one easement purchase.

Next door to Buckingham Township, Solebury Township supervisors recently voted to place on their upcoming April ballot a referendum also calling for up to \$4 million for farmland and open space acquisition and the purchase of development rights, according to Tim Brought, township man-

ager. Supervisors there took a cue from Buckingham, and are optimistic about passage, Brought said.

Another nearby township, Warrenton, last spring passed a bond referendum calling for \$1.2 million to be used for farmland and open space preservation; Wrightstown Township will use \$1.5 million; another township, Plumsted, may also be committing funds, according to Rich Harvey.

"I guess in the next year or two they will try to develop plans on what they want to preserve," said Rich Harvey. The efforts will create mutual benefits for both the townships and the county, he said. "If we pick the farm, we could go to the township to ask if they'd be willing to pay a portion," but only counties can use matching funds from the state, Harvey said. "They could boost our offer or pay a percentage."

In addition to its PDR program, Buckingham Township approved a TDR program in August 1994 that allows rights to be transferred within the agricultural zone with use of clustering. Although transfers within the agricultural areas of the county are the TDR program's "down side," according to Stepnoski, he believes clustering minimizes the impact.

Clustering with TDR provides substantial density increases, as well as more flexible subdivision standards, including no minimum lot size. Sending parcels must be more than 25 acres and actively farmed. Several TDR transactions are underway.

Stepnoski said the Board of Supervisors, under the state's requirement of mixed housing, created an affordable housing district in which townhomes and apartments could be approved at a density of five per acre by right, or 15 per acre with TDR. But developers say townhomes at both of those densities would not be affordable, and have taken the case before the zoning hearing board, claiming the 15 unit allowance is an encumbrance and not a "by-right" allowance.

"This is a significant challenge to TDR, and that's the way we're treating it," Stepnoski said. *Contact: Ray Stepnoski, (908) 582-2953; Rich Harvey, (215) 345-3409; Tim Brought, (215) 297-5656.*

Ohio**Local enthusiasm could be makings of a state program***continued from page 1*

about potential development on the property and began to explore ways to preserve it. Daubinmire said purchasing an easement on at least part of the property is being considered.

Daubinmire, who has been promoting the concept of PDR, said several townships have asked him if their localities could be used for PDR pilot projects.

"From all our indications, Ohio is definitely ready for something," said Jeff Weingard, legal counsel and consultant for the American Farmland Trust. Weingard, and AFT state and local program director Bob Wagner will be featured speakers at the meetings. The Ohio effort is in an "exploratory" stage, Weingard said.

Preliminary results of a statewide poll commissioned by The Nature Conservancy show strong public support for preservation of farmland and open space, even if it means an increase in taxes, according to Scott Davis of The Nature Conservancy's Ohio field office.

"Ohio is the fifth most populated state. Open space is being chewed up fairly quickly and we wanted to see how people felt about it. The poll showed that the people of Ohio are about 10 years ahead of their elected officials," Davis said. Urban and rural land use planning were also topics of some of the questions in the poll, he said. Complete poll results were not yet available.

The Nature Conservancy's involvement in the Ohio effort was sparked when the chairman of the House Energy and Environment Committee asked TNC and other environmental groups what their priorities would be if money were available for environmental protection. The legislator's concern was that responsibility for environmental protection was shifting from the federal to the state government, and a strategy needed to be put in place to handle that.

Davis said the Committee's strategy would be to put an initiative on the ballot next November to amend the state constitution to allow "environ-

mental improvement" to be a fundable priority in Ohio, then to put forward legislation that would enable the state to issue bonds over 10 to 15 years to pay for environmental priorities. Thus the question: what's most important?

Ultimately, land preservation. The Nature Conservancy's mission is species protection, a goal that is met largely by preserving land, which also can protect water. And watershed protection can be met by keeping land in agriculture, Davis said.

One of TNC's projects in Ohio is protecting the Darby River watershed west of Columbus, which is still 85 percent agricultural. The river has 86 species of fish.

"Part of the reason these species are still there is because of the ag," Davis said. "Creeping urbanization is the threat ... so there's a lot of reasons why we'd like to see a farmland preservation initiative here in Ohio."

Land acquisition was the priority of other environmental groups, including Rivers Unlimited, Sierra Club, Audubon Society and the Ohio Environmental Council. Land protection has been discussed in terms of purchasing ecologically fragile lands, and of purchasing development rights on farmland, according to Davis.

"We're thinking of PDR, and also of environmental education and proactive pollution abatement," Davis said. Part of the reason the poll was conducted was to document public support for land protection in order to ward off an expected move in the legislature to use environmental funds to clean up hazardous waste, an intense state problem, according to Davis.

But growth management is also a problem in the state, where townships and counties are allowed, but not required, to establish rural zoning. In northeastern counties, strongly affected by growth from Cleveland and Akron, typical zoning allows one unit per five acres.

"The traditional political agenda is growth, growth, growth. There's no attempt to do long-range land use planning," Davis said. As the Cleveland and Akron areas grow into each other, voters are beginning to articulate a concern about the

*please continue to page 4*

## With public support behind them, activists seek strategy to put Ohio on road to PDR

*continued from page 3*

are beginning to articulate a concern about the quality of life and loss of open space.

Jamie Green of American Communities Partnership, a planning consulting group based in Columbus, said planning and zoning is a very mixed bag throughout the state. But the firm has found some localities that want help exploring farmland protection and innovative development design.

A case in point: Wayne County, adjacent to Medina, where a comprehensive plan update is underway and interest in farmland preservation is brand new, according to planning director Betsy Sparr. Sparr said the county's planning commission is eager to hear what the AFT has to say and wants to learn about PDR. Wayne County leads the state in production of hay, oats, and cattle.

A purchase of development rights program would have the support of the Ohio Farm Bureau, according to bureau legislative analyst Karl Gebhardt. According to Gebhardt, there has been interest in PDR for several years. Among the Bureau's activities is an investigation of funding and tax incentive programs that could augment PDR.

"The problem is funding. That's always a concern. I think we'd be better to start at the local level," rather than a statewide program, Gebhardt said. Another wrinkle is that state enabling law regarding conservation easements is unclear. It seems clear that localities can accept donated easements, but it is uncertain whether they can purchase them.

"It's simply a matter of sitting down and digging into the law. We're interested in promoting the concept [of PDR] as long as it's left up to the individual," Gebhardt said.

According to the state department of agriculture, Ohio ranks in the top five states in production of sweet corn, soybeans, tomatoes, celery, and eggs.

Contact: Joe Daubinmire, (216) 725-4911; Scott Davis, (614) 486-4194; Jeff Weingard, (810) 851-6839; Betsy Sparr, (216) 287-5420; Karl Gebhardt, (614) 249-2412.

### etcetera ...

**Original PDR program still operating, but slowly**  
*Hauppauge, L.I., NY* — In Suffolk County, New York, the nation's first PDR program continues to operate, although at a slow pace compared to other local programs nationally. In the last five years, easements have been purchased on just 600 acres, for a total of 6,600 acres preserved through the county and three town programs since the late 1970's.

"There was a lot of money spent at one time," said program assistant Roy Fedelem, but now the program is allocated minimal annual funds way out of scale with land values in this county just 15 minutes from New York City. Last year \$500,000 was appropriated and this year \$1 million, for a program that pays, in some areas, an average of \$20,000 per acre in easement value. As of last year, the goal is to eventually preserve 13,000 acres.

In 1979, when the program was new, \$21 million was appropriated for the program's first phase, in which \$9.6 million would ultimately be used to purchase easements on 3,213 acres, averaging \$3000 per acre.

Lee Kopelman, executive director of the county's planning board when the board proposed a farmland protection plan in 1968, is credited by local planners with creating the concept of purchasing development rights. Former County Executive John V.N. Klein appointed an advisory board and actively promoted adoption of the PDR plan in 1974. It was the first such program in the nation.

Suffolk is the state's top producing agricultural county with a market value of \$133 million in 1992. Fedelem, (516) 853-5192.

### TDR active in Lancaster County township

*Manheim Twp., Pa.* — A development plan that has tentative final approval will be using 40 building rights transferred from farmland in Manheim Township, north of the city of Lancaster, according to Jeffrey Butler, township manager.

And, another residential development plan could use 20 TDRs, purchased directly from farmland owners. The township itself has purchased 124 TDRs, which are also for sale on the open market. The two developments, which will use cluster designs, will add about 486 new units within the township's urban growth boundary.

"Since we adopted our 1989 cluster ordinance, 84 percent of all lots are either in cluster or PRD's, so innovative design is catching on," Butler said.

Manheim's 1990 population stood at 28,880, and is expected to increase by 31 percent by 2010. *Butler, (717) 569-6406 x4.*

#### Effects of sprawl to be addressed in NRC study

*Washington, D.C.* — A 15-month study to be undertaken by the National Research Council will focus on the role of governance in affecting urban problems including "urban spatial patterns," with the goal being to set up a Council research agenda.

"There is growing evidence that changes in governance are essential to addressing growing problems of concentrated poverty, suburban sprawl, and urban air and water pollution," said a summary of the study.

A panel will be convened to consider whether there can be a strategy to address problems associated with "a dispersed, racially and economically stratified agglomeration of communities that might best be described as unlimited, low-density sprawl." The question is whether new government forms, such as regional planning bodies, can address the complex problems associated with "spatial distribution" of populations.

Faith Mitchell of the NRC, who will be coordinating the study and selecting panelists, said the goal is to bring together experts from transportation, air quality, land use planning and related issues to find a common ground. Four workshops will be convened, resulting in a final report and commissioned papers. *Contact: Faith Mitchell, (202) 334-3352.*

#### Howard Co., Md.

## Nation's first installment purchase program closing

*ELLICOTT CITY, MD* — The nation's first program to purchase development rights using securitized installment purchase agreements is winding down to spend its last uncommitted bond funds: \$4.8 million remains from a \$55 million authorization.

Begun in 1988 to pull the county's easement program out of trouble with soaring land values, the program will close up shop when its last application cycle closes March 15.

"We've not aggressively advertised it, but the board has identified a dozen key properties, to make sure [the landowners] know we still have money. It would be nice to get a few of these," said program administrator Donna Mennitto. There is no move to replenish funding for the program.

"The whole intent [in 1988] was to buy now, quickly, before it's all gone," to the building boom, Mennitto said. The first IPA purchase occurred in 1990, however, just prior to the recession. The county has preserved a total of 16,181 acres to date.

The installment purchase method pays for development rights by providing tax-exempt interest payments over 20 or 30 years, then making a balloon payment of the principal. This allows farmers to defer capital gains tax and allows the government to settle on a greater number of farms more quickly.

When Howard's program closes, Harford County, Maryland will have the granddaddy of installment purchase programs, operating since November 1993.

Harford's program, funded through a local real estate transfer tax, has been constantly swamped with scores of applicants eager to take advantage of the annual tax-exempt interest payments, making it the most active local program in the nation with a dedicated and active funding source. The local program alone has preserved almost 9,000 acres in two years, in addition to 7,835 acres preserved with the help of state program funds, according to program administrator Dan Rooney. *Contact: Donna Mennitto, (410) 313-5407; Dan Rooney, (410) 638-3103.*

State planning**Court rulings, EFU zone troubles shake confidence in Oregon land use statutes**

**PORTLAND, OR** — Two recent court rulings could impact the effectiveness of Oregon's land use laws and will keep the state and land use planning advocates busy with legal work for the next few years, according to Blair Batson, staff attorney for 1000 Friends of Oregon.

Additionally, a recent report released by the state Land Conservation and Development Commission (LCDC) on residential building activity in the state's Exclusive Farm Use (EFU) zones shows a 30 percent increase over the last reporting period and the agency is unsure what the numbers mean in relation to last year's changes in program rules.

Together, these developments have created much anxiety regarding the state's land use planning statutes created in 1973 by the landmark Oregon Land Use Act, one of the few statewide planning acts in the nation with enforcement provisions.

In late January, the state court of appeals ruled in *Lane County v. LCDC*, that Lane and Washington Counties may operate under former statutes governing residential dwellings in EFU zones, effectively stopping LCDC's enforcement of new criteria requiring that new dwelling approvals on high-value farmlands show that the farm parcel produced at least \$80,000 in gross farm sales over the last several years.

While the ruling seems to affect only Lane and Washington counties, members of the private bar and 1000 Friends of Oregon believe it applies throughout the state.

"It could mean ongoing legal battles to settle this," said Blair Batson. "It's very serious... we hope we can get it narrowed to the two counties." Batson said the ruling is ambiguous in its interpretation of LCDC's rules, and perhaps because of that "it's unclear how broad the impact is."

Mitch Rohse, communications manager for LCDC, agreed it's hard to tell what the outcome will be. "It could be anything from the end of farmland protection to a minor blip in land use laws. Usually things are not as apocalyptic as predicted," but, he said, he expects "some damage." The LCDC will ask for reconsideration from the court of appeals, "then we'll take it to the state supreme court," Rohse said.

*Lane Co. v. LCDC* was a second blow to LCDC's confidence after another court decision in August first put in question the agency's powers.

In that case, *Brentmar v. Jackson County*, the state Supreme Court

## legislative and program briefs ...

**In Massachusetts ...** With just \$1.5 million remaining in its current budget, the Agricultural Preservation Restriction program is looking forward to an influx of cash from the governor's open space preservation bond money, which will net \$17 - \$20 million for the APR program, says Rich Hubbard. "That will keep us going for three years," he said. The program will soon settle on its 400th farm, and is approaching the 40,000-acre mark for preserved acreage.

**In Delaware ...** 44 farms were appraised for the first round of easement applications in the state program. Funding decisions will be made at the end of March, according to program assistant Stewart McKenzie. The two-cycle program now has 30,000 acres enrolled in agricultural districts. In January, the program accepted an easement donation of 300 acres located adjacent to a district. The donation was the program's first acquired easement.

**In California ...** \$1 million is in the governor's budget for the state's new PDR program. If passed, the funds would allow for rules to be written and administration to be established, according to Ken Trott of the state Department of Conservation, who says the department "is maxed out" with work for staff, so additional staff would be hired to administer the program. But meanwhile, there is some brainstorming going on in preparation to write the program regulations, he said.

The California Farm Bureau Federation is working on legislation to require school districts to abide by local agricultural buffer setback ordinances. Buffer laws have been established by a number of top agricultural counties, but school districts currently can be immune from such laws by a two-thirds majority vote of the board. The legislation has survived a key committee. "School districts here have authority to override local planning, but [they] are a growth magnet," said farm bureau chief John Gamper. The bureau is also working on a bill that would prohibit inclusion of Williamson Act contract land in cities' redevelopment plans.

After experiencing some regulatory difficulties that caused a setback in its work, the Delta Protection Commission is asking for a two-year extension of its mission, which was supposed to sunset by December 1997. The Commission was created in 1992 to establish a protection plan

for the Sacramento-San Joaquin Delta. In creating the Commission, the legislature declared that agricultural lands located within the region were "of great value to the state" and that they "should be protected from the intrusion of nonagricultural uses." The Delta area is known for its prime soils, particularly its peatlands.

**In Pennsylvania ...** The state program's most recent stats show 71,500 acres preserved, on 575 farms. Forty counties now participate in the program. A move in the legislature could create funding for the program through sales of a special vehicle license plate.

The state's Clean & Green program, which allows assessment of farmland based on farm use and income, will be used for the first time in Lancaster County when county properties are reassessed for the first time since before the Clean & Green program was inaugurated in 1974. "Clean & Green has not been in the vernacular here," said county tax assessor Phil Rainey, because taxes have been artificially low. But as the reassessment has progressed, 55 - 60 percent of eligible farms have lined up for the program. According to Rainey, Clean & Green is "a true use-value" program based on a formula that includes data on farm sales between farm operators and income generated from the farm. About 9,000 to 9,500 farms, as small as 10 acres, are eligible, he said.

**In Maryland ...** The Department of Natural Resources initiative to target farmland on the Eastern Shore for preservation through bond funding will not be developed into legislation for this year's session, but will be further studied after concerns raised by representatives of the state farm bureau. "There were too many details that needed to be worked out and time got away from us," said Rob Etgen, director of the Eastern Shore Land Conservancy. "We're very, very disappointed we couldn't get it into the legislature this year." Eastern Shore farm bureau leaders say they were not well informed of the proposal. State farm bureau representatives objected to targeting funds to one region.

A bill may be introduced by Sen. Haines of Carroll County that will allow up to two acres to be excluded from an easement so that farmers may more easily exclude buildings or access points from easement restrictions. Currently, just one acre may be excluded.

County program administrators have formed a committee to explore fundamental program issues including the agricultural value formula, the purpose and intent of ag districts, and the easement priority formula. The committee will seek Foundation support for the initiative.

### **Oregon program, from preceding page**

ruled that counties had exceeded their regulatory authority in land use cases, and that Jackson County could not prohibit a private school from locating in an EFU zone. Under the ruling, uses that have been interpreted as permissive under the land use statutes are now to be considered "by right," which was not the original intent, according to the LCDC.

And, while the ruling "does not rule on the matter of LCDC rules, the potential is there for someone to say it did..." said Mitch Rohse. "The court looked only at county regulatory powers. Our position is that it does not affect our rulemaking abilities."

Even so, the ruling could affect land use decisionmaking in all of Oregon's 36 counties, effectively impacting farmland protection goals.

In addition to legal troubles, the state's land use planning strategy was rocked by LCDC's recent report that new home approvals in EFU zones have risen since the legislature made changes to criteria that localities must consider before issuing permits.

The report found that 1,113 new homes had been built in EFU zones between September 1993 and August 1994, a 30 percent increase over the preceding year.

In 1994, legislation created a two-tier farmland classification, "high-value" lands, those with prime, unique or Class I or II soils and non-high value lands, on which new, looser regulations for building on EFU land that is hard to farm or of lesser value to a farm operation. The 1994 changes also added an allowance for non-farm dwellings by right on "lots of record," those created before the changes went into effect.

Conversely, to create stronger protection for the newly designated "high-value" lands, a new income standard for approval of dwellings on such lands had to be met. A new home can be approved on a "high-value" farm tract only if the farm has produced at least \$80,000 from gross sales of agricultural products in recent years. Even so, LCDC's report shows the number of farm dwelling approvals set a new record, at 367.

But no data have yet been compiled showing exactly where the new homes are being built, that is, whether on high-value lands or on other EFU lands that don't meet the high-value criteria.

"The number of new dwellings in EFU's are up considerably ... does that indicate weak standards, a surge in growth, or what?" said Mitch Rohse, communications manager for (LCDC), which released the report. "We haven't analyzed data enough to know. We hope it's because of the legislation."

"Farmland is getting developed ... whether the new regulations are going to work to limit that, you can't tell," said Blair Batson, staff attorney for 1000 Friends. *Contact: Mitch Rohse, (503) 373-0050; Blair Batson, (503)497-1000.*

## resources ...

### Books and Publications

#### **Zoning for Farming: A Guidebook for Pennsylvania Municipalities on How to Protect Valuable Agricultural Lands** The Center for Rural Pennsylvania

A report on agricultural zoning in Pennsylvania conducted by Stan Lembeck at Penn State and written by Robert Coughlin a few years ago has been published by the Center for Rural Pennsylvania in an attractive booklet format with graphics and photos. The report covers the issue of farmland loss in Pennsylvania, elements for successful farmland protection at the local level, and how to develop an ag zoning ordinance. Expansive appendices provide sample ordinances and lots of useful data. It is available by calling the Center at (717) 787-9555.

### Conferences & Workshops

**Feb. 14, Gaithersburg, MD:** Agricultural Business Marketing Conference, sponsored by the Montgomery County Office of Economic Development, workshops will include a special session for local officials on the benefits of agricultural marketing programs. Earl Small, Chief of Marketing at the Maryland Dept. of Agriculture is the keynote speaker. A spokesman from Central Md. Farm Credit will also speak. Cost: \$25 if pre-registered by Feb. 9, \$30 at the door. Includes breakfast, lunch, and materials. Conference begins at 7:30, ends at 4 p.m. for local officials. Program flier available by fax. Contact Jeremy Criss (301) 217-2345.

**March 8, Washington, D.C.:** *The Takings Issue - Legal, Economic and Political Considerations for State and Local Government*, offered by the Lincoln Institute of Land Policy, to be held at the Georgetown University Law Center. Program includes panel discussions on constitutional doctrine, contrasting views of the property rights

debate, takings legislation, strategies for local governments, open discussion with faculty and reception. Tuition is \$225. For brochure, call 1-800-LAND-USE and select option 1.

**March 28-29, Cleveland, OH:** *Brownfields and Greenfields: Opportunities and Challenges for Metropolitan Development*, offered by the Lincoln Institute of Land Policy. Fee is \$215. Case studies and discussion of successful urban brownfield redevelopment strategies will be made in the broader context of regional land use planning. Participants will compare different perspectives on the significance of brownfield reclamation to metropolitan land use issues, including urban encroachment on greenfields ("vacant" farmland). Attendees will learn new techniques for analyzing public records on real estate transactions, demographic changes, tax values and other data to form effective brownfield strategies. Also, explore public policy initiatives such as financing options, regulatory reform and collaboration among stakeholders involved in urban redevelopment projects. Call 1-800-LAND-USE.

**March 31 - Apr. 2, Baltimore, MD:** *Rally II: Working for America's Real Places*, sponsored by the National Coalition for Heritage Areas. Keynote Speaker: Tony Hiss, author of *The Experience of Place*. The coalition promotes the concept of heritage areas and assists local or regional efforts to protect places of historic and cultural interest. Sessions and panels will discuss current heritage area legislation in Congress, lessons from grassroots efforts, marketing and promoting heritage areas, scenic byways, and building partnerships. Field trip to Capitol Hill on Apr. 2. Cost: Payment by check only, at \$190 by March 8, \$215 after. Call Sarah Polster at (202) 673-4204.

**April 26-27, San Francisco:** 3rd Annual "Putting Our Communities Back on Their Feet" a western U.S. conference on land use planning issues produced by the Local Government Commission and sponsored by 120 organizations. The focus is on pedestrian and transit-oriented, compact, mixed use

development and growth strategies for 13 western states and British Columbia. Executive summaries from the two preceding conferences are available. Contact Michele Kelso at (916) 448-1198. The LGC is a California nonprofit, nonpartisan organization of local elected officials.

**May 18 - 23, State College, PA:** *The 6th International Symposium on Society and Resource Management*, hosted by Pennsylvania State University Department of Agricultural Economics and Rural Sociology. Will focus on the usefulness of the social sciences to natural resource decision makers and managers. Topics include the increased role of tourism in rural community development; developing natural resource partnerships; interdependency of ag, forestry, with conservation, preservation, recreation use of land and water. For information contact A.E. Luloff, Professor of Rural Sociology, (814) 863-8643.

**Summer 1996, Burlington, VT:** The University of Vermont is sponsoring its second two-week Land Conservation Program in late July and early August that consists of short courses, workshops and a two-day conference for students, professionals and others in the land conservation community. Dates to be announced. To receive the official program announcement, call (802) 656-4055 or send name, address and phone number to Summer Land Conservation Program, Environmental Prg., Univ. of Vermont, 153 South Prospect St., Burlington, VT 05401.

### Subscriber Services

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Maryland

### Ag value formula, funding top agenda for program review

ANNAPOLIS, MD — The nation's oldest farmland preservation program will undergo review by a committee made up of county program administrators and members of the Maryland Agricultural Lands Preservation Foundation.

Formation of the committee was urged by county program administrators who say problems in the program are overdue for solutions. Issues to be addressed include funding, the administrative process, the agricultural value formula, lot exclusions and certification criteria.

In other action, the trustees voted to revert to a former method of using county and state funds for

ease purchase after county administrators said a new method that used general allotted funds before county funds was causing counties to lose their own dollars when unspent funds were returned to the state.

#### Funding most pervasive problem

Funding has been the program's most pervasive problem since the 1991 fiscal crisis when funds were cut by two-thirds. Annual preserved acreage took a dive, and so did farmers' faith in the program.

Five years later, the program has not over-

*please turn to page 2*

### Colorado task force calls for local PDR, state tax credits

LAKESWOOD, CO — A report released by the Gov. Roy Romer's Task Force on Agricultural Lands calls on counties to establish programs for the purchase and transfer of development rights, with state legislation permitting use of local real estate transfer taxes. The report also recommends creation of "conservation enterprise zones" supported by taxpayer contributions that are rewarded with income tax credits.

The task force has called for a constitutional amendment that will allow local governments to adopt real estate transfer taxes for PDR programs and has recommended counties examine the use of installment purchase agreements. Also, the report recommends that localities that already have

dedicated revenues for open space protection, such as Boulder and Jefferson counties, to consider using those funds to establish IPA programs

*please turn to page 6*

Volume 6, Number 5

March 1996

#### inside this issue ...

Delaware counties work on zoning .....	p. 4
Musselman leaving Lancaster Farmland Trust .....	p. 4
Transportation agencies want to eat up Ill. farms .....	p. 5
Virginia Beach program rated by Moody's .....	p. 7
Legislative briefs .....	p. 6,7

## Review committee to examine Maryland program issues

*continued from page 1*

come the deficiencies but has merely limped along with slim funding and no strategy for identifying additional funding sources.

Last year was the first time additional funding came, in the form of a slight increase in the percentage of funds the program receives through state transfer tax revenues. That move for extra funding was initiated by a Carroll County senator.

Some county program administrators believe weaknesses in the program, including obstacles to purchase of easements on Maryland's Eastern Shore, and lack of leadership, has been contributing to a lack of funding commitment from the legislature.

That seemed evident, some said, in the recent move by the Department of Natural Resources (DNR) to propose a major bond initiative last November to boost farmland preservation on the Eastern Shore.

The DNR initiative, stymied by farm bureau disagreements and now in a study mode, could go a long way toward addressing one of the largest inequities of the program, namely, an agricultural value formula that has left the Eastern Shore — the state's largest contiguous agricultural area — in a perpetual state of non-priority when it comes to easement funds.

### Eastern Shore penalized

The state's formula for determining agricultural value, administrators say, penalizes the Eastern Shore for its high quality soils — exactly what one would expect to rate highly in a farmland preservation program.

The agricultural value formula, based on land rents and soil capability, was approved by the legislature in 1990. It was a move to increase the average easement value statewide, by lowering the agricultural value, which, stated in dollars, is subtracted from the fair market value.

In a sample using 1990 properties that had already accepted offers under the former appraisal method of comparable sales, there was a 34.7 percent decrease in the average agricultural value, statewide, compared with values determined by appraisers.

But in five counties, all but one on the Eastern Shore, it was understood that use of the formula there would actually result in higher ag values and decreased easement offers, according to the Foundation's 1992 annual report. The formula has continued in use, however.

"Even if we got a ton of money tomorrow it wouldn't help ag values on the Eastern Shore," said Donna Mennitto of Howard County, who worked with other program administrators to propose formation of the review committee to address the ag value formula.

### Caroline hardest hit

Caroline County has been hardest hit by the formula. It has more Class I soils than any other county, according to a statewide survey conducted by Caroline program director Tammy Holden.

"Easement values here are very low and often are negative values because our soil types are very good ... it causes our ag value to be high, I think unreasonably high," Holden said.

To make matters worse, fair market value in the county is "on the low side," she said. This has resulted in some farms with agricultural values that are actually higher than fair market value, with the average ag value at \$1100-\$1200 and fair market values often at about \$1600 per acre, according to Holden. Easements that are purchased in Caroline County typically pay between \$300 and \$400 per acre. The circumstances "seem to be county-wide. It's not just certain farms," she said.

While development pressure in Caroline County is low compared to western shore counties — only about 100 new homes, averaging 3.4 acres per lot, were built there in 1995 — Caroline has preserved 18,140 acres, one of the highest totals in the state. However, all but 950 of those acres were preserved prior to use of the new ag formula in 1990.

"We could be selling easements if they made reasonable offers," Holden said.

### Where the offers are

On the other side of the Chesapeake Bay, things

*please continue to next page*

**Maryland program**, from previous page

are quite different. Harford County program administrator Mike Paone, before leaving his job last October, said that having a good average fair market value and average or below average soils is the best way to get a good offer under the state's formula.

The formula put Harford's soils on a less than outstanding rating, resulting in the county's average agricultural value of less than \$1000 per acre.

But under the county's own locally-funded program, which uses a formula and no appraisals, soils are weighed heavily, and the local program is taking the county's best farms, while the state program takes up where the county program leaves off—making offers to farms that don't make it to the top echelon of the Harford ranking system.

Three elements seem to be determining Harford's luck in the state ag value equation: 1) the county is contributing \$600,000 per year to help assure offers in the state program;

2) the county's local installment purchase program is so popular it has put a new spin on competitive bidding in the state program, and farmers are bidding even lower;

3) the county's GIS system is providing greater accuracy in determining a farm's actual soil classifications and layout, and is resulting in lower overall soil quality, according to Paone. That means a lower agricultural value subtracted from the development value, and therefore a higher easement value.

**Interim wish: an ag value cap**

Any adjustment of the ag value formula to correct disparities could be a year away, as the review committee is not even yet formed. Meanwhile, Caroline County may request an interim solution: place a cap on ag value, Holden suggests, of \$1000.

"That would be fair statewide; there are several counties with high ag values occasionally, but here, it's all the time," she said. A certain percentage of fair market value could also serve as a cap mechanism, local administrators say.

**Other pressing issues**

An issues paper drafted by county program administrators who organized informally to discuss concerns, was presented to Foundation trustees in February. The summary of issues demonstrated that a program review committee was needed, said Montgomery County program director Jeremy Criss.

Meeting through the summer and drafting recommendations for legislation in time for next year's General Assembly session would be ideal, Criss said.

While adjusting the ag value formula is a pressing concern, a number of other issues will be addressed by the committee, including:

*Funding*

The committee will consider a bond initiative, and use of installment purchase options statewide.

*Easement priority formula*

Another pressing issue is the easement priority formula, which places emphasis on price discounts and development pressure instead of on productivity and quality soils.

*Districts*

Should district creation serve any purposes other than creating eligibility for easement sale? Should district size be relaxed if effective ag zoning is in place or other easements are nearby?

*Lot exclusions*

Maryland's program does not prohibit sale of a developed lot after the farmer's child has built and lived in the house, creating potential for abuse. And, the current lot-release process is unenforceable since no jurisdiction can issue non-transferable building permits.

Some program administrators also want to address the extent to which PDR should be part of growth management strategies. Some feel the involvement of the Maryland Office of Planning in the county certification process may place a focus on the state's planning goals beyond what is appropriate for a voluntary program.

State certification of county programs to get 75 percent rather than 25 percent of its agricultural transfer tax revenues back from the state.

Contact: Donna Mennitto, (410) 313-5407.

## Delaware counties making small first steps toward better zoning, growth management

DOVER, DE — New zoning restrictions in Kent County, De., may change the pattern of new home subdivisions in this downstate region, but it will not lower the allowed densities in the agricultural zones, an objective the state's new farmland preservation program would like to see.

The new zoning sets density in the agricultural conservation zone at one unit per 10 acres (1-10), unless "village" clustering is used, in which case the former allowance of 1-1 in half-acre lots is allowed, requiring 35 percent open space per developed parcel.

In addition, a two-mile wide overlay zone along the U.S. 113 and U.S. 13 corridors will allow a density bonus of 3-1.

"We knew after meeting with the farm community they were not ready to have rights taken away," said Kent County planning director Connie Holland. "If we find we have any big problems with the village concept, we'll try to do better," Holland said. One thing the county has going for it is, Holland said, is that many farmers have enrolled their land in agricultural districts in the state farmland preservation program.

But that may be little consolation when subdivisions allowed under the county's zoning begin to pop up around those districts, according to state program assistant Stewart McKenzie.

"I commend them for taking the initiative to deal with the zoning issue, but it didn't really attempt to separate the ag industry from rural residents, so the overall objective wasn't to separate the two uses, but to conserve open space," McKenzie said. "They are hoping incentives in the growth area will work — we would like to have seen greater densities in the growth corridor."

Agricultural districts applying to sell easements in Kent County could be affected during eligibility review if a farm is in or near the growth corridor.

"Right now the new zoning doesn't necessarily impact easement purchases because it's still zoned ag/residential, but if it becomes a growth area, one

### etcetera ...

#### Musselman to leave Lancaster Farmland Trust

*Lancaster, Pa.* — Alan Musselman, executive director of the Lancaster Farmland Trust, will resign from the post he helped create eight years ago as a founder of the organization. The resignation is effective in April.

During his tenure Musselman built up the organization to a nationally recognized land trust with 2,300 members nationwide, preserving more than 60 farms, and receiving financial support enviable to most land trusts, including a recent \$500,000 grant from the William Penn Foundation. During its latest fund drive, the group raised \$160,000 in donations. A cooperative agreement with the Lancaster County Agricultural Preserve Board increased the effectiveness of both entities and served as a model for other counties and land trusts.

Musselman began his career as a planner in Maryland, working first for a private firm and then as an associate planner in Frederick County. After a stint as planning director in Washington County where he advocated preservation, he began, in 1977, a pattern of being first to serve in a number of positions created to preserve farmland in Maryland and then in Lancaster County.

Musselman was first in the nation to work exclusively in the farmland preservation profession, and, working in programs with dedicated funding streams, has likely logged more hours arranging conservation easements than anyone in the nation.

In 1977 Musselman became the first executive director of the Maryland Agricultural Lands Preservation Foundation, administering the nation's first statewide purchase of development rights (PDR) program. After five years in Annapolis, he then became the first administrator of the PDR program of Lancaster County in 1983. In that position, Musselman put in place a program that would help set in motion a move in the Pennsylvania legislature for the statewide program established in 1989. Musselman then became involved in creating the Lancaster Farmland Trust.

Creation of the Trust was the result of efforts by Musselman and longtime preservation advocate and farmer Amos Funk, who was also a member of the Lancaster County Agricultural Preserve Board. The two had taken note of the success of 1000 Friends of Oregon. "We said to ourselves, 'there are a lot of

friends of farmland here." They organized a group called Friends of Farmland Preservation, but with the amount of funding that came in, decided to begin a land trust.

Musselman now plans to form a "rather different" consulting firm called Land and Community, that will assist efforts to preserve and protect farmland, create sustainable, livable communities, strengthen agricultural economies "and a number of related things." Musselman also plans to do a lot of writing and speaking.

Musselman said he will work primarily in the mid-Atlantic region. "The Piedmont area feels like home to me and I don't want to see it lost," he said. *Musselman, (717) 293-0707.*

#### Transportation entities wage war against Ill. farmland

*Chicago, Ill.* —A coalition of groups advocating reinvestment in cities and inner ring suburbs is challenging the state legislature to rescind authorization of a \$2.4 billion bond issue for expansion of the state toll highways and to instead allocate those funds for redevelopment.

"There is a critical need for inner-city residents to be aware of the impact tollways have on their quality of life," said Joe Ann Bradley, of the Chicagoland Transportation and Air Quality Leadership Commission.

Meanwhile, the Illinois State Toll Highway Authority is seeking underwriting of more than \$500 million in bond issues to finance expansion of toll highways that will ensure massive conversions of the state's richest farmland.

And, attacked from another front, 25,000 acres of farmland are targeted for a quick-take eminent domain procedure by the Illinois Department of Transportation (IDOT) to set up a core base for construction of a major airport in Will County.

"Boosters of the proposed airport talk of serving transportation needs," wrote Chicago journalist Robert Heuer in *Agri Finance* magazine last month, "but seem more interested in fostering real estate development opportunities like those that erupted in the suburban lands beyond O'Hare over the past 50 years."

If the IDOT proposal is approved, about 170 farmers would be forced to sell their land at agricultural value to a state land bank in preparation for the airport, according to Heuer.

*Joe Ann Bradley, (312) 278-4800; Bob Heuer, (312) 274-1989.*

#### *Delaware, from preceding page*

component we'll have to consider among the factors is the price of the easement and how it is consistent with the county goals. We can't fail to take into account local zoning," McKenzie said.

In the state program's eligibility review, the location of a proposed easement must be consistent with the county's comprehensive plan. As it is, development will be able to occur at considerable densities throughout agricultural areas despite density bonuses in the growth corridor. With such allowances, it will be difficult to tell exactly what the plan implies, according to McKenzie.

Juanita Wieczoreck, director of the Kent County/Dover Metropolitan Planning Organization, which is responsible for transportation plans in the region, supported the Kent County plan because although it doesn't lower densities, it does designate a growth area.

"That shows a recognition of the need to change to control growth... there is a strong feeling that only farmers can preserve farmland," she said.

Dave Hugg, director of the Governor's Cabinet Committee on State Planning Issues, said the committee has no veto powers over local planning and zoning, but reviews plans for consistency with state goals. The committee's position was that Kent County's new zoning designations were "a good first step," Hugg said. The committee did recommend shrinking the growth corridor from two miles to one mile wide, but "the county thought if you made the overlay too narrow you would inflate land values too much in the growth area," he said.

"It will at least move development pressure off [farmlands] somewhat," Hugg said of the plan. He feels development pressure in Kent County, which has a population of about 115,000, is not as threatening as elsewhere in the state. "We're only talking about a modest amount of development with a lot of land. Farming is not an endangered species," in Kent, he said, although the committee would like to see 20 - or 30-acre minimum lot sizes.

While that kind of zoning isn't likely in Kent County anytime soon, New Castle County, with a population of above 400,000, will explore 30-acre minimums, as well as urban growth boundaries and designated farmland preservation zones, he said. *Contact: Stewart McKenzie, (302) 739-4811; Connie Holland, (302) 736-2020; Dave Hugg, (302) 739-3090.*

## Colorado uses incentive approach

*continued from page 1*

to protect agricultural lands.

### Conservation Enterprise Zones

Conservation enterprise zones would provide a mechanism for taxpayers to contribute directly to farmland and open space protection in their localities, and be rewarded with state income tax credits equalling half of individual contributions.

The zones and tax credits would be administered through conservation zone administrators, such as soil conservation districts, with authority to issue state income tax certificates.

Conservation enterprise zone creation could be based on increasing population, declining farmland acres, or other natural resource factors. The concept was based on a similar 1989 state law that allows taxpayers to claim a state income tax credit contributions they make to economic enterprise zones.

The report uses the example of a rancher willing to invest \$3000 to improve riparian conditions. The rancher would send a check for \$3000 to the conservation zone administrator, who would use the money to purchase supplies and pay for installation. The administrator would then send the rancher a state tax credit certificate worth \$1500.

### Large lot vs. density rights

Another recommendation of the task force is to require counties that regulate subdivision of land to grant density rights as an alternative to the current state law that 35-acre lots without county review. Under Colorado law, land can be subdivided into parcels of 35 acres or more without subdivision review. This has resulted in a proliferation of 35-acre ranchettes, thus the task force is recommending the use of a density right instead of this approach.

The recommendation is prefaced with a "trade-off" advisory, recommending that counties be limited in their review of subdivisions to water, sewer and roads, although a landowner's rights should not override zoning powers or the county's "right to direct growth." It adds that landowners should be entitled to compensation if they cannot be accommodated satisfactorily. State legislation, the task force stated, should make these "trade-offs" explicit.

Many other recommendations include expanding in-state food and fiber manufacturing; providing property tax credits for protecting farmland or natural lands under development pressure; establishment of agricultural enterprise districts, in which public infrastructure investment would be discouraged, and which could include preferential consideration for state PDR funds.

The report is the result of a year-long study conducted by a 17-

## legislative and program briefs ...

**In Vermont ...** \$6.5 to \$7 million is contained in Gov. Howard Dean's budget for the Vermont Housing and Conservation Board, to be evenly split between housing and conservation projects. The House approved a budget of \$6 million for the agency. It now goes to the Senate. A lot of interest and stiff competition for the agency's farmland preservation funds this year will result in about 36 farm applications approved, according to Ethan Parke.

**Current use reform:** A coalition of landowners and the farm bureau are attempting to revamp the state's current use taxation law with a proposal to require towns to assess farmland at agricultural value. Currently, towns assess farmland at full market value and landowners receive reimbursement from the state, but the reimbursement program has been compensating at only about 65 percent of the landowner's loss, according to consultant Deborah Brighton. The League of Cities and Towns opposes the move because it would mean a loss of revenue to towns, which are already in fiscal hardship, and the state proposal to compensate the worst hit towns by adjusting the State Aid to Education formula, the League says, would be inadequate.

**New local PDR?** The town of Charlotte, near Burlington, will consider a proposal to raise funds, through a 2-cent tax increase over 10 years, for a local purchase of development rights program. The increase would generate about \$68,000 a year. The town proposes to leverage other funds, according to Deborah Brighton, who served as fiscal consultant. Brighton, (802) 352-9074.

**In Maryland ...** A move in Carroll County to boost farmland preservation funding through a dedicated property transfer tax similar to Harford County's was headed off by Carroll Sen. Larry Haines, who is a real estate broker.

**In Pennsylvania ...** The state board has approved a 1996 allocation of \$31 million, the largest annual allocation in the program's history, to be used in 40 counties. The program last month approved 1,918 more acres for a current total of 74,161 acres on 595 farms, according to program chief Ray Pickering.

**IPAs:** Chester County is again exploring use of securitized installment purchase of easements, according to Charlene Riley. Under state law, a third party is required to administer installment purchase agreements beyond five years.

*please continue to next page*

**In Massachusetts ...** The governor's bond bill has passed the legislature, securing \$19.5 million for the Agricultural Preservation Restriction (APR) program.

**New program:** An additional \$5 million is allocated for the program's new Farm Viability Program that will help farmers create comprehensive farm viability plans that include such elements as changes to crops, development of value-added products, economic viability studies, up to \$50,000 to a single operation, according to director Rich Hubbard. The grants will be issued in exchange for short-term (5-10 year) preservation covenants. The program is in a pilot phase.

**In Utah ...** The legislature has created a subcommittee to identify and inventory lands of statewide importance to be preserved or to be exchanged for federal government lands, which make up 70 percent of the state's land mass. The subcommittee will have at its disposal the Utah Surplus Land Trust Fund which will be funded by state agency sale of surplus lands, to equal \$1 million by July.

**Grants program:** In addition to the subcommittee, the legislature expanded a commission on soil and water conservation, making it the new Land and Water Conservation Commission, with an expanded mission to include awarding grants of up to \$25,000 to rural counties to identify lands to conserve and to devise rural development strategies. The Commission will also have \$50,000 of its own to study how the loss of farmland and natural lands is economically impacting the state. The study will be undertaken by the state Department of Community and Economic Development.

**Plat notification:** In other action, the legislature passed a measure requiring subdivisions within 300 feet of an agricultural protection area include a notice on the plat regarding ag activities protected under the state's right to farm law.

**In Delaware ...** \$14 million has been allocated for FY 97, \$2 million more than the program's first year.

**UGBs?** New Castle County may consider measures to protect farmland, including growth boundaries, and a designated farmland preservation zone with a 30-acre minimum lot size. The ideas are contained in a working paper.

**In Congress...** While the Senate version of the farm bill calls for \$35 million to go to the Farms for the Future program over three years, the House version does not contain this amendment. The farm bill is on its way to conference committee. FPR will produce a full report on farm bill conservation titles upon passage.

**Colorado, from preceding page**

member task force whose mission was to study ways to stem the state's loss, annually, of 90,000 acres of farmland. Profitability was to be the basis for farmland protection, but solutions were also to be environmentally sound and to "respect the diversity of Colorado's landscape and viewpoints."

For a copy of the 12-page, tabloid-style report "What lies ahead for Colorado's Ag Lands?" call the Colorado Dept. of Agriculture at (303) 239-4112.

In the Moody's

## Virginia Beach IPA fetches Aa rating

Moody's investment service, in an unusual focus, assigned a Aa rating to the Virginia Beach installment purchase program Jan. 30. It was "a deviation for us," said Moody's investment analyst Jamie Burr. While the rating shows Moody's has a lot of confidence in the credit worthiness of Virginia Beach, "it is not a comment on whether [the IPA program] is a good thing or bad thing," Burr said.

The rating focuses on the actual obligation to landowners, and the city's ability to pay, according to Burr.

While Moody's may not issue a direct opinion on whether farmland preservation is good fiscal policy, the rating should be seen as indicating it is, according to Daniel P. O'Connell of Evergreen Capital Advisors, Inc.

The significance of the rating for farmland preservation, O'Connell said, is that it will help educate elected officials on the fiscal soundness of farmland preservation.

The rating came as a surprise and a relief to Virginia Beach officials. "At one time, we didn't know what the [fiscal] impact would be," said Virginia Beach program administrator Louis Culliper. "But [the program's rating] helped the city maintain its Aa rating," he said.

Farmland preservation using installment purchase agreements was first noted as a positive for local governments when Fitch rated Howard County, Md. in 1990, stating opinions more explicitly than did Moody's in the Virginia Beach rating. Fitch analysts stated that the county's agricultural preservation program was "an important and unique part of the capital improvement plan." Managing growth was a large part of the rating considerations, analysts said.

Mercer County, N.J., which uses IPAs for farmland preservation, went to the bond market for general improvement obligation bonds last October and received a Moody's rating of Aa1, slightly higher than the Virginia Beach rating.

"The rating infers that economic and financial stability is pervasive throughout the county operations," said Mercer

## Moody's

from page 7

County treasurer Steve Zielinski. The rating also shows "there is some implicit approval" of the IPA program, he said.

Harford County, Md., the only other locality using IPAs in its local program, has not sold bonds since its IPA program was established in Nov. 1993.

The Virginia Beach program, established in June 1995 with a 1.5-cent property tax increase, has not yet purchased any easements, but 18 landowners have applied to sell development rights on 2,200 acres. Three parcels are currently being appraised, according to program administrator Louis Cullipher.

Cullipher said he believes current low interest rates are keeping many farmers from applying to the program.

"The rate is fixed for 25 years. It started at seven percent and is now 6.5 percent. I think [farmers will] wait for it to go up. There's no penalty for that." Cullipher said many applicants requested a variable rate, but that can't be done in the program because zero coupons are used. *Contact: Louis Cullipher, (804) 426-5775.*

## resources ...

### Books and Publications

#### Managing Change in Rural America: The Role of Planning and Design

This 48-page booklet is the result of a two-year joint project of the NRCS and the National Endowment for the Arts, in which landscape architects worked in rural Georgia, Iowa and Utah. Their work

involved demonstrations of development options that can preserve rural character and strengthen local economies, what NRCS Chief Paul Johnson called an interdisciplinary approach to rural development, which, for the NRCS, has increasingly included downtown revitalization and soil conservation in urban areas. For a free copy of the booklet, call the Soil and Water Conservation Society at 1-800-THE-SOIL.

### Conferences & Workshops

#### March 28-29, Cleveland, OH:

*Brownfields and Greenfields: Opportunities and Challenges for Metropolitan Development*, offered by the Lincoln Institute of Land Policy. Fee is \$215. Case studies and discussion of successful urban brownfield redevelopment strategies will be made in the broader context of regional land use planning. Participants will compare different perspectives on the significance of brownfield reclamation to metropolitan land use issues, including urban encroachment on greenfields ("vacant" farmland). Attendees will learn new techniques for analyzing public records on real estate transactions, demographic changes, tax values and other data to form effective brownfield strategies. Call 1-800-LAND-USE.

#### March 31 - Apr. 2, Baltimore, MD: Rally

*II: Working for America's Real Places*, sponsored by the National Coalition for Heritage Areas. Keynote Speaker: Tony Hiss, author of *The Experience of Place*. The coalition promotes the concept of heritage areas and assists local or regional efforts to protect places of historic and cultural interest. Sessions and panels will discuss current heritage area legislation in Congress, lessons from grassroots efforts, marketing and promoting heritage areas, scenic byways, and building partnerships. Field trip to Capitol Hill on Apr. 2. Cost: Payment by check only, \$215. Call Sarah Polster at (202) 673-4204.

#### April 21-24, Tysons Corner, VA: Scenic

*Byways for the 21st Century* sponsored by the American Recreation Coalition.

For more information call (202) 662-7420.

**April 26-27, San Francisco:** 3rd Annual "Putting Our Communities Back on Their Feet" a western U.S. conference on land use planning issues produced by the Local Government Commission and sponsored by 120 organizations. The focus is on pedestrian and transit-oriented, compact, mixed use development and growth strategies for 13 western states and British Columbia. Executive summaries from the two preceding conferences are available. Contact Michele Kelso at (916) 448-1198. The LGC is a California nonprofit, nonpartisan organization of local elected officials.

**April 28-30, Pittsburgh, PA:** *Pennsylvania Heritage Partnerships 96*, sponsored by Preservation Pennsylvania. Call (717) 234-2310.

**May 10, Washington, D.C.:** The Sustainable Use of Land: Twenty Years of Experience, sponsored by the Lincoln Institute of Land Policy. Participants will discuss issues raised in the book *Land Use in America* by Henry L. Diamond and Patrick Noonan. Call 1-800-LAND-USE.

**May 18 - 23, State College, PA:** *The 6th International Symposium on Society and Resource Management*, hosted by Pennsylvania State University Department of Agricultural Economics and Rural Sociology. Will focus on the usefulness of the social sciences to natural resource decision makers and managers. Topics include the increased role of tourism in rural community development; developing natural resource partnerships; interdependency of ag, forestry, with conservation, preservation, recreation use of land and water. For information contact A.E. Luloff, Professor of Rural Sociology, (814) 863-8643.

### Subscriber Services

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## State programs vary widely in monitoring preserved farms

State farmland preservation programs have reached various levels of easement monitoring since programs were established, from state-required yearly inspections that are well documented, to more flexible visits, with frequency and other details left to the discretion of program administrators.

Administrators differ widely in their views on how inspections should be carried out, how often, and how strict enforcement should be.

Monitoring and enforcement of easement restrictions are required by statute in Pennsylvania and New Jersey, and both states have inspection and enforcement procedures detailed in program regulations.

The Connecticut statute states that the agricul-

*Farm bill*

ture commissioner may enter the property at all reasonable times, but specifics are left to the administrator.

There is no provision in the Massachusetts statute for enforcement, but right of inspection is written into the deed of easement.

Delaware's code empowers the state to take legal action against easement violations, but the program is new and a detailed monitoring procedure is not yet in place.

Maryland's program, in operation longer than any other, has no mention of easement property inspections in its statute or regulations. An administrative policy requiring county-level inspec-

*please turn to page 2*

## Federal funding to boost state, local farmland programs

WASHINGTON, D.C. — Farmland preservation programs across the nation will get a funding boost from a \$35 million appropriation under a provision in the farm bill, signed by President Clinton April 4. It marks the first time federal funding has been designated for farmland preservation programs nationwide.

According to the American Farmland Trust, which initiated and successfully gathered sufficient support for the funding program, 18 states and localities may qualify for the funds. Until rules are written however, no one knows exactly how the funds will be allocated. For right now, the AFT is savoring a victory that was very hard won, through a legislative process that had agonizing ups and

downs.

"When it looked like this was going to pass, we were thrilled," said Gary Kozel, AFT public

*please turn to page 6*

Volume 6, Number 6

April 1996

### inside this issue ...

- Lancaster County gets funding boost ..... p. 4
- Relocations driving sprawl in D.C. region ..... p. 5
- Legislative briefs ..... p. 6,7

## Program administrators differ in how, how often to inspect

*continued from page 1*

tions on at least ten percent of easement properties per year has been in effect since 1984, but counties vary widely in how and how often monitoring is conducted.

### Pennsylvania

Monitoring was built into Pennsylvania's farmland preservation program from the start, the law specifying that county boards, as well as the state board, have responsibility for inspection, which must occur at least annually "to determine compliance with the applicable deed of easement." Landowners are notified 10 days in advance by certified mail to request a specified date. Inspections detail any modifications to structures, conservation practices and a statement on whether the easement restrictions are observed. Owners receive copies of the report. Further details set down enforcement procedures for violations.

For the most part, program administrators in southeastern Pennsylvania counties, where most easement activity takes place, have taken an aggressive stance in monitoring.

Charlene Reilly of Chester County, speaking before a meeting of county program administrators last month, detailed her monitoring program, which includes various form letters and documentation.

"To me, monitoring is the most creative and certainly the most enjoyable aspect of the program," Reilly said. "It's a very essential part of the program. It keeps you in touch with farmers about program changes and allows you to prevent problems."

Reilly keeps an inspection log and inspection reports on a particular farm in a file folder that never leaves the office. Out on an inspection she carried a field folder containing the conservation plan map, plan text, an aerial map, and a copy of the easement. When she returns from an inspection she immediately writes a report and sends a thank you letter.

Documentation can't be too detailed, according to Reilly. "You need to treat your file system as if you're going to be audited," she said. "Problems increase with changes in ownership. We don't have

the problems that [future administrators] will have 20 years from now. So they will depend on our records." Each file folder gets photographs added every two years.

Reilly said her former job at the Brandywine Conservancy, where easement monitoring was as standard as easement purchase, convinced her that effective monitoring puts the "perpetuity" in preservation.

In Lancaster County, program assistant June Mengel, who worked formerly in Chester County, said monitoring should be seen as a way to "touch base" with farmers.

"It's not just an opportunity to come out as a watchdog. It's an opportunity for them to ask questions," she said. "We tell them up front we'll be out once a year." So far, Mengel said, she has had no negative experiences "even when there was potential for a violation." She has about 100 inspections to perform this year.

Mengel said she doesn't believe yearly inspections are an imposition on landowners. Reilly, too, said landowners who would be bothered by the procedure are not good candidates for the program.

### New Jersey

In New Jersey, regulations were adopted this past December requiring on-site inspections yearly for all easement properties that were purchased with a state cost share grant since June 1, 1985. The regulations stipulate the maintaining of a database, and an inspection period of July 1 to June 30. A report is due to the state program by July 15 verifying that inspections were conducted and that farms were or were not in compliance. If not, counties are instructed to take appropriate action. Violations must be reported within 30 days.

"We completed our [inspections]— it took about four months for 37 farms," said Cindy Gilman of the Burlington County Land Use Office. "Since it was the first year, we collected baseline data ... we went armed with a survey, aerial photo, and a questionnaire." Gilman interviewed landowners and wrote their responses and reviewed their deed of easement. Many had never seen the document, she said.

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**State program monitoring status**

State	# Acres	# Farms	Monitoring Status
Pennsylvania	76,360	611	Detailed language in both statute and program guidelines. County administrators must inspect all farms annually. Inspection procedures may vary.
New Jersey	28,713	195	Detailed language in both statute and program regulations. County administrators must inspect annually, report violations to state within 30 days. Inspection procedures may vary.
Maryland	122,068	837	No language in statute or program rules. Administrative policy requires counties to inspect 10 percent of farms per year. Right of entry cited in deed of easement. Monitoring activity varies widely.
Massachusetts	37,445	409	No language in statute or regulations, but written into deed of easement. New baseline data being compiled, biennial inspections under consideration.
Connecticut	25,192	165	Statute authorizes reasonable entry to property by agriculture commissioner. Yearly monitoring practiced.
Delaware	8,500	31	Statute language authorizes inspections. Procedures not yet drafted.

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Debris piles on the farms were grandfathered in, "to be fair," Gilman said, finding that some construction debris, a small number of tires, and some older farm dumps of household refuse pre-dating county collection were "nothing really offensive."

"My board was not in support of yearly monitoring. Most counties have a strong farm community. If there are any violations, you hear about it," Gilman said, adding that she felt the farm community may find the yearly inspections intrusive.

While some local program administrators feel inspections on a yearly basis are cumbersome and unnecessary, others have no problem with the requirements.

Karen Fedosh of Monmouth County said all of her county's easement farms are located in one geographic area, making monitoring easy. Fedosh said there have been no changes in ownership and that she has a good rapport with all the program's 31 farmers.

"For me, monitoring isn't something I do once a year, it's something I do all the time," she said.

In Morris County, program administrator Frank Pinto is putting together a process for monitoring, but no inspections have yet been completed. The county board was less than enthusiastic about conducting yearly inspections, Pinto said.

"Our board knows we have to do it, but they don't want to feel like they are policing everyday activities on farms." But they also don't want to be liable for costly violations, Pinto said. Due diligence will be the board's policy.

**Maryland**

Maryland is the only operating program without language in its statute or guidelines authorizing or requiring inspection of easement properties. While soil and water conservation plans are required when applying to the program, no language

*please continue to page 4*

*Monitoring:***Prevention is best cure for easement problems***continued from page 3*

in the program guidelines indicates that plans must be implemented.

With no standard for baseline data and no enforcement of restrictions that protect the environment, specialists in conservation law say the Maryland program is setting itself up for political and legal trouble.

What almost happened in Frederick County in one case is ample illustration. The owner of a preserved farm applied for subdivision of several lots, and the request was approved by the department of planning and zoning, until farmland preservation administrator Tim Blaser saw it, put a hold on the permit process, and contacted the landowner.

Blaser and others agree monitoring easement farms is important, but it's one issue that is not on the already extensive agenda of a recently convened program review committee.

Administrators say a full-scale monitoring program will almost certainly require additional personnel, though some feel annual or semi-annual monitoring could be performed as a contracted service.

"It's something we need to do, and to do a better job of it," said Jeremy Criss of the Montgomery County program. "There needs to be more [direction] from the state," but "problems in the county should be resolved in the county," Criss said. Yearly inspections, however, would be cumbersome and "not realistic," he said.

Some Maryland program administrators admit they have not kept up with monitoring, citing time constraints as the reason.

One administrator told of difficulty in getting superiors to take conservation plan noncompliance seriously, even though it meant an easement restriction was in violation. Many easement farms in this county as of two years ago had no conservation plans, even though they were required in the application process.

**etcetera ...**

**Lancaster funding boosted; second highest in nation**  
*Lancaster, Pa.* — Lancaster County Commissioners announced March 22 they will commit a minimum of \$5 million and as much as \$7 million in additional funding to the Agricultural Preserve Board for easement purchases over the next four years.

The announcement was made at an event commemorating the preserving of 20,000 acres in the county.

Lancaster County Commissioners threw in an extra \$500,000 to match extra money coming from the state's bond fund. That brought the Agricultural Preserve Board's funding for FY 96-97 to \$4.65 million, the second highest local program funding in the nation, following Sonoma County, California. The extra funding is intended to make some headway on the backlog of 150 applicants waiting for easement offers.

The announcement was the highlight of an evening reception for program participants and local pioneers of farmland preservation. Several hundred attended the event.

Amos Funk, past chairman of the Agricultural Preserve Board and a founder of the Lancaster Farmland Trust recalled the early days of creating a program for the purchase of conservation easements, when he and a small group of other farmers examined Wisconsin's circuit breaker tax credit program, in which almost 24,000 farmers receive tax credits in exchange for land use restrictions. The limitations of the program, however, were acknowledged, and it was decided the only way to truly preserve farmland was to prohibit development through deed restriction.

The idea was startling to some, according to Darwin Boyd, senior vice president and agri-finance director of Corestates Hamilton Bank, one of Pennsylvania's biggest ag lenders, and a sponsor of the event. In a conversation with *Farmland Preservation Report* editor Deborah Bowers, Boyd said in the late 1970s and early 1980s there was resistance to the idea of prohibiting development through deed restriction.

Some thought farmland preservation programs would never work because of such political philosophy, according to one former elected official in nearby Harford County, Maryland, which operates its own local program. Some farmers who expressed grave doubts about the appropriateness of easements are among those who have now sold easements on their farms, the former official said.

### IRS figures show urban migration of wealth

*Washington, D.C.* — A virtual “long march” of urbanites leaving the inner suburbs of Washington, D.C. for points outward is resulting in a massive shift of wealth from the region’s closer-in counties to outlying counties, driving the forces of sprawl.

These thousands of people are taking hundreds of millions of dollars of purchasing power away from inner suburbs such as Arlington, and taking it to counties such as Loudoun in Virginia, and Charles, Calvert and Anne Arundel counties in Maryland, according to a recent analysis conducted by *The Washington Post* using IRS figures.

More than 40 percent of the millions of new income dollars arriving in Charles County, on Maryland’s western shore, is coming from Prince George’s County, which is beginning to see the social problems of an inner-ring suburb. And, more than 40 percent of the income moving into Loudoun County is coming from overcrowded Fairfax County.

Meanwhile closer-in areas including Fairfax, Montgomery and Prince George’s counties continue to grow, but from births and foreign immigration. The IRS figures show that those moving into areas at the beltway and inside it have lower median incomes than those moving out.

The IRS figures are derived from change of addresses of people who moved between filing their 1993 and 1994 tax returns.

Loudoun County, just 15 years ago a rural bastion of horse farms and idyllic village settings, is hosting the largest mega-wave of migrants, with the income level of new residents higher than other metro counties. Calvert County, Md., is the close second.

In Loudoun, the movement is grossly visible: residential projects recently approved and older projects just getting underway will soon add 15,000 new homes to the county, staging the biggest boom in residential growth since the explosive 1980s. The growth also brings with it corporate relocations that are draining the inner-ring suburbs of more than 1,200 jobs.

Generally, Loudoun officials, backed by a regional economist at George Mason University, are delighted with the growth. “We’re seeing a tremendous amount of activity,” said the chairman of the Board of Supervisors. “Loudoun’s real estate market is finally getting back to reaching its full economic potential.”

Economist Stephen Fuller said Loudoun’s remaining large tracts of relatively cheap land has placed it “essentially in the catbird seat,” of the region.

*This story was culled from two articles in recent editions of The Washington Post.*

### Monitoring, from preceding page

#### Massachusetts

While no specifics are in the Massachusetts statute, the administration began pursuing a monitoring program in the late 1980s “when funding for acquisition dried up and we had the time,” said administrator Rich Hubbard. Several significant violations were found, including a home built without approval and a tire dump.

“Now we’re trying to set it up on a biennial basis, and we’re re-creating a baseline using old aerial photos.” The old records will help make up for lack of information compiled on properties during the program’s first 10 years.

The Massachusetts program may be the only one that has had its monitoring authority confirmed by its state’s high court in a case involving an easement landowner who wanted to build a new home on top of a hill in the middle of the farm. The court ruled the commissioner was within his authority to block approval.

#### Connecticut

Under the Connecticut statute, the commissioner of agriculture may enter easement properties at all reasonable times, but how often and to what degree monitoring occurs is left to the administration.

“We try to get out there once a year,” to the program’s 165 preserved farms, said administrator Jay Dippel. “We’ve walked the surveys, we know the farmers ... we’re out looking at new opportunities and answering questions.”

Dippel said they have found some violations, including a partitioning in which a farmer took three acres off the farm to enlarge a lot. There were several cases of this.

“Typically, there are no problems with the original owners, but when it changes hands ... it’s important to get out and visit all new owners as soon as possible.”

*For further information on monitoring activities contact the following administrators:*

*Penn: Ray Pickering, (717) 783-3167; NJ: Rob Baumley, (609) 984-2504; MD: Paul Schiedt, (410) 841-5860; MA: Rich Hubbard, (617) 727-3000, x150; CT: Jay Dippel, (203) 566-3227.*

## Farmland preservation in the farm bill

*continued from page 1*

relations director. "We really do hope it's an issue whose time has arrived."

The provision, part of the Environmental Conservation Acreage Reserve Program, or ECARP, is "for the purchase of conservation easements or other interests in not less than 170,000, nor more than 340,000, acres of land with prime, unique or other productive soil that is subject to a pending offer from a state or local government for the purpose of protecting topsoil by limiting nonagricultural uses of the land..."

While AFT's legislative team can only speculate about the details until regulations are written, they feel confident that "the rules will be expansionary," Kozel said. "We have every expectation that state [as well as] local programs will qualify for funds."

The AFT began pushing for federal funds to boost preservation programs in the late 1980's, and won passage of the Farms for the Future Act in the 1990 farm bill. An appropriation of \$3 million allowed for a pilot in Vermont.

The Farms for the Future Act was designed to provide federal loan assistance for farmland protection. But in 1995, the AFT urged amendments to the bill changing the type of assistance to matching grants. The bill currently has 58 co-sponsors and is pending in the House Agriculture Committee's Subcommittee on Resource Conservation.

Technically, according to Kozel, the farm bill extended and reformed the Farms for the Future Act, placing it in a position to receive funding through the Commodity Credit Corporation.

Other conservation provisions in the farm bill extend current programs and create new ones, with mandatory spending for conservation of over \$2 billion each year from 1996 to 2002.

### Everglades Restoration

A project to restore areas of the Everglades that have been in agricultural use will receive \$200 million, which can also be used to acquire land. An additional \$100 million will be provided contingent upon land acquisition by Florida.

### Wildlife Habitat Incentives

Over seven years, \$50 million will be allocated to implement various practices to improve wildlife habitat. The program would provide a 75 percent cost-share for developing and implementing a wildlife habitat plan.

### Flood Risk Reduction

This program will provide commodity payments to producers

## legislative and program briefs ...

**In California ...** A TDR program in San Mateo County allows density bonuses to developers who construct water impoundments. One development unit is gained for every 24.5 acre feet of water, according to planner George Bergman (415-363-1851.) The credit can be transferred to other rural parcels but not on agricultural lands, wetlands or scenic corridors. The protection of scenic corridors has made it tough to transfer to appropriate sites, Bergman said, resulting in homes being pushed to more rural areas. But so far, "less than a handful" of credits have been transferred.

The governor's budget includes \$1 million for the state's recently established farmland conservation easement program, a priority for the governor, according to Erik Vink of the AFT. Vink has been receiving many requests for presentations following up on AFT's report on threats to farmland in the Central Valley. The report, *Alternatives for Future Urban Growth in California's Central Valley- The Bottom Line for Agriculture and Taxpayers*, is available from the AFT. Call (202) 659-5170.

**In Delaware ...** The new program's first easements were purchased on 31 farms, comprising 8,500 acres. Average cost per acre was \$1300, with total easement purchases ranging from \$63,000 to \$1.289 million. Coastal properties pulled the highest easement offers, according to program assistant Stewart McKenzie. Discounts equalled 29 percent of the average appraised easement values. Since purchases were made and publicity generated, 30 new applications have been received. *Stewart McKenzie, (302) 739-4811.*

**In New York ...** A proposal to use conservation easements to protect New York City's Catskills watershed (first reported in FPR last October) will likely be part of a larger water quality improvement plan now under negotiation.

Local agricultural planning boards in several counties are in the final stages of drafting plans to protect or enhance agriculture. A plan in Orange County may

*please continue to next page*

call for a pilot TDR project as well as ag economic and farmland protection options. Washington County may conduct a feasibility study for PDR. Interest in PDR is fairly widespread, according to Jerry Cosgrove of the AFT. The interest is timely: the governor's budget proposal includes \$2 million in grants to localities for planning and implementing farmland protection programs. *Cosgrove, (518) 581-0078.*

**In Wisconsin ...** A bill that would require local governments under certain criteria to approve petitions to rezone agricultural land, is not moving and was strongly opposed by local governments and citizen groups. The bill, AB 669, which observers say was drafted in response to a specific case, would require approval of rezonings on parcels less than 35 acres, and therefore ineligible for the state farmland preservation tax credit, and under certain other circumstances.

**In Michigan ...** Superior Township in Washtenaw County is examining the possibility of placing on the upcoming August ballot a referendum on raising the tax millage to pay for a PDR program. It would be the second locality in Michigan to establish PDR, following Peninsula Township.

Meanwhile advocates have been busy urging the state legislature to pass a bill that will enable localities to purchase development rights.

When Peninsula Township established its program, it got a legal opinion to confirm its authority, but other localities would be more apt to initiate PDR if the legislature confirmed their authority to do so, according to AFT consultant and general counsel Jeff Weingard.

"The general feeling is that without this enabling legislation, they're on shaky ground," he said. The bill is pending in a subcommittee.

**In Ohio ...** After a virtual fly-through road show with two AFT staffers, the Ohio State University Extension of Medina County stirred up a lot of attention for the concept of PDR. In just a few days, more than 400 people listened to AFT's Jeff Weingard and Bob Wagner describe farmland preservation strategies. Not long after, officials from the Ohio Farm Bureau, co-sponsors of AFT's visit, visited Washington D.C. to speak with AFT president Ralph Grossi. "They were very enthusiastic," Weingard said.

#### *Farm bill, from preceding page*

who agree to forgo benefits from other programs, including flood disaster.

"In theory, this would encourage farmers to stop growing crops on floodplains," said Tim Warman of the AFT. Warman said the program could greatly lower the cost of floodplain parcels, opening up opportunities for land trusts.

Another provision will allow the USDA to purchase easements on floodplain lands.

#### **National Natural Resources Conservation Foundation**

This establishes a nonprofit corporation to promote innovative solutions to conservation challenges on private lands and will promote voluntary partnerships between government and private interests to improve soil and water conservation.

Further, the Foundation will provide leadership and support to address conservation issues including the protection of "strategically important farmland subject to urban conversion and fragmentation."

The Foundation will be able to accept gifts "of money and real and personal property" related to conservation and will also conduct research and undertake educational activities.

An appropriation of \$1 million was authorized for fiscal years 1997 through 1999 to establish and carry out its activities. The bill originated from the Natural Resources Conservation Service, whose chief, Paul Johnson, "feels strongly there needs to be additional partnerships established for NRCS to accomplish its mission," said AFT's Tim Warman.

#### **Environmental Quality Incentives Program (EQIP)**

Cost-share and technical assistance programs for land management and structural practices available to livestock producers will now also be available to crop producers. EQIP combines into a single program the Agricultural Conservation Program, the Water Quality Incentives Program and others. Eligible lands include critical lands identified in a state plan or required to meet nonpoint source pollution standards under the Clean Water Act.

#### **Wetlands Reserve Program**

The WRP is reauthorized through 2002 and limits enrollments to no more than 975,000 acres. Eligible lands must maximize wildlife benefits.

#### **Conservation Reserve Program**

Reauthorized through 2002, the CRP is limited to enrolling 36.4 million acres. The secretary may designate conservation priority areas in which enhanced benefits apply, and no changes to enrollment criteria were made.

## resources ...

### Books and Publications

#### • Sustainable Agriculture in Print: Current Periodicals, 1995

This is an annotated guide to periodicals related to sustainable agriculture. For a free copy, contact: USDA, National Agricultural Library, Alternative Farming Systems Information Center, at (301) 504-6559, or write 10301 Baltimore Blvd, Beltsville, MD 20705-2351.

#### • Redesigning the American Lawn: A Search for Environmental Harmony

Yale University Press, 166 pp., \$16  
A guide to finding an alternative to energy and chemical-intensive lawns. Includes the history of our mono-lawn culture and the ecological as well as economical reasons for seeking alternatives. Written by ecologists at the Yale School of Forestry and Environmental Studies, the guide offers strategies for creating beautiful lawns that are also environmentally sound. Paperback. Call (203) 432-0940 or write Yale Univ. Press, P.O. Box 209040, New Haven, CT 06520.

### Conferences & Workshops

**April 22, Crownsville, MD:** Easement Appraisals, a workshop on the appraisal process involved in conservation and agricultural easements, will be held at the Maryland Environmental Trust offices. Sponsored by the Maryland Land Trust Alliance and the US Coastal Zone Management Program, the workshop is from 9 to noon and will cover the basics and issues such as the proper role of the land trust in the appraisal process. For information call Nick Williams at

(410) 514-7907.

**April 21-24, Tysons Corner, VA:** *Scenic Byways for the 21st Century* sponsored by the American Recreation Coalition. For more information call (202) 662-7420.

**April 26-27, San Francisco:** 3rd Annual "Putting Our Communities Back on Their Feet" a western U.S. conference on land use planning issues produced by the Local Government Commission and sponsored by 120 organizations. The focus is on pedestrian and transit-oriented, compact, mixed use development and growth strategies for 13 western states and British Columbia. Executive summaries from the two preceding conferences are available. Contact Michele Kelso at (916) 448-1198. The LGC is a California nonprofit, nonpartisan organization of local elected officials.

**April 28-30, Pittsburgh, PA:** *Pennsylvania Heritage Partnerships 96*, sponsored by Preservation Pennsylvania. Call (717) 234-2310.

**May 10, Washington, D.C.:** The Sustainable Use of Land: Twenty Years of Experience, sponsored by the Lincoln Institute of Land Policy. Participants will discuss issues raised in the book *Land Use in America* by Henry L. Diamond and Patrick Noonan. Call 1-800-LAND-USE.

**May 18 - 23, State College, PA:** *The 6th International Symposium on Society and Resource Management*, hosted by Pennsylvania State University Department of Agricultural Economics and Rural Sociology. Will focus on the usefulness of the social sciences to natural resource decision makers and managers. Topics include the increased role of tourism in rural community development; de-

veloping natural resource partnerships; interdependency of ag, forestry, with conservation, preservation, recreation use of land and water. For information contact A.E. Luloff, Professor of Rural Sociology, (814) 863-8643.

**Summer 1996, Burlington, VT:** The University of Vermont is sponsoring its second two-week Land Conservation Program in late July and early August that consists of short courses, workshops and a two-day conference for students, professionals and others in the land conservation community. Dates to be announced. Workshops on site assessments and resource inventories, conservation easements, land stewardship and management; courses in ecology and field science, land conservation aims and methods, ecological restoration; a two-day conference on the effects of fragmentation of working and natural landscapes and developing solutions through linkages and partnerships. To receive the official program announcement, call (802) 656-4055 or send name, address and phone number to Summer Land Conservation Program, Environmental Prg., Univ. of Vermont, 153 South Prospect St., Burlington, VT 05401.

### Subscriber Services

Subscribers may request the FPR cumulative, cross-referenced index, which now goes back to April 1992 and is current to this issue. Call editor Deborah Bowers at 410 692-2708. • Bibliographies: Annotated bibliographies are available for all volume years, 1990 to present. These are mailed to subscribers annually. Each headline is listed, with brief description of article. If you are missing a bibliography, call our office. • Back issues of the newsletter are available at nominal cost.



# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Baltimore County downzoning proposal has public support

TOWSON, MD — The Baltimore County Planning Board has proposed downzoning 12,000 acres currently zoned for one unit per five acres (1-5), to one unit per 50 acres (1-50), to protect the county's prominent farming regions from further encroachment.

So far, there has been no significant opposition, and of the more than 100 calls received at the Department of Planning and Zoning, a majority, at least 60 percent, say they favor the change, according to planning staff. The downzoning proposal has been put forward during the county's comprehensive zoning process, conducted every four years.

"No one has come forward to oppose it," said County Councilman Bryan McIntire, in whose

district the change would occur. At an April 23 public hearing on the proposal, 19 spoke in favor and only one spoke in opposition to the change.

Baltimore County Farm Bureau President Lloyd Reynolds was present at the meeting but did not speak. "It isn't black and white, not just people for and against," Reynolds said in an interview. "We plan to work with planners ... the only thing we'll encourage is that [landowners] know it's happening and that they talk to those in power. If all those people think this won't affect their property rights, then maybe this is what we should do. But those who think it will, should be listened to." Reynolds said he believes the county should have a program to remedy the lost equity

West Coast TDR

*please turn to page 2*

## Fully constructed county TDR program awaits first users

OLYMPIA, WA — Thurston County, Washington's fastest growing county, south of Tacoma and containing the state capital of Olympia, has successfully constructed a transfer of development rights program through a downzoning in its agricultural zones and designation of receiving areas in the county's three major municipalities. The program, first reported in FPR last October, became effective in January.

While no transfers have yet occurred, the Department of Community and Environmental Programs has received inquiries from both potential buyers and sellers, according to associate planner Jackie Kettman.

Last year Thurston County downzoned por-

tions of its agricultural area, adopting two new ag zones that decreased density from one unit per

*please turn to page 3*

Volume 6, Number 7

May 1996

### inside this issue ...

1000 Friends: strategies to save OR farmland .....	p. 4
Estate tax break held up budget bill quagmire .....	p. 4
Pa. takings bill headed for legislative meltdown .....	p. 5
Wisconsin program looking at changes .....	p. 6
Legislative briefs .....	p. 6,7

## Study shows downzoning won't affect land values

*continued from page 1*

issue.

But according to a study produced by the nonprofit Valleys Planning Council, there is little evidence that equity, or the monetary value of one's land, will be affected by the change.

An aggressive land use watchdog group working to protect the county's historic agricultural enclaves, The Valleys Planning Council studied land sales on 154 parcels of 10 acres or more in preservation areas. Parcels zoned for 1-50, designated for resource conservation as RC-2, sold for an average of \$7,097 per acre, whereas parcels zoned for a density of 1-5, designated RC-4, sold for an average of \$6,282 per acre.

Looking only at parcels of 60 or more acres, the difference in per-acre averages between the RC-2 and RC-4 zones was miniscule: in the RC-2 zone, with allowed density at 1-5, the average parcel size sold was 120 acres with an average cost of \$6,255 per acre. In the RC-4 zone, with allowed density at 1-50, the average parcel size sold was 113 acres and the average cost per acre was \$6,335.

Bernstein said he believes the reason there is little opposition to the downzoning proposal is that those who will lose the most development potential are established estate owners committed to open space and the horse industry, and who would be supportive of measures to curb development. The downzoning, he said, "hits the Valley, but most don't care."

The county's Worthington Valley is home to the world-famous Maryland Hunt Cup, a steeplechase race run across open fields and fences. A survey conducted by the University of Maryland Cooperative Extension Service in 1992 found that more than 24,000 horse enthusiasts, persons who either own or lease a horse for pleasure riding, live in Baltimore County, and that in the survey they cited loss of open space as the most critical issue facing the county's equine industry.

Planners are unsure how many development rights would be removed from the 12,000 acres because of a lot-of-record clause that grandfathered an unknown number of rights on many parcels.

But using a build-out scenario for the RC-4 (1-5) zoning now in place on the 12,000 acres, and subtracting 10 percent for site constraints, Valleys

Planning Council director John Bernstein said a very rough calculation would put the figure at about 1,500 units retired from current allowed density when the new density (1-50) is in place.

According to Bernstein, the rezoning is designed to buffer preserved farms, breaking out certain parcels, that, if developed, would significantly intrude into the farmland preservation areas.

Some county planners are calling the rezoning a "fait accompli." But Wally Lippincott, who is preparing background information on the RC-4 zone for the Department of Environmental Protection, said one thing to question is whether rezoning only particular RC-4 areas is justifiable, and that the county must try to determine what the impact will be. And, the equity issue is still there, he said.

The planning department, as well, isn't comfortable with only part of the RC-4 zone being changed. Both departments will soon release comments on the proposal.

Both the RC-4 (1-5) and RC-2 (1-50) zones were created in 1976, and applied to over 50 percent of the county's land — about 200,000 acres, replacing a density allowance of one unit per acre (1-1) in both zones. Most of the county's farmland lies in the watersheds of three major reservoirs serving the Baltimore metropolitan area. The downzoning in 1976 was cited as essential to water quality protection. In the 1980s, environmental protections for steep slopes and other critical areas added to the inventory of low-density land, and lost equity became the issue of the day, with even a sunset clause on the additional restrictions if the county government did not adequately address the issue. Farmers wanted compensatory programs.

In 1990, prior to that sunset date, the county produced a report that stated the degree of equity loss was "blunted somewhat" by two factors: fewer allowed lots had resulted in higher values per lot, and, the value of lots in low-density rural landscapes were "highly desired," circumstances the current Valleys Planning Council study seems to bear out. However, the 1990 report acknowledged that loss of equity had occurred overall.

Lippincott, who runs the state farmland preser-

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*Baltimore County, from previous page*

vation program in the county, said the Department of Environmental Protection predicts that the large farm parcels in the proposed downzoning area will lose most of their density. Only "40 or so" parcels not under easement and of greater than 50 acres remain in the area, he said.

The downzoning proposal comes at a time when Baltimore County, according to a recent *Baltimore Sun* headline, has "tumbled into a fiscal pothole," with "broad deterioration" throughout its infrastructure. As the region's oldest suburban county, public officials meet daily struggles to respond to repair needs in roadways, sewers and bridges while being required to keep up with new growth demands. It is felt that such fiscal strains may foster support for the zoning change.

The Baltimore County Council will vote on the proposal in October.

Contact: John Bernstein, (410) 337-6877; Wally Lippincott, (410) 887-2904.

## TDR set-up ready for takers

*continued from page 1*

five acres (1-5) to one unit per 20 acres (1-20) and one unit per 40 acres (1-40). Using TDR, landowners may sell development rights at the 1-5 density or develop their own land at the 1-20 or 1-40 density.

In the non-prime agricultural areas where density remains at 1-5, a cluster option was adopted, in which a density of 1-3 is allowed if 90 percent of a parcel is preserved.

According to Kettman, the sending area contains about 11,500 acres, with 2,300 transferable rights, and the receiving areas have roughly twice the acreage with an uncalculated amount of bonus density potential. The receiving areas in the cities of Olympia, Lacey and Tumwater require one TDR for each acre that would be affected by increased density. For example, if a developer is building on a 10-acre site and wants to increase density on five of the acres, he would need to purchase five development rights.

In Olympia, officials decided to create an option

to develop at medium densities without having to purchase TDRs in its single family zone, which allows from four to eight dwelling units per acre. If using the low allowance of four to 4.99 units, or if using the high allowance of seven or eight units per acre, developers must purchase development rights at the rate of one per acre of development affected. If building at the density of five to six units per acre, no TDRs are required.

In the city of Tumwater, TDRs are required if developing at the highest allowed density in its three single family low-density zones, and if developing in the higher range of its multifamily high density allowances.

In the city of Lacey, increased densities are more open-ended, allowing the purchase of TDRs "above the stated maximum" in its moderate-high, mixed-high and high-density zones as well as in a business zone.

Parcels in the sending areas can petition for removal if changes in surrounding land use inhibit agricultural use. Since the sending areas are fragmented into about 10 distinct parcel clusters scattered throughout the southern portion of the county, conflicting adjacent land uses from the 1-5 allowed density is a potential threat to the success of the program.

Most growth, about 75 percent, is slated to go into the county's urban areas during the current 20-year planning period for which a comprehensive plan was just completed. Thurston County and its cities have been among the first in the state to comply under the 1990 Growth Management Act, and may benefit from progressive planning in Tacoma, which was the state's first large city to comply with the Act in June 1993. The city is spurring interest in redevelopment of its older neighborhoods and business districts.

Thurston's TDR program could get off to a good start with the user friendly TDR information kit developed by the Department of Community and Environmental Programs. The kit includes sample documents and fact sheets that explain how to determine a property's number of TDRs, how to market and sell TDRs, and what can be done with land once TDRs are sold. *For more information, contact: Jackie Kettman, (360) 754-4111,*

## New strategies at work to save Oregon's farmland from continual fragmentation

PORTLAND, OR — Rural sprawl is an increasing threat to Oregon's farm and forest land, according to 1000 Friends of Oregon and a Farmer Advisory Committee organized by the group two years ago.

While Oregon's statewide land use law, established in 1973, has curbed the rate of development across the state, it has not necessarily curbed development in a way that protects farm and forestland from fragmentation.

In an average year, about 1000 new homes are still constructed in farm zones. Non-farm homes outnumber commercial farms eight to one, although they are built in what is called the exclusive farm use (EFU) zone. And hundreds of new homes are built each year in forest zones as well. The question is, what will the ultimate effect be on agriculture and the environment if these uses are not more tightly limited?

The Farmer Advisory Committee, with 38 members from across the state, developed several recommendations for improving the protections of EFU-zones:

- prohibit UGB expansions onto EFU-zoned land;
- prohibit parceling off of farmland;
- prohibit new non-farm dwellings and putting a five-year sunset clause on approval of lot-of-record dwellings;
- require that applicants for farm dwellings in EFU zones meet a minimum \$80,000 gross income test and other criteria.

The recommendations were presented to the state Land Conservation and Development Commission this spring.

In addition to forming the Farmer Advisory

### etcetera ...

**NRCS will write farmland protection rules by July 1**  
*Washington, D.C.* — Rules for the farmland protection provision under the conservation title of the farm bill are underway and will be drafted by July 1, according to Carl Bouchard, team leader for rules writing at the Natural Resources Conservation Service.

While the farmland protection provision is based on the Farms for the Future Act (FFA), the two are "completely separate," he said. While the FFA was a loan fund, the new funding will most likely be in the form of grants or cost-sharing, Bouchard said.

"There are many options and we won't know until we read all the testimony." Comments were gathered at a number of work sessions held by the NRCS this spring, and from written suggestions, he said. The period for comment closes May 30.

A session held in Reading, Pa., drew farmland preservation administrators from the region who advocated the aid be disbursed in the form of grants, that regulations be simple to understand and follow, and that states be allowed to establish their own criteria under broad federal guidelines. Other suggestions included establishing criteria requiring a locality to have a certain number of acres in agriculture and limitations on per-acre average easement cost.

*Final rules should be complete by the end of November. Contact: Bouchard, (202) 720-8767.*

### **Estate tax break bogged down with budget bill**

*Washington, D.C.* — A bill that would lessen the estate tax burden for farm families is tied up in the federal budget quagmire and is not likely to see air anytime soon. The bill "may be included in the Congressional '97 reconciliation proposals," according to Tim Lindstrom of the (Va.) Piedmont Environmental Council. "There is a lot of interest in estate tax reform in general," he said.

The American Farm and Ranch Protection Act would allow an executor to elect to exclude from a decedent's estate for federal estate tax purposes 40 percent of the value of land subject to a conservation easement. The bill originally called for allowing an executor or a donor to exclude 100 percent of the value of lands subject to a conservation easement.

The break would only apply to donated easements.

Other conditions must be met: most notably, the land covered by the easement must be within 25 miles of a metropolitan area or national park or forest (this was originally 50 miles); and, commercial recreation must be prohibited in the easement.

The total value of land eligible for the 40 percent exclusion is \$5 million, topping off the total value that can be excluded at \$2 million.

The Act also now requires a good working knowledge of mathematics: it provides that the amount of the 40 percent exclusion will be reduced by two percentage points for each one percentage point by which the easement fails to reduce the value of the land by 30 percent.

*For more information about the act and estate tax reform, contact: Tim Lindstrom, (804) 977-2033.*

#### **Tough Pennsylvania takings bill may be taken apart**

*Harrisburg, Pa.* — A strong takings bill that has been sitting in a Pennsylvania Senate committee may be in for a legislative meltdown, as proponents for the bill are shifting gears and may submit a new bill that simply calls for agencies to conduct assessments of potential takings under new regulations. Such a bill would be far removed from the original, which was, in the grand sweep of takings bills across the nation last year, rated among the toughest.

Proponents of the original bill may be "getting more realistic," according to Terry Fitzpatrick, counsel for the Senate Environmental Resources and Energy Committee, chaired by Sen. David J. Brightbill, who last year co-authored successful *brownfields* legislation.

Senate Bill 805, the Private Agricultural Property and Private Property Protection Act, which had 26 co-sponsors, would have made any government action that "has reduced or is expected to reduce the fair market value of any private agricultural property or other private property to less than 90 percent of the fair market value" constitute a taking, unless performed strictly for public health and safety, with a "compelling public interest." It is now expected that this provision will be eliminated.

Similar legislation in New Jersey, which aims to disarm the state's environmental agencies and require compensation when land value is reduced by 20 percent or more, is also still in committee.

*For information on Pa. Senate Bill 805, call Terry Fitzpatrick at (717) 787-5708; the New Jersey bill, S. 317, is in the Senate State Government Committee, (609) 292-4840.*

#### **Oregon, from preceding page**

Committee, 1000 Friends has been working to broaden its support base by bringing together existing organizations that have common values and vision for the future of Oregon. These groups include native Americans, churches, and low-income housing advocacies. Called the Coalition for a Liveable Future, it hired a leader in Portland's African-American religious community as an outreach worker. The Coalition is involved in housing and transportation, as well as land use planning and growth issues.

The Coalition will be watching the Portland Metro Council this summer as it studies the possibility of designating 22,000 acres on the city's fringe for expansion of its urban growth boundary (UGB). About 6,000 of those acres are zoned for farming or forestry. At least one council member is actively promoting UGB expansion. A decision will be made in August.

Meanwhile, some localities have taken actions that demonstrate concern about growth. The town of Coberg repealed an enterprise zone program, fearing the growth would cost more than it was worth, both in lost small-town identity and new development. Yamhill County dropped out of a state tax incentive program for high-tech companies when it recognized the program had generated \$10 billion in new plant construction in the Willamette Valley — the state's most productive agricultural region.

The first county to reject the program, 1000 Friends hopes others will join Yamhill, and even newspaper publishers have recognized too much of a "good thing." An editorial in a weekly Salem newspaper stated "it's a shame Oregon's land use planning system allows computer factories and warehouses to be constructed on land where topsoil runs three feet deep. That shouldn't be allowed anywhere, but it's especially disdainful in a state held up as a national model for its land use planning laws."

*For more information on 1000 Friends initiatives, call (503) 497-1000.*

## Changes in the making for Wisconsin circuit breaker tax relief program

MADISON, WI — Although legislation that proposed to significantly alter farmland preservation efforts in Wisconsin was buried in committee, changes to Wisconsin's farmland preservation program are likely in the offing, according to Kate Lawton, land resources section chief of the state Department of Agriculture, Trade and Consumer Protection.

One change has already occurred: the 1995 Budget Act changed the way farmland is to be assessed in Wisconsin, phasing in agricultural use values. New guidelines for classifying land as agricultural will begin in 1996, with per-acre value guidelines beginning in the 1998 assessment year, as well as guidelines for various categories of agricultural land.

Lawton believes ag use assessment will have an effect, and be a positive addition to the farmland preservation tax relief already available to farmers in the state, last year amounting to more than \$31 million. "It is a nice supplement to the program," she said.

A farmland advisory council was also created to advise on guidelines and implementation of the use-value law. The act provides for a penalty, administered by the Department of Revenue, if land is held less than five years, equalling five percent of the difference between the sale price and the use-value during the last year of ownership.

The Wisconsin program, established in 1977, provides tax relief in the form of credits based on a household's tax burden when land is restricted by agricultural zoning or restrictive agreements.

Under a proposal put forward by a special legislative committee, but not passed this year, the tax relief program would have been completely restructured, converting the farmland preservation credit to a straight percentage of property taxes accrued. Under the provision, landowners whose land is under exclusive agricultural zoning would file a claim based on 50 percent of the property taxes accrued or \$7,500, whichever is less. Farmland in a designated transitional area, or area designated for future growth but currently in agricultural use, would be able to claim a 25 percent credit.

The restructuring proposal could come back, according to Lawton. "The whole farmland preservation program is still intact, though I suspect at some point it will change," Lawton

### legislative and program briefs ...

**In Washington ...** The San Juan County Land Bank, which purchases development rights, has adopted a formula for determining easement value, using Maryland models, and will forego the appraisal system except for certain higher density properties, according to Land Bank director Ruth Mahan. "This is a real breakthrough for the Land Bank. It will make it much easier for landowners to evaluate whether they would like to sell conservation easements," she said. *Mahan: (360) 378-4402.*

**In Maryland ...** The state program will have \$1 million less than expected to spend on easements this year due to a shortfall in revenues from the agricultural transfer tax. Total funds: \$7.8 million.

Carroll County Commissioners have proposed a property tax increase of 30 cents that would generate revenue for school construction and for farmland preservation, which would receive \$2.8 million. The proposal goes to public hearing May 9. Half the county's school districts have schools that are over capacity, while the county is losing 1,800 acres of farmland each year. About 157,000 acres of farmland remain. Average cost per acre for easements: \$1700. *Bill Powel, (410) 857-2131.*

Creation of 10 citizen planning councils has made Harford County's land use plan update a process very different from the last one completed in 1988. Many citizens are participating in the process and reading between the lines, finding plenty of things that were absent in the first draft, most notably, a TDR program with plan for implementation. The county's planning department is scrambling to make up for lost time since TDR was first a stated goal in the county's 1992 Rural Plan. Planning councils have vigorously opposed expansions of growth areas and urge preservation of open space and increased farmland preservation strategies such as a fund for critical, time-sensitive purchases of easements.

**In California ...** The state's redevelopment law needs some reforming, according to the California Farm Bureau Federation, which says the law allows development agencies to include "vacant" farmland as land appropriate for "redevelopment." In Riverside County, the CFBF won a case against the city for abusing the law even as it is: the law sets a 20 percent limit on the amount of rural land that can be included in a redevelopment project.

The project in question contained 89 percent rural land, according to the suit.

AB 1724, a buffer bill that would make school districts abide by local agricultural buffer ordinances has moved out of the Assembly into the Senate Education Committee.

AB 3465 would make mining a compatible use under the Williamson Act. The mining industry claims mining on prime farmland would be compatible to agriculture because lakes would be created. The bill is in the Assembly Appropriations Committee.

Local governments, land trusts and landowners have been calling the Department of Conservation inquiring about the new state Land Stewardship (PDR) Program although no money is yet allocated for easement purchase. A \$1 million start-up allocation has put rules writing into motion and may result in a staff position opening, according to director Ken Trott.

**In Michigan ...** A task force created in 1994 under the state Natural Resources Commission to study ways to bring about a common land use planning agenda among state agencies has produced recommendations that will be the subject of public hearings in June. Among the many recommendations, the task force will urge: amendment of zoning acts to provide overall consistency in administration; required comprehensive plans; new growth management tools including PDR, TDR, concurrency, and review of developments with regional impacts. Lastly, the task force states the necessity of "leadership and political will."

**In Maine ...** Legislation that would reduce the penalty for withdrawal from the Farm and Open Space Tax program, the state's use assessment law, is intended to increase participation. A proposal to use a credit card program that would commit a percentage of purchases to fund the Farmland for Maine's Future program is circulating. *Bill Seekins, (207) 287-3871.*

**In Virginia ...** It's been 10 years since Virginia's environmental and natural resource agencies coordinated their work or their roles in managing the state's resources, and during that time there has been a "significant decline in state general fund dollars appropriated for natural resource programs." That doesn't mix well with the fact that Virginia voters overwhelmingly approved a bond measure last year for the purchase of parklands and open space, so the legislature has created a joint subcommittee to "study the future of Virginia's environment." Areas for study are "wide open at this point," said Shannon Varner, staff attorney for natural resources, who will serve as staff for the subcommittee. Only a few appointments to the 17-member group, some of which will be citizens, have been made. *Varner, (804) 786-3591.*

*Wisconsin, from preceding page*

said, the change resulting from either the restructuring proposal or the role of the Interagency Land Use Council, created by the governor in 1994. The council, with the task of recommending consistent land use policy objectives for state agencies, in turn created the Wisconsin Strategic Growth Task Force in February 1995.

The task force was charged with analyzing land use systems in other states, identifying ways to improve Wisconsin's approach, and examining the public attitude about land use. It produced a study in December that named a host of shortcomings of land use decision-making in Wisconsin, a list that could describe planning in many other states as well: state government lacks a common vision; planning is inadequately implemented; agencies have conflicting goals that get in the way of sound decisions; infrastructure is built without consideration of how it will generate land use changes; tax and fiscal policies drive land use patterns; localities lack the money and technical expertise to plan effectively.

Land use authority in Wisconsin is widely distributed among state and local agencies, where cooperation is not the order of the day. The report describes conflicting goals that result in "poor communication — due in part to tax base competition, communication among local governments is limited — even issues that have spillover effects are often dealt with in isolation." Current laws do not encourage cooperation among local governments and planning is not usually integrated with regulatory activities, the report said.

While no comprehensive poll was undertaken to discern public opinion, interest group discussions and focus group meetings revealed that while planning is seen as a local concern, a state role is seen as desirable. Farmland preservation and preservation of the "family farm lifestyle" was noted as specific desires, as well as "support for making urban areas more liveable and for making farming more profitable."

Among task force recommendations directly affecting farmland: prioritize farmland and environmental features for protection based on their size, quality, and viability; allow and encourage tax base sharing tools among neighboring municipalities; change inheritance tax laws to favor intergenerational transfer of farms.

*For information or a copy of the Interagency Land Use Council's "Land Use in Wisconsin," or a copy of the use-value assessment act, call Kate Lawton at (608) 224-4640; E-Mail: lawtokm@wheel.datcp.state.wi.us*

## resources ...

### Books and Publications

• **Forging New Protection: Purchasing Development Rights to Save Farmland — How Peninsula Township, Mich. Designed and Built Support for Farmland Protection**

American Farmland Trust, \$15

This is a primer for communities beginning to explore the possibility for a farmland preservation program. It recounts the experiences of a township in Michigan's fruit region in fighting to keep its world-famous cherry orchards from succumbing to rampant sprawl. Call AFT at (202) 659-5170.

• **Building on the Past, Traveling to the Future: A Preservationist's Guide to the ISTEA Transportation Enhancement Provision**

National Trust for Historic Preservation and FHA, 75 pp.

This book gives the how-to on applying for the funds that made preservation of scenic and historic resources along transportation corridors part of the agenda for federal transportation policy, and gave citizens a seat at the table. Includes case studies. To receive a copy call (202) 673-4204.

• **Virginia's Economy and Historic Preservation**

Preservation Alliance of Virginia

While behemoths like Disney and Walmart are attracted to Virginia's

conservative politics, the state is also a case study in the economic vitality of historic preservation. This booklet shows how jobs, businesses and communities at large benefit from the state's many historic sites. For a copy call (504) 886-4362.

### Conferences & Workshops

**June 8 - 12, Baltimore:** *Watershed '96: Moving Ahead Together*, sponsored by the Water Environment Federation, (formerly the Water Pollution Control Federation). Keynote addresses by Jonathan Lash, pres., World Resources Institute; Mich. Gov. John Engler, chr. of the National Forum on Nonpoint Source Pollution. Among the session tracks are: the Value of the Watershed Approach for Addressing Multiple Issues. Sessions include Urban Waterway Restoration; Coastal Issues; Consensus Building; Successful Partnerships; NPS and Land Use Patterns—Agriculture; Equity Issues; Developing Sustainable Communities. For information and registration form via fax call WEF at 1-800-444-2933, request document #15 (11 pages). Full conference fee: \$375. One day: \$175.

**June 9 - 11, Washington, D.C.:** *1996 Transportation Enhancements Conference*, sponsored by the Federal Highway Administration along with the National Trust for Historic Preservation, the Surface Transportation Policy Project, APA, Rails-to-Trails and others. Participants will explore the dynamics, benefits and keys to success of enhancement programs. Preregistration and reception Sunday evening. Conference fee is \$175. Call Rails-to-Trails at (202) 797-5400, or fax info. request to (202) 797-5411.

**June 12, Washington, D.C.:** *Land Use in America: Reflections and Directions*, sponsored by the Lincoln Institute of Land Policy, this program replaces the May 10 program which was cancelled. This program is based on the new book, *Land Use in America*, and will feature the authors, Henry Diamond and Patrick Noonan, as well as William Reilly, visiting professor from Stanford University and former EPA administrator, who was involved with the Sustainable Use of Land Project, which precipitated the book (see FPR, July-Aug. 1993). Also speaking will be Christopher Leinberger, John Baden, C. Ford Runge. Program fee of \$125 includes luncheon, reception and a copy of *Land Use in America*. Call 1-800-LAND-USE.

### Future:

**Oct. 17 - 20, Burlington, VT:** Land Trust Alliance National Rally '96. Registration begins in late June. Fees are \$205 for members, \$305 for others. For information call (202) 638-4725.

**Oct. 16 - 20, Chicago, IL:** 50th National Preservation Conference of the National Trust for Historic Preservation, "Preserving Community: City, Suburb and Countryside. For preliminary program information, call (800) 944-6847.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

Northeastern Illinois

## Emerging coalitions fight tollway expansion, new airport

CHICAGO, IL — Plans by Illinois Governor Jim Edgar to condemn thousands of acres of farmland in rural Will County to make way for a third major airport has some local governments and conservationists gathering to protect their turf. At least one official claims a 32-mile multi-billion tollway expansion into the region is a waste of tollway money, and was planned instead to serve as the airport's own access route.

"Is it a public necessity or is it to generate economic growth?" asked Richard Benson, mayor of Peotone in Will County, site of the proposed airport. "It's redistributed economics, and it will lead to more urban blight." Benson said the airport proposal is steamrolling his community. "We've

got to get our choices back," he said.

The airport itself, in the planning for more than 10 years, would cover nearly 25,000 acres of farmland, and construction would likely result in many more thousands of acres being converted to commercial and industrial uses in a major economic development blitz airport backers say is good for everyone.

A number of soil and water conservation district representatives and local government officials met last month and formed the Illinois Coalition for Farmland Protection, with an agenda that includes examining the proposed airport and the tollway expansion, as well as zoning issues, according to Benson.

*please turn to page 2*

## "Aggie bonds" unknown to farmland preservation states

State-sponsored credit programs for first-time farmers trying to buy land exist in 17 states, but in no states with farmland preservation programs and growing inventories of preserved farms — farms that could be affordable for first-time farmers with the help of special financing.

According to a report by the Economic Research Service, the Agricultural Credit Improvement Act of 1992 made changes in federal farm finance programs that were expected to increase the number of states establishing beginning farmer credit programs. But that hasn't happened in the mid-Atlantic or New England states that have farmland preservation programs.

Yet, farmland preservation programs would be a good match for beginning farmer finance pro-

grams such as those using tax exempt "aggie bonds," in which interest income on loans is exempt from federal income tax, according to

*please turn to page 6*

Volume 6, Number 8

June 1996

### inside this issue ...

- Carroll County boosts preservation funds ..... p. 4
- IRS subordinates estate tax lien in NJ 2032A cases ..... p. 4
- Burlington Co. to vote on preservation bond funds ..... p. 4
- Legislative briefs ..... p. 6,7

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## Chicago groups fight to change Illinois transportation plans

*continued from page 1*

### Linking expansion with urban decline

The Coalition for Farmland Protection, which meets this month to develop its plan of action, has an opportunity to merge its agenda with a broad-based effort in Chicago aimed at stopping the airport and the tollway plans and advocating public transit and redevelopment efforts in the city and inner ring suburbs.

A major public education initiative by a Chicago coalition of environmental and civic groups has linked suburban expansion with the decline of closer-in communities and is working to have its own transportation plan — "the Citizens' Plan" — adopted by the Chicago Area Transportation Study, or CATS. The CATS plan will determine how federal transportation dollars will be spent into the year 2020.

The Citizens' Plan was developed by the Chicago Land Transportation and Air Quality Commission, a coalition of more than 60 community groups pushing for more public transit and less highway expansion. It calls on state policy makers to target a greater share of resources to inner ring and outlying suburbs that grew up around transit stations.

The 230 recommendations in the Citizens' Plan would help reduce traffic congestion and make existing communities more livable, according to Scott Bernstein, president of the Center for Neighborhood Technology, which organized the commission in 1994.

"There's a lot of vacant land within walking and shuttle distance of transit — we don't have to spread out anymore," Bernstein said.

The plan is billed as a wise investment in people and the neighborhoods suburbanites left behind, and an alternative to the Tollway Authority's plan.

In an eight-page newsprint tabloid it is distributing in Chicago, the Center for Neighborhood Technology outlines the recommendations and calls on residents to endorse the Citizens' Plan.

The Citizens' Plan brings forward the thinking from the Northeastern Illinois Planning Commission (NIPC), which has been warning legislators for years that wasteful consumption of land will lead to fiscal crisis for local and state government. A 1992 NIPC report strongly recommended policies that would make redevelopment more attractive and farmland less attractive to developers and relocating corporations. But its voice went unheard in the legislature. The following year, the General Assem-

bly didn't hold a single hearing on growth, but instead endorsed construction of 75 miles of tollways.

"There is a critical mass of evidence showing the NIPC report was essentially correct, and now there is an emerging constituency intuitively recognizing sprawl is destructive in social, environmental and economic ways," said Citizens' Plan spokesperson Bob Heuer. "If the governor approves the tollway plan, it will be for reasons beyond what the evidence shows."

### "Pathway to Peotone"

The Citizen Plan calls for scrapping the airport at Peotone, as well as tollway expansion and widening plans. It recommends transit lines between major public facilities including airports and malls, bus-only and carpool lanes, more sidewalks, a regional bike path system, and zoning to allow higher density near rail stations. It also recommends improving access to freight rail lines so fewer trucks use the roads, and making train stations easier for people to get to, linking them with bus lines.

Tollways "are red carpets to development, and the airport is a magnet for development," said Mike Truppa, spokesman for the Environmental Law & Policy Center in Chicago. The costs for the tollway projects add up to \$5 billion, but the subsequent costs to local governments from development the roads will generate "are unaccounted for," he said. Truppa agrees with Peotone Mayor Benson that the tollway expansion into Will County was planned to be an eventual gateway to the proposed airport.

"There is ample reason to believe this road is a pathway to Peotone," Truppa said.

Truppa's organization and the Center for Neighborhood Technology, a Chicago-based revitalization group, say tollways and other public projects built primarily for economic development in outlying areas hurts Chicago and its inner ring suburbs. These communities have seen greater disparities in public services over the last several decades as infrastructure and public services were focused on the expanding fringe suburbs.

Peotone mayor Richard Benson is among the few public officials from suburban and rural counties that question whether all the growth-generating plans are really good for the future of outlying

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*Tollways, from previous page*

areas. He helped in a petition drive for greater public accountability on the part of the Illinois State Toll Highway Authority, which has had free reign over its decisions since its inception in the early 1950s as a quasi-governmental agency.

Speaking before the Authority at a hearing on the expansion, Benson called for public capital to be invested "more intelligently, to make existing communities more vital. Too many people and too many businesses feel like they have no choice but to escape. And, out here on the edge of suburbia, many farmers feel like they have no choice but to sell out to homebuilders," he told the authority.

**Tollways immune from planning principles**

The Illinois State Toll Highway Authority is one of a number of such entities nationwide that are exempt from federal transportation planning policies because they don't need federal transportation dollars — they are authorized by their legislatures to sell bonds based on revenues expected from tollway use.

But increasingly, tollway authority plans conflict with a new era in federal transportation planning that calls for consistency with state land use goals, that is, if farmland protection is a goal in the state, then new highways may be seen as conflicting with that goal.

Nevertheless, the Illinois legislature, in 1993, authorized the tollway authority to sell bonds in excess of \$2 billion for its latest plan. And, because of its quasi-public status, the Authority is largely immune from public opinion, and governed by politicians who generally have a lot to gain from the economic development the tollway's projects generate.

The Citizen Plan, recognizing the unbridled power of the tollway authority, calls for creating a new transportation and land-use planning agency with broader representation than exists on the tollway authority board. The board is made up of nine white male members, most of whom represent powerful interests that benefit from the expansion of roads.

Joe Ann Bradley, director of the Community Action Group in the inner city neighborhood of North Lawndale, has asked Gov. Edgar to appoint her to the tollway board of directors, making a point that there are no women or minority members on the board.

Working together for revitalization in Chicago and farmland preservation in outlying counties, the Citizens' Plan is generating an image of the tollway authority as sprawl incarnate — overextended infrastructure, wasteful use of land, and inner city neglect, are interrelated issues that have been difficult to demonstrate, until now, according to Robert Heuer, a Chicago writer and Citizens' Plan spokesperson. The tollway authority, he said, embodies the cause and effect of sprawl. Now, he said, the challenge for the organizations working to change transportation spending is to work toward democratizing transportation decisionmaking.

**God on their side**

One group that has participated in the Chicago Area Transportation Study is the Metropolitan Alliance of Congregations, a group of clergy, lay leaders and citizens. Recently 350 people participated in an "issue dialogue" co-sponsored by the Alliance and the Center for Neighborhood Technology. The purpose was to "understand decisions made by politically appointed groups in the metropolitan Chicago area and the impact those decisions have on our communities." The top issue discussed was the link between investments in outer suburbs and decline of city neighborhoods.

One speaker was Minnesota state legislator Myron Orfield, whose study of metropolitan area development illustrates how cities and inner ring suburbs find themselves in a downward spiral while development on the suburban fringes siphons energy and dollars away.

Orfield authored legislation in Minnesota creating tax-base sharing among jurisdictions surrounding the Twin Cities. While the bill was vetoed by the governor last year, some tax-base sharing is already in place around the Twin Cities and has been called successful in alleviating disparities in public services. The Citizen's Plan is calling for a tax-base sharing initiative in the Chicago region.

Orfield and others say it is time to put sustainability on the growth agenda.

"We can't afford to go on like this," said Cindy Skrukud, executive director of the McHenry County Defenders, an environmental and land use group. "It's absolutely critical that people who care about creating livable communities realize that current transportation and land use policies are undermining this region's ability to sustain itself

## Tollway snubs planning

continued from page 3

into the future.

### Planning principles vs. progress machine

The broad-based effort driving the Center for Neighborhood Technology and its aligned organizations is supported in principle by the law the tollway authority in its autonomy snubs — namely, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). That law calls for greater efficiency in transportation planning and spending, placing more emphasis on transit and maintenance of existing roadways and less on new highway construction. Part of ISTEA's genesis was a need to augment the federal Clean Air Act.

While the tollway authority is not bound by the ISTEA principles, the Citizen's Transportation Plan is putting the mission of ISTEA to work against a once ironclad progress machine, the growth of a highway mecca meant to touch every rural region across the country to drive development. Now, it seems, not everyone thinks that is desirable.

Even Gov. Jim Edgar once expressed the view that unchecked suburban expansion wasn't the Godsend it was made out to be. Commenting in 1992 on a study showing that a 10-year population increase of 4 percent had been accompanied by a land consumption increase of 43 percent, Edgar told a reporter, "We've got to find ways to make the places where people already are, more livable so as to lessen the urge to escape and to decrease the demand for sprawl."

Now, city and suburban activists working on that very issue wonder if the governor will remember those words when the tollway authority puts its final plan on his desk later this month. *Contact: Bob Heuer, (312) 274-1989.*

## N.J. county may boost farmland preservation funds

MOUNT HOLLY, N.J. — Burlington County voters will have a chance to boost farmland and open space preservation efforts this fall, by approving a referendum calling for a 2-cent property tax increase. All of the expected \$3.9 million from the increase could be used for farmland preservation, but half the allotted funds could be used also for

## etcetera ...

### Property tax hike boosts Carroll County funding

*Westminster, Md.* — Carroll County Commissioners adopted a property tax hike that will boost farmland preservation funding for the county to about \$4 million per year, \$3 million from county funds, and \$1.2 million from state program funds.

Carroll County has 24,131 acres preserved under easement, placing it third in the nation for acres preserved by a locality. Carroll, however, is not far behind second-place Marin County, Ca., which has 25,504 acres preserved, and a stagnated funding source. Montgomery County, Md., ranks first in the nation, with more than 43,000 acres preserved, most through the transfer of development rights. Lancaster County, Pa., currently ranks fourth, with 22,000 acres preserved or near settlement.

Once Carroll County's new funding kicks in, the task is to decide how to use it, said county program administrator Bill Powel.

"I personally want to stay in the state program and buy easements with county money on the same ranking instead of having two programs to deal with," Powel said. "This level of funds will give us each year enough to achieve our 100,000-acre goal. At current prices we would achieve that in 28 years. At that point we would also have a 100,000-acre loss [of farmland]," he said. *Bill Powel, (410) 857-2131.*

### IRS subordinates estate tax lien in two NJ cases

The heirs to two New Jersey farms will not have to pay hefty estate taxes in order to sell conservation easements, according to two separate IRS determinations. Two families that used the special valuation election option (2032A) for avoiding estate tax on inherited farmland would have been required to wait 10 years before selling development rights without triggering recapture of the tax.

A 176-acre crop farm in Monmouth County was finally able to settle, after about a year while awaiting IRS determination, on an easement offer of \$6000 per acre, totaling \$967,000. Estate tax abated was just over \$275,000, well worth the loss in interest during the delay, according to Karen Fedosh, county program administrator.

In Hunterdon County, a 210-acre dairy farm was inherited in 1988 at the peak of real estate values. The easement offer of \$4490 per acre totaled \$897,535, but the estate tax lien, in effect until 1998, would have taken a whopping \$300,000 off the top, according to Linda Weber, secretary for the County Agricultural Development Board.

It is unknown how often easement sales and donations have been stymied by the 2032A option, but several additional cases have occurred in Pennsylvania, Massachusetts and Maryland.

While state programs have not monitored or kept records of such occurrences, Lancaster County, Pa. program director Tom Daniels said one landowner, and possibly two have been delayed in easement sale in Lancaster County because of the regulation. Pennsylvania state program director Ray Pickering knew of no others in the state.

In Calvert County, Md., one landowner was affected in a big way. After inheriting a farm, and electing the 2032A option, an easement was sold under a misunderstanding about the restriction. Not only did the IRS claim a recapture of the tax, but levied a penalty as well, according to state program administrator Paul Schiedt.

In Massachusetts, a farmer applied to the APR program, then opted for the 2032A exemption. "They waited out the 10 years, and now they're back," with a new application, said Rich Hubbard.

*Fedosh, (908) 431-7460; Weber, (908) 788-1490; Daniels, (717) 299-8355.*

#### **Minnesota legislators scrap airport relocation**

*St. Paul, Minn.* - Minnesota legislators have ended attempts to move the Twin Cities International Airport to rural Dakota County, and now agree the current airport should be expanded instead.

Gov. Arne Carlson signed a bill into law that prohibits the Metropolitan Airports Commission from acquiring land in Dakota County.

Opponents of the proposed airport relocation included the Land Stewardship Project, which said that moving the facility 15 miles from its current location in the Twin Cities would destroy prime farmland and drive the forces of sprawl. (See FPR story, Nov.-Dec. 1995).

#### **Burlington County, from preceding page**

open space acquisition, according to senior planner Cindy Gilman.

If the referendum is approved by voters, the county plans to use the influx of funds to capture "a critical window of opportunity" to purchase easements quickly using installment purchase agreements (IPAs) in a five to 10-year purchasing blitz, she said. Part of the hurry, she said, is in response to the recent opening of a new interstate through the county that is driving up development pressure, Gilman said.

"We have a lot of interest, between 20 and 30 good applications," for the upcoming June deadline for the state program, she said. However, the county is limited to sending seven applications to the state. In the last cycle, only two qualified for funding. "It gets frustrating," she said.

With the new county funding, if approved, and Burlington County's requirement for matching funds from municipalities, Gilman estimates up to 14 farms could be preserved each year in the state and county programs.

"Last year we only had 11 applications, so we knew we had to reinvigorate the program," Gilman said. In prior years, the program has received between 25 and 55 applications.

Campaigning for the ballot measure itself has helped to spur renewed interest in preserving land, Gilman said. So far, in public meetings about the proposed tax hike, response has been positive. Burlington County voters have in the past been supportive of bond measures for farmland preservation.

"The sentiment is, we've got a really good shot at this," Gilman said.

Two townships have added to the drive by deciding to have their own local ballot referendums to raise additional matching funds. Springfield and West Hanover will each try to add \$1 million to boost their participation in the county program.

Burlington County Freeholders, in a move that demonstrates commitment to farmland preservation and generates enthusiasm for local preservation, recently took four farms that failed to receive offers from the state and decided to purchase the easements using county funds. The county will provide the 80 to 85 percent share the state would have provided and townships will provide the remainder.

Burlington County has 8,183 acres preserved or pending settlement.

*Contact: Cindy Gilman, (609) 265-5787.*

## Aggie bonds would be a good link to farmland preservation programs

*continued from page 1*

Daniel P. O'Connell of Evergreen Capital Advisors Inc. in New Jersey.

According to O'Connell, the best time for a beginning farmer to purchase a preserved farm is immediately after an easement has been sold, when the farm is likely at its lowest possible purchasing price. Farm Link programs, already established in some northeastern states, would be a natural liaison for matching easement sellers to prospective farm buyers.

The biggest limitation in aggie bond programs is that lifetime loan amounts are capped at \$250,000 — hardly enough to purchase a farm of viable size. But it could be a substantial amount for purchasing a farm that has had development value removed, according to O'Connell.

"There's always been the debate on whether programs are saving farmland or farms — this is a positive step they could take," O'Connell said.

Legislation would be required for a state to use aggie bonds. States are limited by the federal government in how much they can bond for, and are usually at or near that limit.

"This introduces another player into the fight," and proponents are likely to have a tough time in the arena, O'Connell said.

### Background: Where the programs aren't

According to the latest Census of Agriculture, farmers age 55 and older now own 58 percent of the nation's owner-operated farmland, while farmers between the ages of 25 and 34 own just 4.5 percent.

The rising average age of farmers and the ever-growing cost of real estate, particularly considering the number of acres required for a commercially viable farm, have made beginning-farmer programs increasingly important in recent decades. In 1992 Congress directed the Farmers Home Administration (FmHA) to target a portion of all funds specifically to beginning farmers. The idea was to avoid competition for loans between established farmers and newcomers who otherwise may not have had a chance for assistance.

But high land prices due to urban sprawl is likely a major reason why beginning farmer programs have not been tried in the mid-Atlantic and New England states.

A good illustration of this point came last year when a Farm Service Agency-sponsored focus group brought together state Farm Service Agency directors and others to discuss credit programs for beginning farmers.

Cheryl Cook, state director for FSA credit programs from Pennsylvania, reported that state officials felt high land prices and low funding levels had combined "to make beginning farmer loans nearly impossible." It was also noted that the loss of 1,000 farmers per year in the state since 1981 was "a critical problem."

## legislative and program briefs ...

**In New York ...** Gov. George Pataki has sent three proposals to the legislature to aid farmers: a real property tax credit for school taxes, a tax credit for historic barn restoration, and low-interest loans for controlling runoff.

The real property tax credit, contained in the Farm Preservation Act of 1996, would provide farmers with credits for school taxes, on up to 100 acres in 1997, 175 acres in 1998 and 250 acres in 1999 and beyond. The average size of a farm in New York is 266 acres. Estimated cost for the state: \$20 million next year, up to \$46 million in 2000.

The Historic Barn Conservation Act would create a 25 percent income tax credit for rehabilitating barns for agricultural or retail purposes. At least \$5000 must be spent within 24 months to be eligible.

The governor's proposed Water Pollution Control Linked Deposit Program would loan money to banks for lending to farmers, individuals and industries with run-off from parking lots, to control non-point source pollution. The funds would come through the state's Environmental Facilities Corp. (EFC), which would use about \$10 million from the State Revolving Loan Fund for the program in the first year. The program would save borrowers about two percent off the market rate of interest.

Monroe County will vote next month on whether to place a \$10 million farmland preservation bond proposal on the ballot this fall, according to Jerry Cosgrove of the American Farmland Trust's New York office. Washington County has approved a farmland protection plan.

**In Virginia ...** An audit of the Department of Environmental Quality has found inappropriate or "problematic" hiring practices and employee trust within the department low. The report by the Joint Legislative Audit and Review Commission was not as succinct, however, as a state delegate who wrote to the Washington Post describing the Virginia Secretariat of Natural Resources as "a James Watt disciple" who was replacing dedicated employees with "anti-environmental zealots." According to Del. George Grayson of the Williamsburg area, Natural Resources Secretariat

Becky Norton Dunlap has claimed that "growth and development ... will save the Chesapeake Bay." Grayson claims Gov. George Allen's selection of personnel has the purpose of systematically undermining environmental agencies. "The division is being bled dry," he said in a June 2 letter to the editor.

**In Maryland ...** The governor has created within the Department of Natural Resources the Division of Directed Growth and Neighborhood Conservation, which will administer programs that promote efficient land use and resource protection, including the tributary strategies program for reducing nonpoint source pollution. Creation of the division is part of a larger move within the administration to integrate "growing smart" strategies into all state agencies, according to division director Theresa Pierno.

In Harford County, a land use element plan update is before the county council which is holding hearings this month. Developers and homebuilders oppose adoption of the plan because it doesn't substantially enlarge the county's "development envelope" for future growth areas. Members of the county's citizen planning councils testified the county doesn't need any additional growth areas and support the planning department's assessment of adequate growth capacity within the development envelope for the next 18 years. The council will vote on the plan in July.

**In Pennsylvania ...** The state board approved purchase of easements on 1,128 acres in May, bringing the state total of preserved acres to 77,376 on 618 farms.

**In Washington, D.C. ...** The American Farmland Trust has promoted three veteran employees to new posts. Edward Thompson Jr., formerly director of public policy and with AFT since 1981, will now serve as senior vice president for public policy, advising AFT president Ralph Gossi. Tim Warman, formerly director of federal policy will now serve as vice president for programs. Julia Freedgood, formerly director of technical education and outreach, will now serve as director of farmland protection services.... AFT recently created a \$10,000 annual "Steward of the Land" award, in memory of philanthropist, farmer and AFT founder Peggy Rockefeller who died in March. In other news, AFT recently received a 330-acre farm in Franklin County, Pa., 25 miles from Hagerstown, Md., as a gift in the will of the late owners. The farm will serve as a model for grass-based dairying.

*Aggie bonds, from preceding page*

### Linking finance with preserving farms

While it does not have an aggie bond program, Vermont's farmland preservation program often works closely with a state lending program that helps farmers restructure debt in conjunction with sale of development rights.

Robert Pratt, an agricultural loan officer with the Vermont Economic Development Authority, said his office has worked with the Vermont Housing and Conservation Board to combine the purchase of development rights with the financing of farm purchase. In some instances, the purchase of development rights has been used, in conjunction with refinancing, as a means to avoid default on high mortgages and to avoid imminent farm sales.

As an example, Pratt said the Vermont Housing and Conservation Board financed the purchase of development rights on a farm that was saddled with a \$500,000 mortgage, and the easement funds went to reduce debt. "Then, we gave a \$200,000 loan, and it brought the debt down to a manageable level for that farmer. We've done that a number of times," Pratt said.

Pratt's office has no specific state regulations for performing this type of arrangement, but one of the purposes of the state's agricultural finance programs, particularly its Family Farm Finance Loans, is to "assist or strengthen existing farms" and to "assist beginning farmers to start new farms."

"We have no legislative instruction, but we look everywhere for available funds," Pratt said.

Reducing or restructuring debt is a very common use of easement sale proceeds, according to Jim Libby, general counsel for the Vermont Housing and Conservation Board. "People know it's an option and bankers know what conservation restrictions are," he said.

### Farm Link's missing link

Farm link programs, which match beginning farmers to those looking to sell their farms, could work to link prospective loan applicants with preserved farms on the market if aggie bond programs were established in farmland preservation states, according to Marion Bowlan of the Pennsylvania Farm Link program, operated by the Center for Rural Pennsylvania. Such an effort would put the state's preserved farm inventory to use for beginning farmers looking for affordable farms to purchase. The Center has talked to Pennsylvania legislators about a need for a beginning farmer finance program, but so far no initiatives have been forthcoming, Bowlan said.

*Contact: Daniel P. "Pat" O'Connell, (609) 361-9052. Read more: To learn more about beginning farmer credit programs, request the ERS staff paper "Handbook of State-Sponsored Agricultural Credit Programs" by calling (202) 219-0892; in addition, request the 46-page report "Financing Beginning Farmers: An Evaluation of Farm Service Agency Credit Programs" available from the Center for Rural Affairs in Nebraska. Call (402) 846-5428.*

## resources ...

### Publications

#### **Environmental Enhancement Through Agriculture**

**Tufts University, 343 pp., \$20**

This is a collection of 36 papers delivered at a conference held in Boston last November, describing how sustainable agriculture can improve wildlife habitat, keep waterways clean, etc. Papers describe examples from farm projects. Send \$20 payable to Trustees of Tufts College, to: Center for Agriculture, Food and Environment, School of Nutrition Science and Policy, Tufts University, Medford, MA 02155.

#### **Video: "My Father's Garden"**

**Bullfrog Films, 57 minutes**

This film compares two different agriculture innovators: Herbert Smith, a pioneer of the post-World War II chemical age, and Fred Kirschenmann, whose organic farming enterprise in North Dakota proved the ecological wisdom and profitability of low-input, natural practices. The film also gives a brief history of agriculture and outlines the challenges it faces. The video can be rented for public showing at \$80 (free preview available) or purchased for \$250 from Bullfrog Films of Oley, Pa. Call 1-800-543-3764.

**Your Guide to Direct Democracy: Local Initiative, Referendum, and Recall Campaigns**  
**California Senate Local Government Committee, 30pp, \$3.**  
 For nearly 100 years the Califor-

nia Constitution has given voters extraordinary powers to influence governmental decision-making and remove elected officials from office. This is an easy to use citizen's guide that explains the procedures and pathways to involvement in local government, produced by the Senate committee that has been active in land use issues. This is a good source to recommend to citizen activists in California. Order publication 853-S from Senate Publications Office, 1020 N St., Rm B-53, Sacramento, CA 95814. Make checks payable to Senate Rules Committee.

### Conferences

**July 15 - 26, Burlington, VT:** Summer Land Conservation Program, sponsored by the University of Vermont. This is the second annual conference, consisting of a one-day workshop and a series of short courses. Fees of \$50 to \$100 are on a per course basis. Call (802) 656-4055 for registration flier. Register by July 1.

**July 14 - 17, Seattle:** The Coastal Society Conference. The Society is an international nonprofit organization promoting conservation of coastal environments. Call (206) 685-1108.

#### **Future:**

**Oct. 17 - 20, Burlington, VT:** Land Trust Alliance National Rally '96. Registration begins in late June. Fees are \$205 for members, \$305 for others.

**Oct. 16 - 20, Chicago, IL:** 50th National Preservation Conference of the National Trust for

Historic Preservation, "Preserving Community: City, Suburb and Countryside. For preliminary program information, call (800) 944-6847. Internet: <http://www.nthp.org>

**Oct. 23 - 26, St. Charles, IL:** Natural Areas in an Urban Setting, the conference of the Natural Areas Association, an organization of professionals working in the identification, preservation, protection, management and research of natural areas. Call 314-878-7850.

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□



# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Sonoma County places fifth in nation's top 10 programs

SANTA ROSA, CA — Sonoma County, Ca. has made the most striking gain in preserved acreage of any locally-funded farmland preservation program in the nation, gaining more than 11,000 acres over the last eight months, for a total of 21,000 acres preserved through conservation easement.

The total boosts Sonoma County to fifth-place ranking in the nation for acreage preserved by a locality. At the last ranking conducted by *Farmland Preservation Report* in September 1995, Sonoma County had not yet entered the top 10 counties in national rankings.

The program could add another 10,000 acres in the coming year, with 10 properties pending and another 18 ready for evaluation, according to David Hansen, general manager of the Sonoma County Agricultural Preservation and Open Space District, which operates the program.

Contributing to the rapid gain in preserved acreage was an easement on a 7,677-acre ranch, which the District preserved through bargain sale at about \$225 per acre. Another boost came with a 1,364-acre ranch easement acquired also through bargain sale. Both transactions occurred in November 1995.

Substantial funding — \$23 million for conservation and \$11.5 million per year for operations — has allowed Sonoma to respond to a high number of applicants. The funding is by far the highest for a local program in the nation. By comparison, Lancaster County, Pa. is second highest, with \$4.6 million.

Sonoma County, inland from coastal Marin County north of San Francisco, is home to big ranches and to vineyards and wineries, including Gallo, which has been buying a substantial number of acres for its new organic vineyard operations. Some other ranches are selling for high-priced

home sites, but are remaining in agricultural use. The average size of a ranch in Sonoma is 1,000 acres.

But county officials don't know how many parcels earn income from ag production, or even how many acres in the county are in agricultural use. California has no state income tax that would show income from farm sales, and the state's Williamson Act, which applies use-value assess-

*please turn to page 2*

## Nation's most progressive programs ranked

Interviews conducted by *Farmland Preservation Report* in July revealed that the nation's most progressive counties striving to protect farmland have widely varying factors that will ultimately affect the success of their efforts. Some factors, such as population, are outside the bounds of local control. Other factors, such as agricultural zoning, are not.

The nation's top 10 counties for farmland preservation are located close or adjacent to major

*please turn to page 2*

Volume 6, Number 9

July-August 1996

### inside this issue ...

Nation's top 10 counties ranked in table .....	p. 3
Maryland preservation initiative .....	p. 4
New York town determined to save farms .....	p. 5
Counties say USDA-ERS farm output figures low .....	p. 7
Legislative briefs .....	p. 6,7

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## Difficult to tell how zoning will affect Sonoma's efforts

*continued from page 1*

ment to properties that stay in agriculture for at least 10 years, is not used by all farmland owners — only those that would see an actual decrease in their tax bills.

"We have no idea how many properties are making money on agriculture," said Richard Rogers, a planner with the Sonoma County Permit and Resource Management Department. Rogers said the county's complex zoning adds to the inability to classify the county's land areas.

Zoning was instituted in 1989 through a series of area plans that set zoning densities virtually on a parcel by parcel basis, with allowances ranging generally from one dwelling per 10 acres (1-10) to one dwelling per 160 acres (1-160). Additional dwellings are allowed for family members and farm workers. Thus, it is nearly impossible to gauge how zoning will affect the county's preservation goals.

Operating only since 1991, the Sonoma County Agricultural Preservation and Open Space District has spent \$23 million for easements, with average per-acre costs at \$1500, with costs much lower — \$250 per acre — if the "tremendous bargain sale" on the 7,677-acre ranch is included in the figure, according to Hansen.

While the District also protects parcels for open space and scenic values, about 85 percent of all lands preserved are in active agricultural use. These include four dairies, more than 2,000 acres of grapes, apples, hay and other cultivated crops and more than 14,000 acres of grazing lands. Criteria for selection, however, are not based on agricultural operation, but on "the importance of the land itself, how it fits into the District's adopted Acquisition Plan, its location, visibility and the level of threat [from] development or subdivision."

The District was created under the California Public Resource Code with the intent of augmenting the open space and agricultural resource elements of the county's general plan. The District, covering all of Sonoma County, was supported with ample funding by a 71 percent vote of the electorate in the 1990 election.

Hansen said the success of the program can be summed up in adequate funding, strong farmer support and program efficiency. "I think it's just that we have the funds and that the agricultural community has discovered us."

That discovery has come in a big way. The program receives two or three new applications

each week. In the last of its two annual cycles, more than 100 applications were received and 60 attained the evaluation stage. Of those, 18 were chosen for offers.

"The general goal is 100,000 acres... we could achieve that in 15 years," Hansen said. *Contact: David Hansen, (707) 524-7360.*

### Ranking

## Sonoma's entrance shuffles nation's top 10 counties

*continued from page 1*

metropolitan areas, and most have committed substantial funds for purchasing development rights or conservation easements. Seven of the counties are in Maryland, two in California and one in Pennsylvania. They range in population from 37,350 to 900,000 and have widely varying protection through agricultural zoning, considered an important foundation for success in farmland preservation.

Continuing to top the list of counties active in farmland preservation is Montgomery County, Md., where the nation's premiere transfer of development rights (TDR) program is responsible for most of the county's 46,813 preserved farmland acres. Just 7,189 of those acres were preserved through the use of the state or the county purchase of development rights program.

Some farmland preservation program administrators in the state have criticized Montgomery's TDR program for not retiring all the development rights within its preservation zone. But Montgomery program administrator Jeremy Criss said that while the county's TDR allows retention of one building right per 25 acres (1-25), it doesn't affect the integrity of the county's preservation strategy.

Criss said zoning in other counties, in some cases, presents a greater burden to preservation efforts than does the 1-25 density left in Montgomery's preservation areas. Harford County, for example, allows a 1-10 density in its agricultural zone with significant additional building rights through a grandfathering clause allowing family conveyances. More rural Queen Anne's County allows a 1-8 density. Carroll County's agricultural zoning of 1-20 comes out to 1-15 when additional

*please continue to page 4*

Ranking/County	Acres preserved	# Farms	Pop.	Agricultural Zoning	Total area/ Land in ag	Funds spent/ Available	Value of ag
1. Montgomery (Md.)	46,813	n/a	900,000	TDR sending area protects 90,000 acres; mandatory use of TDR leaves a gross density in the preservation area of 1-25.	317,000 90,000+	\$18 million \$2 million	\$27.7 million
2. Marin (Ca.)	25,504	38	239,000	"A-60" designation in agricultural areas allows one building right per 60 acres.	264,000 165,000	\$17 million \$0	\$42.1 million
3. Carroll (Md.)	24,604	184	142,984	Two divisions allowed per deed, plus one building right per 20 acres or portion thereof. Resulting actual density: 1-15.	289,920 190,715	\$27.2 million \$2.8 million	\$66.9 million
4. Lancaster (Pa.)	22,000	260	450,000	Effective allowed density in nearly all the county's agricultural areas is 1-25.	600,000 400,000	\$20 million \$4.6 million	\$680.8 million
5. Sonoma (Ca.)	21,000	48	432,222	Agricultural and natural resource areas have widely varying allowed densities, from 1-10 to 1-160.	1,008,640 967,680	\$25.5 million \$34 million	\$280.8 million
6. Caroline (Md.)	18,350	131	29,069	Rural zone allows four lots per parcel without subdivision regulation. Beyond four lots, densities may be approved at 1-20.	205,383 121,602	\$11 million \$50,000	\$85 million
7. Howard (Md.)	20,119	142	223,300	Density exchange option, a form of TDR, offers a density bonus for sending parcels of 50 acres or more. Clustering widely used.	161,349 44,600	\$47 million ~0 ~	\$18.9 million
8. Harford (Md.)	16,861	n/a	211,000	1-10 plus family conveyances on parcels owned before 1977. At least 25% of lots created are estimated to be through family conveyances.	281,600 100,000	\$19.2 million \$2.2 million	\$28.7 million
9. Baltimore (Md.)	11,714	107	713,949	Resource conservation zones allow 1-5 or 1-50. Proposed change would increase by 12,000 acres the area under 1-50.	390,400 100,000	\$3.4 million \$700,000	\$40.6 million
10. Queen Anne's (Md.)	10,411	53	37,350	Base ag density at 1-8; TDR in use.	238,977 n/a	\$75,000 "	\$109.1 million

Acres preserved include applicants still in settlement process. Marin program operated by the nonprofit Marin Agricultural Land Trust with funds from state source. Other figures are county expenditures. Value of ag figures are from USDA-ERS and generally are much lower than county estimates. Land in ag figure for Sonoma based on unincorporated area. Others from land under ag use assessment or planning department estimates. See accompanying article for further information on these and other localities. Information gathered by *Farmland Preservation Report* July 1996.

## Nation's Top 10 Farmland Preservation Counties

The purpose of this ranking is to measure the progress of local farmland preservation programs and to examine a local government's commitment to preservation.

Counties are ranked according to number of acres preserved in perpetuity under a farmland preservation program. Since ranking according to acres preserved determines the progress and not necessarily the ultimate success of a program, other information provides a way to judge a locality's preservation strategy and political commitment. Please also read accompanying articles.

Acres preserved under other programs, such as the Maryland Environmental Trust (MET), are excluded. MET easements and other land trust holdings are donated by

landowners for various reasons, and to include such acres would not serve the purpose of this ranking. One exception is made for the Lancaster Farmland Trust, which has a formal working agreement with the Lancaster County program, and works exclusively for farmland preservation. The LFT conducted 60 of the 260 easement transactions noted for Lancaster County.

Other information is provided to help readers judge a locality's potential for success by determining: 1) its commitment to farmland preservation, 2) its potential for maintaining a vital farm economy, and 3) whether a locality's rural area zoning is a help or hindrance to preservation goals.

## Administrator says TDR's residual rights equates to effective ag zoning

*continued from page 2*

by-right dwelling site opportunities are added in.

And, Criss said, his county's TDR program has a lower density than the state program allows, referring to the child lots allowed to be retained after easement sale under the Maryland program. Up to 10 such lots are allowed, and while they are intended to be built only for children of the landowner, that point is not legally enforceable, Criss points out.

"I look at preservation of farmland through TDR as a viable mechanism — 1-25 is a significant ag zone. That's the bottom line. It's 1-25, period," Criss said.

Other program administrators point out, however, that child lots are only potential dwelling sites, whereas the residual rights left by Montgomery's TDR, which have no such restrictions, are almost certain to be used.

Montgomery County contains 317,000 acres, with 90,000 acres in the TDR sending area. With its preserved acreage, half of the sending zone has been secured.

Second on the list is Marin County, Ca., which held second place in 1993 when *Farmland Preservation Report* conducted its first ranking of local programs. The Marin County program is operated by the Marin Agricultural Land Trust, a nonprofit organization, which began purchasing easements in 1986. MALT, which purchases easements on farmland exclusively, is currently without funding for easement purchase. Failure of a statewide bond measure in 1994 dashed hopes of replenished preservation funds for MALT and other land trusts in California. MALT, headed by veteran preservationist Robert Berner, is exploring funding opportunities. Preserved farmland stands at 25,504 acres while a list of landowners awaits renewed funding. According to Berner, the backlog represents \$10 to \$12 million in easement purchase needs.

Holding third place is Carroll County, Md., where political support for farmland preservation netted a property tax increase partly slated for the program in the amount of an estimated \$2.8 million annually.

Zoning in Carroll County allows each parcel to

### etcetera ...

**Maryland initiative to go to legislature this fall**  
*Annapolis, Md.* — Maryland agriculture and natural resources officials hope to prepare for the legislature this fall a proposal for boosting farmland preservation that will be equitable to all regions and provide funding on a competitive basis, according to Grant Dehart, director for the Department of Natural Resources Program Open Space.

Bond financing and legal issues are being examined as well as other technical matters that would set criteria for determining allocations to counties, Dehart said. Between \$20 million and \$30 million could be the target.

Under the current proposal, counties would be able to compete for the extra funding using one of two possible sets of criteria: by demonstrating need based on low local funding ability, or, by demonstrating a successful local program where extra funding could help achieve a well-planned preservation strategy or clinch an important preservation objective.

Douglas Wilson, chief of administrative services for the Maryland Department of Agriculture, said those working on the proposal are trying to put together a plan that won't alienate any of the constituencies the two agencies serve. While there is consensus on the basic principles involved, such as the need to pump up farmland preservation funding and the appropriateness of using bonds, the "operating details," including whose budget will be most affected to service the debt, are the difficult items.

Regardless of the complications, most feel it will justify the end result.

"It's too good not to put a yeoman's effort out... we'll end up with money for complementary goals," Wilson said.

A proposal put forward last year that would have targeted Maryland's Eastern Shore for special farmland preservation funding received a cool reception from some metro-area farmers, but the use of bond funding remains a primary objective. *Contact: Dehart, (410) 974-3581; Doug Wilson, (410) 841-5880.*

**National Trust: sprawl threatens historic town**  
*Petoskey, Mi.* — Recently named one of America's best small towns, Petoskey, Michigan could become just another site for strip malls, subdivisions and bypasses like thousands of other faceless towns across America.

*please continue to next page*

A proposed outlying shopping center as large as Petoskey's downtown retail district is a major threat to the town's vitality and livability, according to the National Trust.

The character of the rural areas surrounding Petoskey is also threatened by conventional subdivisions for residential and second-home development. "Without more sensible planning, Petoskey is perilously close to moving from the proud list of America's best to the sad roster of "America's lost," the Trust said.

Leading the annual roster of endangered places this year are black churches of the south ravaged by recent fires, which the National Trust has made one of its local assistance priorities. The Trust said some of the churches are "significant historic buildings" that are "the heart and soul of the communities in which they are located."

Other historic sites endangered by neglect, lack of funding or other factors, include the historic structures of Glacier National Park; the Sotterly Plantation in Maryland; East Broad Top Railroad in Huntingdon County, Pa.; and the East End Historic District in Newburgh, N.Y. *Contact: (202) 673-4141.*

### **New York town determined to preserve farms**

*Pittsford, NY* — When officials of Pittsford, New York adopted a comprehensive plan three years ago that found just 3,600 acres of farmland left within the town's 15,360-acre area, they set a goal to preserve at least 1,200 of those acres — all productive soils growing fruits and vegetables. Adding weight to their determination was that all of the seven farm operations were run by families with children who want to farm, according to town supervisor William Carpenter.

The town isn't completely new to the purchase of development rights. It purchased the development rights to a 100-acre farm in 1989. When a referendum to fund other projects failed, the town created a committee that recommended an update of the comprehensive plan, and in 1993 a fiscal impact study was conducted.

"The study found we were on a collision course," Carpenter said. In the comprehensive plan update, "we continued our fiscal modeling." It was found that funding the farmland preservation program would cost \$67 per average assessed household per year for 20 years, less than \$1400. But "to do nothing would cost \$5000," Carpenter said, to provide public services to the new homes that would inevitably be built.

This month the town officials will likely vote to authorize \$9.9 million to preserve the seven farms, at a cost of about \$9000 per acre, Carpenter said. *Carpenter, (716) 248-6220.*

*Top 10, from preceding page*

be divided twice without subdivision approval. After that, building rights are granted at the density of one per 20 acres (1-20), which "are intended to be clustered," according to farmland preservation administrator Bill Powel. Powel said that because of the allowed parcel divisions prior to regulated subdivision, "the effective density becomes 1-15." The 1-20 allowance is effective for any portion of 20 acres, that is, a parcel of 101 acres would have six building rights, not five.

In effect, Powel said, clusters will occur on every farm. Most of those already built contain three to six lots. The effect is fragmentation extraordinary, despite the commitment to easement purchase. A transfer of development rights (TDR) program would be far preferable to lots on every farm, but TDR has not been studied or proposed.

In fourth-place Lancaster County, Pa., agricultural production ranks among the top 20 counties in the nation and political leaders recently committed millions more in easement funding. Effective agricultural zoning is seen as an essential element for farmland preservation in Lancaster. Nearly all of 41 townships have adopted 1-25 zoning to augment preservation efforts — an incredible feat when considering that in Maryland, county governments have authority to establish effective agricultural zoning through one legislative body, but most often have not restricted densities in agricultural areas as effectively.

Lancaster County moved from fifth to fourth place in national rankings in 1995, jumping above Caroline County, Md., where Maryland's use of an agricultural value formula put most, if not all, of Caroline's farms out of the running for easement sale beginning in the early 1990's because of the high agricultural value of land in the county. Some Caroline farms had agricultural values so high and development value so low that easement value — the value determined by subtracting ag value from development value — came out in the negative.

Caroline County's predicament, however, may see relief if the ag value formula used by the Maryland Agricultural Land Preservation Foundation to determine easement value is changed this year. Last month the Foundation voted to send a proposal to the legislature to allow the necessary refinements to the formula. If the legislation succeeds, it could help Caroline County's next program applicants and those in other counties where high ag values and low development pressure mean few, if any,

*please continue to next page*

National ranking**Counties progress in acres preserved***continued from page 5*

easement offers.

With Sonoma County popping into the ranking in the fifth place slot (see accompanying story), Caroline County slipped into sixth place, putting Howard and Harford Counties also a notch below where they were in the last ranking, with Harford's very busy program going from seventh to eighth in the ranking.

While Howard County's program becomes inactive this year after reaching its preservation goals, Harford County's program is red-hot with applicants vying for attractive installment purchase agreements that will provide tax-free interest payments over 20 years followed by a "balloon payment" of the principal. Installment purchase agreements, pioneered by Howard County in 1989, stretch purchasing power for the locality while land is available, and supposedly, more affordable.

Harford County, with 16,861 acres preserved or awaiting settlement, has another 4,000 acres potentially preserved in offers soon to go out, according to program administrator Dan Rooney.

In the last ranking, conducted in September 1995, Harford jumped from tenth to seventh place because of an influx of acres preserved after creation of the installment purchase program and a real estate transfer tax to support it.

The Harford program, however, will run into trouble next year when the annual revenue from the transfer tax becomes only enough to make good on 20 years of payments due to current participants. No additional funding source for program continuation has been identified.

Baltimore County and Queen Anne's County remain in the top 10 ranking, but Frederick County, in tenth place in the last ranking, has been displaced by the entrance of Sonoma into the ranking. Frederick County remains a progressive program, with 9,438 acres preserved under 53 easements.

While Baltimore County has added just 700 acres under the state farmland preservation program, for a total of 11,714 acres, the county's preserved acreage through easements donated to the Maryland Environmental Trust is 7,276, a substantial preservation effort on the part of Baltimore County landowners, bringing the county's total preserved acres to 18,990. These MET easements will undoubtedly contribute to the vitality of agriculture in Baltimore County (*see note in page 3 table regarding MET easements in relation to the ranking*).

While no counties in New Jersey have yet entered the top 10 listing, Burlington County shows potential to do so. The 8,183 acres it has already preserved could jump significantly if a referendum on the ballot this fall calling for a 2-cent property tax increase to boost farmland preservation is passed.

The increase would generate almost \$4 million, all of which could be used for farmland preservation. Some of the county's municipalities have also decided to place on their ballots referendums that would raise \$2 million in additional funds (*see story in June 1996 FPR*).

## legislative and program briefs ...

**In New York...** In Monroe County, Pittsford town officials will likely authorize \$9.9 million in debt to purchase development rights on seven farms, comprising about 1200 acres of productive soils currently used for fruit and vegetable production. There appears to be strong public support for the initiative, according to Town Supervisor William Carpenter, (716) 248-6220.

**In Connecticut ...** Several towns are looking to put up their own funds for farmland preservation, in light of cutbacks on the state farmland preservation program. In the last biennial budget, the program received \$3 million, in the current budget, none. The program is left with remainder funds, in the amount of \$4.1 million, which is already committed to current projects, according to program assistant Pat Donelan, (860) 566-3227. The town of Richfield recently approved \$2 million for farmland preservation there. The state program has preserved 25,194 acres.

A forum on open space and farmland preservation, co-sponsored by the Conn. Rural Development Council on Open Space and Agricultural Land Preservation and Congresswoman Nancy Johnson was held July 8.

**In Maryland ...** Harford County has adopted its master plan and land use element plan update, without a new 12,000-acre growth area advocated by the local homebuilding industry. The growth area plan, submitted by the development community at the last minute angered members of the county's 10 community planning councils which had been working on the land use plan for over a year. The planning councils opposed expanding the county's development envelope, which has served as an urban growth boundary, beyond which are rural residential and agricultural densities at 1-3 to 1-10. To answer the development community's assertion that more growth areas should be designated, County Executive Eileen Rehrmann proposed, and the county council adopted, a plan to establish a committee to study the issue of new growth areas. The committee will be formed in about a month, according to Robert Hockaday, Director of Governmental and Community Relations, (410) 638-3350. Another committee or task force will study the potential for creating a transfer of

development rights program, considered a more urgent need, Hockaday said. The updated land use plan allows for conservative expansion of the development envelope, which has about 18 years of new residential capacity, according to the planning department.

**In Illinois ...** The Illinois Coalition for Farmland Protection met in June and adopted a plan of action which includes surveying Soil and Water Conservation Districts to gather information on local planning and zoning, political climate for farmland preservation initiatives, etc.; to advocate formation of agricultural districts; to produce literature, workshops, news releases, to educate the public about the need for farmland protection. A committee will put together a fact sheet on the pros and cons of the proposed airport in Will County.

**In Wisconsin ...** The state Department of Natural Resources is working on a plan to buy farms in fee simple, place conservation easements on them and resell them for ag use as a means to protect the rural character of areas surrounding DNR properties. The agency has targeted several sites in Calumet and Lafayette Counties. The purchases would occur only when the farms are put up for sale. The plan must garner acceptance within the localities, and prospects seem positive, according to DNR counsel Jim Kurtz (608) 266-3695. "This is one that I think is going to happen," he said.

**In Pennsylvania ...** Gov. Tom Ridge signed into law a bill that will expand protection for farmers under the state's right to farm law. The bill expands the definition of normal agricultural operations and prohibits municipalities from enacting ordinances that prohibit "generally-accepted" agricultural operations... The Lancaster County Agricultural Preserve Board recently celebrated its 200th easement.

**In California ...** The California Farm Bureau Federation has filed a lawsuit to block conversion of 7,000 acres of farmland to a sprawling theme park and housing project near the city in San Joaquin County. The project would create Gold Rush City, a massive theme park and commercial development on 5,800 acres and 1,160 acres of residential development. The lawsuit charges that the City of Lathrop's approval of the project violates the California Environmental Quality Act and local zoning laws. Contact David Guy, CBF attorney, (916) 924-4037.

**Federal Government ...** Proposed rules for the farmland protection program under the farm bill will be delayed, but will likely be completed by the end of July.

## USDA-ERS farm output figures are too low, preservation counties say

Local governments with farmland preservation programs say the 1992 U.S. agricultural census, which measures farm output based on gross sales data, is not a true measure of the value of agriculture to a local economy. In all cases, localities say the figures put out by the Economic Research Service, an agency of the USDA, are too low.

Counties with programs that purchase conservation easements on farmland say they need figures that show the total economic significance of local agriculture in all its aspects, not just in sales of crops and livestock, the data used by USDA. A broader picture is important not only to properly plan for the industry's continued viability, but to maintain political support for farmland preservation.

Many counties queried by *Farmland Preservation Report* in this issue's ranking of the top 10 farmland preservation counties said other methods for measuring the value of ag production presented a truer picture.

For example, in Harford County, Md., economic development and agriculture officials believed the economic effect of Maryland's horse breeding operations, which supply the state's racing industry, were a large part of the county's agriculture business, but not taken into consideration in the USDA figures, which put Harford's agricultural output at just \$28.7 million.

The University of Maryland Cooperative Extension Service was asked to examine Harford's horse breeding industry to determine its economic impact. The breeding component of the racing industry alone in Harford was found to generate \$58.2 million annually, and, in addition, the economic effect of "horse and equine enthusiast populations" in Harford was estimated at \$42.9 million. Thus, Harford farms that conducted horse-related business were generating about \$101 million annually, and this figure was "conservative and should be stated as a minimum estimate," according to University of Maryland extension economist Malcolm Commer.

The University of Maryland Cooperative Extension Service study examined Maryland's equine industry in a seven-county metro region through questionnaires. The estimated number of horse enthusiasts, those who own or lease a horse, excluding race horses, was 80,976. Excluding racing, the annual regional economic activity generated by the equine industry was estimated to be \$617.9 million. Horse breeding for purposes of racing, however, in itself was found to generate \$498.1 million.

In Carroll County, where ag production value was set at \$66.9 million by USDA, program administrator Bill Powel said the USDA's 1992 census "followed a drought year" and that \$100 to \$110 million would be closer to the true annual value of Carroll County agriculture. "The census does not show the

## Ag census leaves out parts of industry, counties say

*continued from page 7*

value of output, it is only an indicator using income tax receipts. It does not necessarily reflect the actual economic activity," Powel said.

"Counties are recognizing the ag census is not a full reflection of agriculture," said Jeremy Criss of Montgomery County, where a study was recently done on the county's agricultural future. In that study, horticulture and horses were found to generate \$283 million in gross sales each year — a far cry from the \$27.7 million recognized by USDA. Criss said the objective was to examine not just output of traditional agriculture, but the total ag contribution to the economy. "We look at the total economic contribution to the county on an annual basis — both indirect and direct," he said.

### resources ...

#### Books of interest

**Farmers for the Future**  
By Dan Looker  
Iowa State University Press  
\$19.95

This book examines the economic and political reality facing farmers, the few government and private programs that help and what farmers have done on their own to improve their circumstances. The author sees a need for programs that create opportunities for people

to enter agriculture. A poll found one-third of Iowa farmers expect their children to take over their operations. Call 1-800-862-6657.

#### **A River Lost: The Life and Death of the Columbia** By Blaine Harden

Norton. 271 pp. \$25

Harden documents the ultimate story of conquest, in which one of the west's mightiest rivers and its tributaries are taken over by 113 dams and a major manufacturer of plutonium that may be leaving a radioactive legacy that renders the groundwater unusable for 250,000 years. The plunder of the river is the result of the New Deal which envisioned self-sufficient family farms and prospering towns making good on the fruits of democracy. What we really got, Harden laments, is booming urban sprawl and agribusiness monopolies that put down blankets of environmentally devastating single crops as far as the eye can see, supported by unknowing taxpayers nationwide. Available in bookstores.

#### **On Borrowed Land: Public Policies for Floodplains**

By Scott Faber

Lincoln Institute of Land Policy 32 pp, \$14

The Great Flood of 1993, the most destructive in the United States in more than 50 years, changed the way people calculate the economic and social costs of urban growth and other intensive development in floodplains.

It also forced the nation to question assumptions and government responsibilities regarding floodplain management. The federal government has assumed responsibility for flood control and the risks of land uses in floodplains by building and repairing ever-larger levees, paying disaster relief and providing

subsidized flood insurance. While these measures protected private property they also encouraged state and local officials to permit new development in flood prone areas.

This report covers the ecological, economic and legal issues of land use in floodplains. It offers numerous case studies of local responses to the '93 floods and other river basin management programs, and recommends alternative policies. Call 1-800-526-3873 to order.

#### Upcoming conferences

**Oct. 17 - 20, Burlington, VT:** Land Trust Alliance National Rally '96. Registration is underway. Call (202) 638-4725 for full brochure. Fees are \$205 for members, \$305 for others.

**Oct. 16 - 20, Chicago, IL:** 50th National Preservation Conference of the National Trust for Historic Preservation, "Preserving Community: City, Suburb and Countryside. For preliminary program information, call (800) 944-6847. <http://www.nthp.org>

**Oct. 23 - 26, St. Charles, IL:** Natural Areas in an Urban Setting, the conference of the Natural Areas Association, an organization of professionals working in the identification, preservation, protection, management and research of natural areas. Call 314-878-7850.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

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First nationwide federal funding

## USDA allocates \$15 million for farmland protection efforts

WASHINGTON, D.C. — The U.S. Department of Agriculture has allocated \$15 million to implement the farmland protection provision of the 1996 farm bill. The funds were shifted from the FY 96 budget of the Commodity Credit Corporation and must be obligated by Oct. 1.

State and local governments can make bids for the funds to supplement farmland conservation easement purchase programs, but must meet a deadline of Sept. 13.

The allocations are the first federal funds to be made available nationwide to assist states and localities in farmland preservation efforts. A prior program, the Farms for the Future Act, had only assisted Vermont. That program sunsets Sept. 30.

Programs will base their requests on pending easement offers to farmers. State programs as well as local programs operating independently with local funds are qualified to apply, according to Ann E. Carey, director of the Community Assistance and Resource Development Division of the Natural Resources Conservation Service. Three employees in the division will administer the program.

Local programs that also operate state programs at the local level must coordinate to avoid counting the same offers twice.

"What we don't want is double-dipping," Carey said. "We want to make sure there's a level playing field."

Under the farm bill, \$35 million can be appropriated for farmland preservation within the next five years. Congress had appropriated just \$2 million for the 1997 fiscal year, but Commodity Credit Corporation Vice President Paul Johnson,

who also is chief of the Natural Resources Conservation Service, made current CCC funds available for this fiscal year.

The move was strongly supported by USDA Deputy Secretary Richard E. Rominger, a former board member of the American Farmland Trust, and approved by Secretary of Agriculture Dan Glickman, according to USDA spokespersons.

State and local program administrators are scrambling to develop proposals, some not finding out about the federal funds until less than three weeks before the deadline.

Department of Agriculture officials, as well,

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*Applegate to leave NJ program — p. 4*

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are under pressure to establish procedures and to efficiently review and rank proposals by their Oct. 1 deadline.

"It will be a pretty intensive effort for them," said Tim Warman of the American Farmland Trust, which was instrumental in securing the

*please turn to page 2*

Volume 6, Number 10

September 1996

### inside this issue ...

EPA program assists in local finance .....	p. 3
Heritage area leaders change gears .....	p. 4
Watershed project spurs farmland program .....	p. 6
TDR gets a hearing in Maryland county .....	p. 7
Legislative briefs .....	p. 6/7

## State, local programs scramble to meet funding deadline

*continued from page 1*

farmland protection provision as well as urging its funding. Warman credited the participation of governors from farmland protection states as well as administrators and others who responded with phone calls and letters to Congress urging attention to the issue of farmland loss.

"This \$15 million wouldn't have happened without pressure from the field," Warman said.

### Request for proposals

A request for proposals, published in the Federal Register Aug. 21, makes funds available "for the acquisition of conservation easements or other interests in land that contains prime, unique or other productive soils." The RFP background section points out that the loss of farmland in itself is cause for concern, but that perhaps a "greater cause for concern is the quality of farmland that is being converted. In most states, prime farmland is being converted at 2 to 4 times the rate of other less-productive land."

After the deadline, cooperative agreements will be drafted for each proposal that is accepted, and funds will be allocated by weighting factors including the number of pending offers a program has, the total number of eligible acres included in the offers, the capability of the entity to provide matching funds, the value of the offers (as opposed to their cost) and the degree of development pressure.

Programs vying for the federal funds must demonstrate in their proposals how they have used or promoted other forms of farmland protection such as right-to-farm laws, land use plans, zoning, and voluntary easements, and how they have ably acquired, managed and enforced conservation easements.

The Community Assistance division understands that development pressure is obviously present in localities that have established their own funded programs, according to AFT's Warman, who said the division will likely look at soils and future productivity of proposed easement farms.

As far as how the funds will be allocated, the AFT believes the department will try to reach as many locations nationally as possible and then will concentrate on projects by merit.

"They are going to try to spread it widely, which is why every jurisdiction should apply," Warman said.

### Making the deadline

What the NRCS receives is likely to be a mixed bag of applications that use creative approaches to make their case for funds based on need as well as merit.

Some Maryland counties with locally funded programs plan to apply separately, but others say they would prefer the state to put forward a single proposal.

Maryland program administrator Paul Schiedt said he thought it would be best for Maryland to forward one proposal and then allocate funds to counties, but added that he wouldn't object to counties preparing separate proposals. Both Harford and Baltimore county program administrators, who manage local programs as well as state programs at the local level, said they would pursue independent proposals. Others, including Calvert County, might also prepare independent proposals.

Other local program proposals will come from Suffolk County and the town of Pittsford, both in New York, Virginia Beach, Va. and Peninsula Township in Michigan.

In New York, \$4 million has been appropriated for farmland protection initiatives, but no specific part of those funds are designated for easement purchase. However, at least two New York localities may be eligible for the federal funds. Pittsford, in Monroe County, may develop a proposal for at least one pending offer, and Suffolk County, which operates the nation's oldest farmland preservation program, may have a number of pending offers that could qualify, according to Roy Fedelem. Bob Somers, Chief of the state agriculture protection unit, said he will assist localities that want to apply and coordinate the effort with the state NRCS.

In Pennsylvania, only Lancaster County has an independently operated program, but its request will be part of the state's proposal, according to Lancaster program director Tom Daniels.

In Massachusetts, administrator Rich Hubbard is putting together a proposal "listing all the projects we have to be funded," which add up to about \$8 million. "We don't expect to get that, but it's good to show the need," Hubbard said.

Connecticut has six projects it plans to propose for funding assistance, amounting to about \$4 million, according to program assistant Pat Donegan.

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*Federal funds, from previous page*

Massachusetts and Connecticut operate from the state level and do not have local administrators.

In New Jersey, state officials are combining pending offers from two funding rounds as well as some fee simple applications. Total cost of the projects that will be used for the state's request was not yet available, according to program assistant director Rob Baumley. The projects comprise about 14,000 acres on 92 farms, he said. The state's fee simple option allows the program to buy farms outright in emergency cases, with subsequent easement restrictions placed on the parcel prior to resale of the farm at public auction. No New Jersey county operates an independent program.

In Delaware, where the program spent its first few years on program design and data collection, officials say meeting qualifications will be a breeze. Criteria from NRCS, particularly those relating to LESA, matches exactly to their program.

"It's kind of push-button for us," said program director Mike McGrath. Timing is also in their favor in regard to funds on hand for matching. "We have not spent a dime of this year's authorization," of \$14 million, McGrath said.

Delaware's proposal will be based on half of that authorization, McGrath said. McGrath believes their proposal "can at least argue for proportionality. Since it's a matching fund, it should be distributed on available funds to match."

In Vermont, the Housing and Conservation Board is at work on a proposal, said Ethan Parke. "Right now we have in the pipeline something like 21 projects in the process of being appraised." In FY 1995, the Board spent \$4.4 million on agricultural land preservation, protecting about 9,000 acres on 29 farms. Half of the those funds came from the Farms for the Future program, which becomes defunct Sept. 30, and in essence is replaced by the new farm bill provision.

In California, the State Coastal Conservancy is developing a proposal for several pending projects to be carried out by land trusts, according to Carol Arnold. The Coastal Conservancy is a state agency created by the California legislature in 1976 and assists more than 50 nonprofits on the coast.

*Contacts: For information about the RFP and the Farmland Protection Program, call Ann Carey at (202) 720-2847; email: acarey@usda.gov. Mark e-mail 'attention FPP.' Fax: 202 720-2847. Technical questions can also be directed to Tim Warman, AFT, at (202) 659-5170.*

Environmental finance**EPA program helps localities fund watershed protection**

COLLEGE PARK, MD — Finding ways to finance environmental and land conservation programs is the mission of the Environmental Finance Center, housed at the University of Maryland. The center is one of six regional centers established by the EPA in the last four years.

The center was started four years ago when the EPA was trying to find solutions to the increasing inability of local and state governments to fund environmental protection programs, particularly those mandated by the federal government. The agency approved two proposals for programs designed to help officials and others learn about innovative finance. The agency decided it was a good idea for all 10 of its regions. The Center, housed at the University of Maryland serves the EPA's Region 3, made up of the mid-Atlantic states.

The Center has inquiries beyond how to fund mandated federal and state programs. Local governments are also requesting help in finding money for special projects like watershed protection and best management practices.

"We've made a major push for watershed financing," said Elizabeth Hickey, grants writer and now administrator for the center. Watershed and non-point source pollution projects figure heavily in the center's work. That was a likely prospect in a region where three states — Maryland, Pennsylvania and Virginia — made a formal agreement in 1987 to clean up the Chesapeake Bay. In 1992 amendments to that agreement focused greater attention on the entire Bay watershed particularly on important tributaries.

One of the Center's projects involves training public officials and individuals involved in Maryland's Tributary Strategies program.

"Finance is more than what most people think. I've taken the liberty to stretch the definition to include planning, growth management and stewardship," she said. The idea is to promote wise environmental decisionmaking. "We're project-oriented at this point."

The Center has conducted workshops and

Land protection and tourism**Heritage areas group to change name, broaden its mission**

WASHINGTON, D.C. — The National Coalition for Heritage Areas board of directors has decided to broaden the mission of the organization and will change the name to the National Center for Heritage Development as of Oct. 1. The term of the group's founding chair, A. Elizabeth Watson, ends this month.

The organization was formed in 1993 following an initial meeting co-sponsored by the National Trust for Historic Preservation and The Countryside Institute.

An example of a heritage area is the Delaware & Lehigh Canal National Heritage Corridor, which preserves some of the remnants of the nation's last and longest-operating mule-drawn canal and other historic structures of the region that stretches from Wilkes-Barre, Pa. to Philadelphia. Designated as a National Heritage Corridor in 1988 by Congress, a commission has been organizing a system by which to learn about the area's way of life when mining, railroads and canals were the industry and infrastructure that shaped daily life in the region.

The commission has been working with citizen groups, local governments and historical and conservation organizations to draft a master plan. The plan's goal will be to preserve archeological remains and interpret the life and times of the period for public education.

National heritage corridor designations provide a focus that helps officials combine historic preservation, greenway development, land use planning and economic development efforts. The Delaware & Lehigh Canal National Heritage Corridor must use these strategies to save the resources that are endangered every day by sprawl, neglect and lack of funds.

In its first three years, the National Coalition for Heritage Areas defined and established a national movement to protect special places of national or regional significance beyond the conventions of the national park approach. Members worked to educate Congress about heritage development and created legislation that would create a national program. The bill passed the House in the 103rd

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**etcetera ...****Applegate to leave NJ farmland program**

*Trenton, N.J.* — Donald Applegate, executive director of the New Jersey State Agriculture Development Committee, will resign from his post effective Sept. 27. He was instrumental in establishing the farmland preservation program, which the Committee administers, and has served as its director since its inception in 1983.

Applegate will become president and chief executive officer of the Farmers Mutual insurance company of Flemington, N.J. where he has long served on the company's board of directors.

Applegate oversaw creation of New Jersey's farmland preservation program and guided it through many adjustments to better meet the needs of localities. Several years ago Applegate directed a thorough review and revamping of the program to allow for market changes and greater prerogative at the local level.

Communication and cooperation between county boards and the State Agriculture Development Committee (SADC) has been the hallmark of the New Jersey program under Applegate. In 1993 when substantial changes in such program elements as funding allocation, counties were consulted and allowed to steer the SADC away from imposing a mandatory sliding scale formula for state share of easement costs. The sliding scale was made optional and counties were given more responsibility for evaluating applications.

While some controversies remain, the venue for Applegate and the SADC was that the process for solving problems was as important as proposed solutions.

Applegate's knowledge and administrative ability have been well-known in the farmland preservation profession over the last decade. His counterparts in other states and localities expressed accolades and regret over his departure.

"Don has done an outstanding job administering the New Jersey program. I think Don was widely liked and respected, and he will be missed," said Tom Daniels of the Lancaster County Agricultural Preserve Board.

Gregory Romano, deputy attorney general for the SADC, will become director of the program, with Rob Baumley serving as assistant director. SADC: (609) 984-2504.

### Marin County puts preservation on the ballot

*Pt. Reyes Station, Ca.* — "Marin's greatest natural assets are our parks, open space and agricultural lands. They are why we live here, why businesses and corporations locate and remain here, and why visitors spend money here." So begins a flier promoting passage of Measure A for Marin County, Ca.

It would create a one-quarter percent increase on the county's current 7.25 sales tax, generating \$5 million per year for 10 years. The Marin Agricultural Land Trust (MALT) would receive 25 percent of the funds. Another 25 percent would go to the Marin County Open Space District to maintain and acquire natural lands. Marin's cities would receive 40 percent of the revenue for repairing and developing parks and recreation.

Measure A is the first opportunity to secure funding for MALT's depleted easement program since 1994 when a statewide initiative failed. Loss of that measure cost MALT an anticipated \$6 million. And last year, Gov. Pete Wilson vetoed a bill that would have given Marin supervisors the option of seeking voter approval of a special taxing district. MALT continued to operate administratively, but had no funds for easement purchase on the more than \$10 million in projects awaiting funds.

### Fixed rate mires Va. Beach IPA program

Virginia Beach, the only farmland preservation program in Virginia, has not yet purchased any easements in its installment purchase program established in May 1995.

While offers have been made on 15 properties, landowners are holding back on acceptance, hoping for a better interest rate for their installment purchase agreements (IPAs). Once agreements are signed, the rate is fixed.

Just two farmers have said they are ready to sign, according to program director Louis Cullipher. Meanwhile, no one knows how long this "holding pattern" will continue.

With a designated \$3.5 million per year, the City of Virginia Beach wants to preserve about 20,000 acres of prime farmland just south of the city's core, creating a "green line" officials hope will act as an urban growth boundary and hold the line on sprawl. Most farms coming into the program are near the line, according to Cullipher.

"Most farms are up on the green line. We'd like to get something established there to send a message that this is an agricultural area," he said. *Cullipher: (804) 426-5775.*

### Heritage areas, from preceding page

Congress, but not the Senate.

Coalition chair Elizabeth Watson told members last spring that "as we're learning to think broadly about this movement, 'heritage area' now seems to be only one approach to blending economic development, cultural and natural conservation, historic preservation, recreation and scenic protection, education and interpretation." Watson said passage of a national program was not necessary to accomplish the goals of the movement, because those goals were already being achieved at the local and regional levels nationwide.

Some states have excelled in the creation of heritage areas. Pennsylvania recently created its seventh, the Rivers of Steel Heritage Area, a six-county region in the southwestern part of the state. The area/park will link the historic industrial sites in the Pittsburgh area, developing waterfront parks, an interpretive center, blast furnace visits and biking and boating tours. Pennsylvania Gov. Tom Ridge said the designation will spur economic development and revitalization through tourism. Massachusetts and New York also have heritage area programs and Maryland just established a program this year, effective Oct. 1.

### Maryland establishes Heritage program

Maryland's new program will be managed by the Maryland Heritage Areas Authority, a new quasi-governmental unit that will be operated out of the Department of Housing and Community Development. The Authority's powers include recognizing and certifying heritage areas, accepting management plans, acquiring real property to support heritage areas and providing financial assistance.

In the Maryland program, proposed heritage areas (no more than two will be created each year) will go through a two-step certification process. First, all local jurisdictions within the proposed area boundaries must approve and submit a detailed proposal to the Authority. Then, after recognition by the Authority, the area develops a management plan. Matching grant funds may be available for planning assistance.

*Learn more: To learn about heritage areas, contact the National Coalition for Heritage Areas (after Oct. 1 the National Center for Heritage Development) at (202) 588-6204. The organization publishes a quarterly newsletter. For information about the new Maryland program, contact the Maryland Historical Trust, Office of Management and Planning, at (410) 514-7603.*

## Watershed protection effort will put next farmland program in the Catskills

WALTON, NY — An unprecedented effort involving dozens of entities set on protecting the drinking water of New York City will likely create the nation's next farmland preservation program, centered in the Catskills region of New York. The city has committed \$10 million for farmland conservation easement purchases that are likely to begin within the next year, according to Gale Sheradin of the Watershed Agricultural Council, Inc., a not-for-profit corporation.

"We are going to be prepared when those funds become available," Sheradin said. To make sure they are ready to efficiently use the money, the Council has advertised for an employee to administer the easement program. The Council also asked the American Farmland Trust to help in the effort.

"It's a very big undertaking but one we've been looking forward to. It's an opportunity for us to meet one of our goals — keeping the land use patterns the way they are today," Sheradin said.

The Council has drafted a scope of work for the AFT to help them prepare the documents that will be needed, Sheradin said, noting that "a ton of resumes" had been received following an ad in *The New York Times* for a program manager.

The easement purchase program, however, will be just "another leg under the milk stool," said Sheradin, who has been working most intensely since 1992 on getting farmers in the region to improve farm practices, particularly in the area of nutrient management. These initiatives are considered the most important in improving and protecting the water quality, he said.

The Council currently has a five-year contract with the City of New York, involving more than \$35 million, to get 85 percent of the region's farmers to implement practices that prevent nonpoint source pollution.

"It's challenging and interesting, and if any one thing we're accomplishing is important it is presenting one solution to water quality issues that fits the farmer's style and mission."

While the Watershed Agricultural Council has been working to get farmers involved in protecting the watershed, another effort that involves the towns and villages of the region has been underway since 1990.

When New York City was ordered by the EPA to build a \$4 - \$10 billion filtration plant to clean up the nation's largest surface-water supply, city officials decided to try another tact: an aggressive watershed protection plan, an extensive set of restrictions and a land acquisition plan targeting the Catskills region for eminent domain.

But local governments in the region were angered by the plan, and formed a coalition to fight it. Five years later, after a battle that included blocking eminent domain attempts, an agreement was reached between the Coalition of Watershed Towns and New York City that sets down an array of plans and parameters for meeting the water quality goals without regulations and eminent domain. Land acquisition from willing sellers as well as conservation easements are

### legislative and program briefs ...

**In California...** As Fresno undertakes an update of its general plan, a coalition that put the building industry and farmland preservationists at the same table is urging that the City of Fresno adopt a policy of compact development to help curb its outward expansion. A letter to city officials was signed by the American Farmland Trust, the Building Industry Association, the Fresno Co. Farm Bureau and the Fresno Chamber of Commerce. Fresno County is the nation's most productive farm county.

At press time, the state legislature was due to vote on whether to put a \$500 million bond measure on the Nov. ballot slated for parks and conservation. The measure would designate \$10 million for the state's farmland preservation program, established last year but currently funded at just \$1 million.

**In Ohio ...** Gov. George Voinovich has created a task force to identify the causes and effects of farmland loss. According to the American Farmland Trust, Ohio lost 1.4 million acres of farmland from 1974 through 1992, comprising more than 21,000 farms and equalling about 9 percent of its total farmland.

**In Pennsylvania ...** Twelve farms comprising 1,339 acres were preserved in August. This acreage brings the state's total to 80,062 acres, on 644 farms in 32 counties.

The Lebanon County Court of Common Pleas has ruled that Heidelberg Township abused its discretion in refusing to designate a farm for requested inclusion in an agricultural security area. The township must approve the appellant's request within 30 days. A sewerage facility was proposed.

**In Maryland ...** In Harford County, a TDR task force will be meeting through November to prepare recommendations for a workable program.

**In Michigan ...** Peninsula Township will approve its first easement purchases this month. "Five are ready to go and 15 others are right behind them," said program director Gordon Hayward.

**In New York ...** The Coalition of Watershed Towns will be circulating among its members a draft agreement with New York City that calls for pollution prevention techniques including the purchase of farmland easements, for which the contract commits \$10 million. "Every town, village and county will have to sign off on the agreement, and it's not a given that they will," said Eric Greenfield, coalition director. A public education campaign is underway. The easements would be held by the Watershed Ag Council, located in Walton. Greenfield: (607) 746-2944.

New York Gov. George Pataki signed a bill creating a tax credit for farms protected under easement.

**In New Jersey ...** Executive Director Don Applegate will resign effective Sept. 27 (see story, p. 4). Washington Township in Morris County was featured on CNBC's Money Show Aug. 6 for its arrangement in purchasing more than 700 acres of farmland in fee simple to prevent its development (reported in FPR Oct. 1994).

**In Virginia ...** Clarke County is updating its master plan, placing an emphasis on continued justification of its sliding scale zoning. "We are adopting a growth plan to offset any claim against the zone," said planning director Chuck Johnston. About 6,055 dwelling units were allocated in 1980, with about 4,418 of those remaining, he said. Sliding scale zoning, used by relatively few localities nationwide, allocates building allowances based on parcel size with allowed density per acre decreasing as the size of the parcel increases.

**In Washington, D.C. ...** The Kiplinger Agriculture Letter, a national bi-weekly, July 5 was dedicated to the issue of farmland loss and population shift. The issue concluded that farmland preservation is becoming "a hot button issue for state, federal ag policymakers."

**WATERSHED**, from preceding page

part of the plan as are many other environmental protections.

The agreement, still in draft form, calls for \$260 million in assistance from New York City. The agreement must be signed by each of the dozens of towns, villages and counties, and "it is not a given they will sign," said Eric Greenfield, Coalition executive director.

While embarking on a public education campaign, Greenfield said the important aspect of the agreement is that so many local governments are working together for "a shared decision-making power. A lot of us are pleased with the outcome."

Contact: Coalition of Watershed Towns, Eric Greenfield (607) 746-2944; Watershed Ag Council, (607) 865-7790.

## TDR proposed in Maryland county

**SALISBURY, MD** — A transfer of development rights proposal hammered out by a citizen commission will go to public hearing this month in Wicomico County, on Maryland's Eastern Shore.

Still predominantly rural, and without agricultural zoning, the proposal calls for downzoning 187,000 acres of agricultural area from one building right per three acres (1-3) to one right per 20 acres, (1-20) plus three lots retained by right for every current landowner.

"We knew we couldn't rezone to 1-20 without giving farmers some equity in it," said Corinne Lescalette, a member of the commission appointed by the Wicomico County Council. The commission was asked to recommend ways to achieve the visions contained in a prior study examining the county's future.

"We looked at growth management and associated government functions such as adequate public facilities laws and impact fees," Lescalette said.

The county's zoning in rural areas allowed not only a density of 1-3 but "75 to 80 different uses," she said. The county has preserved about 3,000 acres under the state's farmland preservation program.

The TDR plan designates a proposed receiving area around Salisbury, the county's largest town, and its surrounding suburbs. Bonus densities in certain areas are part of the proposal, but many details are not contained in the proposal. "The council didn't want that," Lescalette said. It preferred that some aspects be left open until after public discussion.

The proposed basis for allocating rights in the sending areas — those areas to be protected — focuses on soil surveys to determine buildable area. As an alternative, landowners could do their own plats to show building potential, taking into consideration constraints such as wetlands and critical areas.

"I'm hopeful that if people understand what we're trying to do and why we're trying to do it, we can move ahead," Lescalette said. The proposal has received support from the area chamber of commerce. Contact: Lescalette, (410) 742-5036; Gloria Smith, Planning & Zoning, (410) 548-4860.

## EPA program fosters local finance

*continued from page 3*

forums on topics including land use. When Anne Arundel County, Md., needed help in designing high-density but livable neighborhoods that could help preserve open space, the Center got help from the University of Maryland.

The Center is currently working with the Future Harvest Project, a program of the Chesapeake Bay Foundation, setting up a revolving loan program that would help farmers establish new or improved practices for sustainable agriculture or watershed protection.

Even though the center was set up to help local and state government, federal government is benefitting as well. Hickey said they train many federal officials in how to be good partners in environmental compliance. "We work with them on how to approach the states and not to come in like a bull in the china closet." *Contact: Hickey, (301) 405-6383.*

### resources ...

#### Conferences

**Oct. 10-11, Harrisburg, Pa:** "Chesapeake Programs: Making the Connection, Locals Helping Locals ..." sponsored by the

Chesapeake Bay Local Government Advisory Committee, will discuss what local officials can do to improve water quality. The conference will be attended by governors of Pa., Md. and Va., as well as mayors and other officials throughout the Bay watershed. Conference cost: \$75. A limited number of grants are available to government employees. Call 1-800-446-5422.

**Oct. 16 - 20, Chicago, IL:** Preserving Community: City, Suburb & Countryside, the 50th National Preservation Conference of the National Trust for Historic Preservation. Farmland and rural preservation have figured more heavily in the National Trust's work over the last decade and especially in the last five years. This conference has increasingly become a "must" for land protection professionals who understand the linkages between protecting land as well as communities from the devastating effects of sprawl. Call 1-800-944-6847 for registration. Special hotel rates deadline: Sept 11.

**Oct. 16 - 21, Burlington, Vt:** LAND TRUST RALLY IS BOOKED. If you have not registered, you may be too late. Call LTA: (202) 638-4725.

#### Publications

- Sustainable Agriculture Directory of Expertise  
University of Vermont, 280 pp, \$18.95  
The 1996 edition of this directory lists contact information, areas of expertise and profiles of more than 700 organizations and

individuals involved in sustainable agriculture, along with seven indexes for cross-referencing. Call (802) 656-0471 or send check to: Sustainable Ag Publications, SAN, Hills Bldg, University of Vermont, Burlington, VT 05405-0082.

- Production Flexibility Contracts: A Guide to the New Flexibility Provisions  
Midwest Sustainable Agriculture Working Group, free.  
This is an easy to understand guide to the new farm bill for farmers who want to adopt sustainable practices. Call (612) 653-0618.





# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Eddy Farm Conference

### Programs in 18 states offered federal funding assistance

SPARROW BUSH, N.Y. — Farmland preservation programs in 18 states, including more than 20 local-level programs, will receive \$14.5 million in federal funds to assist in the purchase of conservation easements on more than 55,000 acres of farmland. The allocations represent the first federal assistance given to state and local farmland protection programs, many in operation since the late 1970s.

Natural Resources Conservation Service officials said there will be more to come in the years ahead, but that state and local programs will have to promote the cause to establish it as part of the federal government's support of agriculture.

At a conference Oct. 1 in Sparrow Bush, NY, administrators of those programs met with the NRCS officials who reviewed and ranked their programs in their quest for funds. The hurried process began in late August when funds were pulled from the remaining FY 1996 budget of the Commodity Credit Corporation to use for the new federal Farmland Protection Program established in the 1996 farm bill.

Some programs that have been established but not funded, quickly appropriated dollars in order to take advantage of the federal offer. In Kentucky, where a program was created in 1994 but has not yet been funded for easement purchases, the governor allocated enough to garner a \$400,000 federal cost-share.

"We felt we had to help them along," said Carl Bouchard of the NRCS Community Assistance and Resource Development Division, which worked to get the federal dollars committed.

Bouchard, speaking at a roundtable workshop attended by more than 60 state and local program administrators, congratulated them on completing

their proposals under a tight three-week deadline. "I think you all did a marvelous job of doing that," he said.

#### "Think big"

Umberto Hernandez, acting director of the division, told conference attendees that farmland preservation has become a mission of NRCS chief Paul Johnson. Hernandez said the level of federal response to farmland preservation would depend on how state and local programs promote the cause, and that Johnson's message to program administrators was to "think big and we will back you."

"We are in a period of opportunity to address farmland preservation," said Tim Warman, vice president for programs of the American Farmland Trust, sponsor of the two-day conference held yearly at Eddy Farm Resort near Port Jervis. Speaking before participants at a dinner program, Warman said that farmland preservation was becoming a solid profession that had friends in Congress and was growing every year. "We

*please turn to page 2*

Volume 7, Number 1

October 1996

#### inside this issue ...

USDA Farmland Protection Program funding table ...	p. 3
First Wisconsin PDR program .....	p. 4
Chester County building boom threatens farmland ...	p. 4
Illinois governor approves tollway expansion .....	p. 6
Legislative briefs .....	p. 6,7

## Administrators meet with NRCS, turn attention to next round

*continued from page 1*

should take pride in the fact that we are the pioneers," he said.

Some program administrators told NRCS officials that next year's congressional appropriation of \$2 million wasn't worth their time in applying with so many programs vying for the funds, and suggested the \$2 million be combined with the following year's appropriation. A newcomer from Palm Beach County, Fl., said she would "rather not wait."

In an interview, Bouchard said that the second round of funding assistance could see some changes that will respond to concerns from administrators. "We are trying to elicit ideas," he said. The first funding round spread assistance to as many states and localities as possible, awarding some programs that were not established as farmland preservation programs, some administrators noted.

In an interview Bouchard said the geographic spread was not politically motivated, and that Agriculture Secretary Dan Glickman did not make any changes to the proposed list of recipients.

Of particular interest to some administrators were programs in Florida, a state that has taken no steps to protect farmland. In Florida, other environmental elements, particularly water quality, have led resource protection efforts. Two water management districts were awarded \$433,000 for land protection efforts.

### "Multiple use" element

But water management districts could be the entities that spur farmland preservation efforts in the state, according to Mark Oswald of the Green Swamp Land Authority, who attended the Sparrow Bush conference. The two districts that received awards, the St. Johns River and the Southwest Florida Water Control Districts, have been using less than fee simple "land protection agreements" to protect land critical to water quality. Only recently have districts been using easements. The Green Swamp Land Authority, created in 1994, was the first entity in the state to obtain authority to use easements and has completed seven projects encompassing 5,600 acres of farmlands used for grazing, hay, and sod production.

That's a good start for the GSLA, but for state-wide efforts, Oswald said, "Florida is years behind the programs I saw [at the conference]."

But the state's water quality-based initiatives

represent the kind of farmland protection efforts that will garner federal assistance, according to Bouchard. One of the elements the ranking team would look for in future rounds, he said, would be programs with a "multiple use" element that combines farmland preservation with other environmental protections.

Other programs will score on the multiple use criteria, including the Watershed Agricultural Council in New York's Catskills and the Wisconsin Department of Natural Resources which is using conservation easements to protect lands adjacent to state parks and preserves. The Maryland Department of Natural Resources is also examining how farmland preservation can best support other environmental objectives.

Despite the hectic ranking of proposals in this first round of the federal Farmland Protection Program, when asked how he would improve the process, Bouchard had two words: "More money."

### Programs awarded

Forty-five separate programs in 20 states submitted proposals to the NRCS, requesting a total of \$129.3 million in matching funds for the protection of 176,254 acres on 628 properties. About 200 proposed easement properties comprising an estimated 55,720 acres will receive assistance from the \$14.4 million federal cost share.

All northeastern and mid-Atlantic states with farmland preservation programs will receive \$1 million. In addition, all county programs in Maryland and Pennsylvania that made separate proposals received \$100,000 each (see accompanying table).

In Maryland, five counties — Anne Arundel, Carroll, Calvert, Frederick and Montgomery — forwarded independent proposals. A few counties that had planned to pursue separate proposals did not. Baltimore County had no applications in a separate program or a waiting list, and in Harford County, with a very busy waiting list in its installment program, a proposal was readied and then scuttled by the director of planning who claimed the procedure was too cumbersome.

In Pennsylvania, six counties — Adams, Bucks, Chester, Lancaster, Lebanon, and York — pursued separate proposals that were awarded.

The California Department of Conservation was awarded \$1.9 million, with San Bernardino County receiving \$100,000.

*please continue to page 8*

**U.S.D.A. Farmland Protection Program, 1996 State & Local Program Awards**

State	Program	Award	State Total
CA	Ca. Dept. of Conservation San Bernardino County	\$1.9 million \$100,000	\$2 million
CO	City of Boulder, Larimer Co., Routt Co., Great Outdoors Colorado	\$1 million	\$1 million
CT	Connecticut Farmland Protection Program	\$1 million	\$1 million
DE	Agricultural Land Preservation Foundation	\$1 million	\$1 million
FL	St. Johns River/Southwest Florida Water Control Districts	\$433,000	\$433,000
KY	Commonwealth of Kentucky & PACE Corp.	\$400,000	\$400,000
MD	Maryland Agricultural Lands Preservation Foundation Anne Arundel County Carroll County Calvert County Frederick County Montgomery County	\$1 million \$100,000 \$100,000 \$100,000 \$100,000 \$100,000	\$1.5 million
MA	Department of Food & Agriculture	\$1 million	\$1 million
MI	State of Michigan & Peninsula Twp	\$1 million	\$1 million
NJ	State Agriculture Development Committee	\$1 million	\$1 million
NY	Town of Pittsford County of Suffolk Town of Southampton Town of Southold	\$100,000 \$100,000 \$100,000 \$100,000	\$400,000
NC	Piedmont Land Conservancy Forsyth County	\$52,000 \$100,000	\$152,000
PA	Commonwealth of Pennsylvania Adams County Bucks County Chester County Lancaster County Lebanon County York County	\$1 million \$100,000 \$100,000 \$100,000 \$100,000 \$100,000 \$100,000	\$1.6 million
RI	RI Agricultural Land Preservation	\$500,000	\$500,000
VA	City of Virginia Beach	\$100,000	\$100,000
VT	Vermont Housing & Conservation Board	\$1 million	\$1 million
WA	King County Thurston County	\$100,000 \$100,000	\$200,000
WI	Wisconsin Department of Natural Resources	\$140,000	\$140,000

Chester County, Pa.**New building boom a threat to preservation goals**

**WEST CHESTER, PA** — Before the end of next year Chester County officials will have to decide how to replenish funding for farmland preservation in this rapidly growing locality near Philadelphia where a local program has preserved 7,575 acres since it was created in 1991.

Officials will announce a plan next year, according to Henry Jordan, chairman of the Chester County Planning Commission. It is uncertain whether more bond funds or "a stream of cash from elsewhere" will be sought, he said.

An open space bond fund in 1989 allocated \$12 million for a county-operated farmland preservation program, but that money is nearly spent. And, Chester County is in the midst of a building boom unseen since the 1980s when, by 1992, 458 farms ceased operation and 43,000 acres were lost in the county.

That kind of loss could be repeated in a new wave of development underway in the county. Last summer, a new surge was generated in Chester when developers who normally operate in Bucks and Montgomery counties helped Chester County finance sewage-treatment plants. One sewage plant was completed in Concord Township when a group of builders and landowners helped the Concord Township Sewer Authority to finance and build it. Thousands of new homes are planned for Concord and other communities.

"All of a sudden this year we are running at the same pace as in 1986 with subdivisions. There is no reason for us to be complacent," Jordan said.

Chester County adopted a new comprehensive plan last month that calls for protecting and enhancing natural and cultural resources by concentrating development in appropriate areas. A new aspect of the plan is a call for "vision partnerships" between the county and its 73 municipalities. The partnerships will be formalized in memorandums of understanding, and will entail a review of township plans by the county. To aid the program, Chester County will offer grants for local assistance in planning of \$50,000 to \$75,000.

The grants can also be used for urban revitalization projects. According to Jordan, one of the principles contained in the county's plan is that

*please continue to next page*

**etcetera ...****First program in Wisconsin gets voter approval**

**Dunn, Wis.** — With a long history of land use planning but the disadvantage of sprawl closing in from neighboring localities, voters in the Town of Dunn, just southeast of Madison, voted September 10 to approve a tax increase to fund a farmland preservation program.

Fifty-six percent of the voters said yes to a property tax increase of 50 cents on every \$1,000 of equalized valuation.

The town's planning commission has been exploring the purchase of development rights for three years, according to Steve Krebs, chairman of the Town of Dunn Planning Commission. Krebs worked with the ad hoc committee that steered the issue to referendum.

"This was a fair and equitable way of dealing with farmland loss. If people like [farmland] they will have to pay for it," he said. The funds will be used for both farmland and land not currently farmed.

Agricultural zoning in the town allows one building right per 35 acres (1-35). "We were looking for additional tools to use. This was one option we came up with."

Greb said it was hard to say when purchases would begin, and that administrative details and legislative work was still needed. But farmers are waiting, he said.

"We held a meeting just for landowners. There was considerable interest in it. We've had calls asking 'when is it starting?'" *Contact: Steve Krebs, (608) 873-8936.*

**New York county to plan for farmland preservation**

**Goshen, N.Y.** — A farmland preservation program could be in the making for Orange County, N.Y. where a permanent position has been created to implement an agricultural marketing program and to develop a plan to protect farmland, according to planning director Richard Jones. That plan will likely include recommendations for farmland preservation.

"I think there's a strong possibility," he said. An initial easement application is being prepared for a farmer who stepped forward to be the first easement seller, according to Jones, who said the permanent position is funded only partly by the county. Two-thirds of the salaried position will be privately funded

and the office will reside with the local chamber of commerce, he said.

While the program will seek easements, the focus will be marketing, according to Jones. The program was established by the agricultural advisory board, created under the New York Agricultural Protection Act which in 1992 required localities to plan for farmland protection. The act received a boost this summer when the state budget allocated \$4 million for local planning grants and implementation of farmland protection plans. *Contact: Richard Jones, (914) 291-2409.*

#### **Canadian researchers survey U.S. practitioners**

A Canadian rural research team is conducting a survey of farmland preservation administrators in the United States to determine whether techniques used here can work in Nova Scotia, according to Kenneth Beesley of the Rural Research Centre at the Nova Scotia Agricultural College in Truro.

According to Beesley, the project should produce one or more reports aimed at various audiences, including municipal and provincial governments.

"Personally I believe there is an interest in farmland preservation in Nova Scotia and that support for a potential program is out there," Beesley said. However, that support is currently minimal and confined to the Nova Scotia Federation of Agriculture

The survey was initiated after a previous research project on farmland preservation strategies in North America, which was conducted over the last several years. That project, which produced five reports, generated interest in a further study.

The survey now underway asks farmland preservation practitioners and others to rate the effectiveness of programs in their states and localities and to comment on how programs can be improved. It also asked for opinions on what approach to farmland preservation might work best in Nova Scotia, which lost 26 percent of its farmland and 34 percent of its farms from 1971 to 1991.

About 935,145 people live in Nova Scotia, with just over a third of those living in Halifax, the provincial capital. There are just under 4,000 farms, with hay the largest single crop and cattle the most common operation.

Beesley said the research has the potential to spur further interest in farmland preservation within the province. *Contact: Ken Beesley, (902) 893-6593.*

#### **Chester County, from preceding page**

urban revitalization is essential to the county's goal of preserving its natural resources.

"If we don't save our urban areas, we won't be able to save our cornfields," he said. Three municipalities have already sought to sign up for the new program even before the county had the documentation ready, according to Jordan. Many others have called to inquire.

Projections in the comprehensive plan update conclude that urban areas in the county will grow by six percent while the rural areas will grow by 60 percent. "The figures are absolutely the picture of sprawl," Jordan said.

Jordan's commission last year produced a newspaper circular that was distributed to 80,000 households that depicted sprawl and its effects on Chester County. A series of maps showed growth in Chester County and how it would affect rural lands under four scenarios from a continuation of sprawl to development confined to regional centers and corridors. The circular presented the issue as one in which citizens had a choice, and a questionnaire was provided. More than 5,000 people returned them, and by a margin of 10 to 1, citizens said they did not want a sprawl pattern of development to continue.

This year, the planning commission is back at work on a "comprehensive plan toolbox," a handbook containing all the land protection techniques in use in Pennsylvania. "That will be a dynamic document that can change over time," Jordan said, one township governments can use to draft their comprehensive plans.

While the planning commission's newspaper circular elicited a strong response, preservation has long been an interest of Chester County landowners, who have placed 97,384 acres in agricultural security areas, sold easements on 7,575 acres of farmland and donated easements on thousands of acres to the Brandywine Conservancy, the largest and longest operating land trust in Chester County.

Since 1967 the Conservancy has preserved more than 20,000 acres in Chester County, concentrating in the Brandywine River watershed. This vital drainage basin that feeds into the Delaware River encompasses more than 200,000 acres, where soils are either prime or of statewide importance. The Conservancy has worked to protect the scenic quality along important corridors such as U.S. 1.

Coalition files lawsuit**Illinois governor approves tollway**

CHICAGO, IL — Last month, after telling an audience at the Republican National Convention that business needed “the right climate” to prosper, Illinois Gov. Jim Edgar announced he had approved preliminary plans for a toll highway extension through Will County, south of Chicago, bearing upon some of the state’s richest farmland.

Apparently, Edgar didn’t include agriculture as among the businesses targeted for assistance.

With his approval, the Illinois State Toll Highway Authority, a quasi-public body made up of Edgar campaign supporters and strong allies of the development industry, is authorized to sell bonds to fund the project and to take bids on construction. The tollway extension, with debt service, will cost an estimated \$700 million, money better spent on transit that would serve the greater population of Chicago according to a coalition of groups opposing the tollway plan. The debt will be financed through tolls paid on existing tollways in the system.

Construction on the 12.5 mile extension from Interstate 55 to Interstate 80 could begin this fall pending completion of right of way purchases and permits. According to an industry source, the extension is among the largest tollway construction projects in the nation.

Edgar has no misconception about the tollway extension: not even mentioning any need for transportation, the governor called the decision a boon to economic development of the region.

“It is time we move forward with this project that will aid the continued economic growth in the area,” he told reporters.

Coinciding with Edgar’s announcement was a police investigation into a tollway land deal in Will County involving a member of the tollway authority. State police investigators are scrutinizing thousands of dollars paid to a consulting firm owned by tollway authority member and Bolingbrook Mayor Roger Claar, an old friend of Gov. Edgar.

Tollway authority critics want to reform how transportation dollars are spent, and, who serves on the tollway authority. Membership on the board points up how highway construction has fed business and development along Chicago’s urban edge: all of the members of the tollway authority are top business executives whose industries benefit from development booms. And, tens of thousands of dollars were fed to Edgar campaign coffers from the business interests presided over by tollway authority members, according to the Chicago Tribune.

On another front, environmental groups filed a lawsuit in U.S. District Court in Chicago in August charging the environmental impact statement for the tollway project violates the National Environmental Policy Act. It is the first time the tollway authority has faced a lawsuit on environmental grounds.

Mike Truppa, of the Environmental Law & Policy Center, one of the plaintiffs, said the lawsuit focuses on an impact statement filed by the Illinois transportation department and subsequently approved by the Federal Highway Administration. The impact statement “ignored

## legislative and program briefs ...

**In California ...** The Ca. Dept of Conservation has published a report on farmland loss in the state. The “Farmland Conversion Report — 1992 to 1994” documents a loss of 69,000 acres of farmland to urban uses since 1990. Of this loss, 43 percent occurred in the eight-county San Joaquin Valley. According to the American Farmland Trust, the region is the nation’s most productive.

**In New York ...** The Watershed Agricultural Council has hired Karl Czymmek, an attorney familiar with farming and easements, to manage the purchase of development rights program that will get underway when the council receives an expected \$10 million from New York City under an agreement with the Coalition of Watershed Towns. A majority of the dozens of towns, villages and counties in the Catskills region must sign the agreement before the money will be appropriated. When finalized, the funds would come after 60 days, according to Council director Gale Sheradin.

“We’re very confident that our funding will come through,” he said. Czymmek worked with the Council in devising the whole farm plans designed to curb runoff into the city’s reservoir watersheds.

**In Oregon ...** A citizen initiative in Jackson County is aiming to educate the public about growth and farmland loss. TDR is on the agenda for examination, according to Traute Moore of the Jackson County Farmland Protection Committee.

**In Maryland ...** St. Mary’s County is exploring ways to fund a local farmland preservation program as well as ways to alleviate laws that make secondary on-farm business difficult for farmers..... In Wicomico County, planning commissioners are asking the County Council to place a one-year moratorium on subdivisions in the rural/agricultural zone as a

prelude to a TDR proposal still being explored.

**In New Jersey ...** Four municipalities in Hunterdon County will ask voters this fall whether they want to fund open space and farmland preservation. Three townships in Hunterdon have already voted to raise property taxes to pay for preservation. In the state, at least 10 counties and 22 municipalities have created open space trust funds, according to Alison Mitchell of the New Jersey Conservation Foundation. Monmouth and Passiac County voters will also get a chance to vote on funding farmland and open space preservation. Two townships in Monmouth will also have ballot items. Monmouth has preserved 3,318 acres, with 1,288 acres pending settlement.

The New Jersey Conservation Foundation has moved to Bamboo Brook, 170 Longview Rd., Far Hills, NJ 07931-2626; (908) 234-1225.

**In Wisconsin ...** The town of Dunn in Dane County has approved a 50 cent per \$1000 assessment value tax increase that will raise an estimated \$167,000 per year in an effort to preserve the town's remaining farmland. Dunn is located southeast of Madison (see story, p. 4).

**In Virginia ...** A farmland protection committee charged with exploring the future of agriculture in Loudoun County presented a report to the Board of Supervisors that included a recommendation for the purchase of development rights. The idea was firmly put down by the board. The Board's chairman said in a *Washington Post* article Sept. 15 that exploring how to keep farmers economically viable is more important than a PDR program. The Piedmont Environmental Council says it is time to implement the county's policy to keep the western end of the county rural. A local developer said he didn't think suburban dwellers would want their taxes increased in order to curb growth "in a far out place like Middleburg." The county's leaders are running well behind time to save their local agriculture: about 13,000 homes have been approved in western Loudoun, bearing on the heart of the county's agricultural region.

*Tollway fight, from preceding page*

critical environmental impacts the project will inflict on northern Will County," Truppa said. The statement failed to address alternatives to the tollway plan and air quality issues. The lawsuit seeks to block construction until the statement conforms to federal law.

The lawsuit followed a media campaign to inform the public that the tollway extensions would not pay for themselves as promised when the tollway authority was created in 1953, and that the continued expansion would be financed from tolls motorists continue to pay. Tollways were supposed to revert to freeways once bonds were paid off.

"What this campaign aims to do is to get citizens to ask lawmakers to restore the original intent of the tollway," said an attorney for the Environmental Law & Policy Center.

The center said in its campaign that the Illinois State Toll Highway Authority has "sought and gained virtually unchecked license to divert revenues from these original tollways to pay for new expansions."

The group intends to gather grassroots support for a law that would prohibit such use of tollway revenues. Several attempts to curtail the power of the tollway authority in the past have failed, and the authority currently carries about \$950 million in debt outstanding and an annual debt service of \$82 million, according to a tollway authority spokesman who said the authority's use of revenues to expand the system has been upheld in court and clarified by the General Assembly.

The tollway authority has become the target of an antisprawl movement generated in Chicago when several nonprofit organizations began to better understand how their issues had common links. Decaying infrastructure and the loss of jobs in the inner city was linked to suburban expansion, as was farmland loss at the other end of the spectrum. A series of decisions made by those who benefitted from more highways, more airports and more residential growth was seen as the root cause of it all.

The coalition includes the Center for Neighborhood Technology, publisher of *The Neighborhood Works*, a national magazine, and the Environmental Law & Policy Center. The coalition also includes the Sierra Club, the Chicagoland Bicycle Federation, Business and Professional People for the Public Interest and the American Lung Association of Metropolitan Chicago, the latter group arguing that unless new development is centered around mass transit, sprawl will continue to be a major contributor to air pollution.

Another emerging segment of this coalition is the Metropolitan Alliance of Congregations, representing more than 100 churches concerned about regional inequities.

Despite the new coalition-building efforts, organizers are feeling the pressure of a power structure they have not been able to crack. With the governor's approval, the tollway authority is set to continue its mandate of development through the cornfields or north-eastern Illinois. However, the pending lawsuit, which is being taken seriously by the tollway authority, could result in years of litigation.

*Read more: For more about the Illinois tollway authority and farmland loss in Illinois, see FPR, Sept. 1994. Contact: Robert Heuer, (312) 274-1989.*

## Building boom threatens rural Chester Co.

*continued from page 5*

Because scenic and historic resources are important in Chester County, the farmland preservation program gives extra points to applicants when farms are adjacent to a national historic resource or district or a park or protected area.

This element in the county program's rating criteria is one indication of how Chester County works in tandem with the Brandywine Conservancy and its mission to protect land resources beyond agricultural lands. A memorandum of understanding between the Chester County Agricultural Land Preservation Board and the Brandywine Conservancy has established a system for preserving the wetlands, forests and other natural lands such as steep slopes that might be excluded from an agricultural easement, according to Tom Larson, Brandywine Conservancy land and easements manager.

The Conservancy also helps with

the farmland preservation program by contacting landowners about preservation opportunities, helping with paperwork and generally promoting preservation around parcels that are already protected. The Conservancy is reimbursed for its staff time through funds from the open space bond that funded the farmland program.

Now that the money is running out, the Conservancy too, is concerned about continuing preservation work in the county. But the mission of preservation has likely not diminished since the late 1980's when about 80 percent of voters approved the Chester County Open Space Bond Fund in 1989.

"It would behoove everybody to issue another bond. We feel there's a lot of good feeling about [preservation]," Larson said. *Contact: Charlene Briggs, Chester County Agricultural Land Preservation Board, (610)344-6285; Tom Larson, (610) 388-8345; Henry Jordan, (610) 828-6331.*

## Federal funds awarded to local programs

*continued from page 2*

In New York, four local programs each received \$100,000: Suffolk County, and two of its towns that have funded their own easements, and the Town of Pittsford in Monroe County.

In Wisconsin, the Department of Natural Resources, which recently targeted farmland near state parks for easement purchases, will receive \$140,000 for its initial project.

The City of Virginia Beach, with 15 offers pending but no easements yet purchased, was awarded \$100,000, as was Michigan's Peninsula Township, Forsyth County, N.C., whose program for many years was inactive, King County, Wa., which recently recast its farmland preservation goals, and Thurston County, Wa., which recently

designated a preservation area in which easements are to be purchased.

Projects that were not assisted included: South Livermore Valley (Ca.) Agricultural Land Trust which requested \$1,009,140 to protect 220 acres; Palm Beach County, which sought \$382,250 to protect a 28-acre horse training facility; the town of Londonderry in New Hampshire which sought \$675,000 to protect 254 acres; the Township of Buckingham in Bucks County, Pa.; and the Scenic Hudson (NY) Land Trust which sought \$2.5 million to protect 3,971 acres.

*For more information on the federal Farmland Protection Program contact: Carl Bouchard or Fen Hunt at (202) 720-2847.*

## resources ...

### Conferences, Workshops

**Oct. 14-18, Farm Bill Forums, State Conservationists and FSA State Executive Directors** will again hold forums where interested individuals can talk about ideas on the Farm Bill rules that have been published in the Federal Register (HEL- Swampbuster, CRP, and EQIP). If you have questions, call Dave White, Director, NRCS Office of Public Affairs, 202-720-3210, or Roland Olson, Director, FSA Public Affairs Staff, 202-720-5237.

**Nov. 1 - 2, Annapolis, MD: Achieving a Balance: Preservation, Conservation & Revitalization in Maryland**, sponsored by Preservation Maryland, the Department of Housing and Community Development and others. Sessions will explore: creating a balance in redevelopment; heritage area marketing strategies; downtown economic restructuring; residential strategies for preservation/revitalization. Base conference fee, \$65. *Contact: Sue King or Joan Arnold at (410) 514-7777.*

**Nov. 7, 8, Casa Grande, AZ: Urban Development, Farmland Protection & Environmental Preservation**, sponsored by the NRCS. *Contact: Jeff Schmidt, 602-280-8805.*

**Nov. 14, Atlanta, GA: Metropolitan Development Patterns: Alternatives to Sprawl**, sponsored by the Lincoln Institute of Land Policy and the Georgia Conservancy. *Call 1-800-526-3873.*

**Dec. 7, Middletown, NJ: First New Jersey Land Trust Rally**, cosponsored by the Land Trust Alliance and the New Jersey Conservation Foundation. *Contact: NJCF, (908) 234-1225.*



# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## THEY JUST SAID NO

### Three applicants said federal funds were too much trouble

Three local programs that were made offers of at least \$100,000 each under the federal Farmland Protection Program turned those offers down, citing difficulties with the cooperative agreements drafted by the Natural Resources Conservation Service.

More than \$14 million was awarded to programs in 18 states by the NRCS in October, the first time federal funds have been used to assist farmland preservation programs nationwide (see last issue).

But the City of Virginia Beach, Thurston County in Washington, and the Southwest Florida Water Management District said they had problems with the stipulations set forth by the NRCS, or, said the

involvement wasn't worth the amount of money offered.

Louis Cullipher of the Virginia Beach Department of Agriculture said the cooperative agreements that had to be signed in order to accept federal funds presented a number of problems for Virginia Beach.

"The main sticking point was the contingency clause," Cullipher said. That clause provided that the U.S. Secretary of Agriculture would make the sole determination on whether easements are being enforced. City officials were not satisfied with answers from the NRCS as to what activities on easement parcels could take place, such as roadside stands, allowable in Virginia Beach

*please turn to page 2*

### Maryland agencies propose major preservation initiative

ANNAPOLIS, MD — The Maryland Department of Natural Resources, Department of Agriculture and the state's Office of Planning have presented a proposal to Gov. Parris N. Glendening for a major new bond-funded, voluntary program for "highly targeted purchased easements." The program will combine natural resource and agricultural preservation elements. The governor is expected to support the plan.

"He's received it very well. There's a very good chance we'll get the governor's support," said Grant Dehart, director of the Department of Natural Resources' Program Open Space.

The proposal would substantially increase funding available for land preservation statewide.

With the governor's likely support, the plan will

go to the legislature in its upcoming session. According to Dehart, legislation would be required to authorize general obligation bonds,

*please turn to page 4*

Volume 7, Number 2

Nov.- Dec. 1996

#### inside this issue ...

- Hudson Valley could see farmland easements ..... p. 3
- Ca. planner maps out Central Valley ..... p. 5
- Land Trust Rally highlights Vermont agriculture ..... p. 5
- Legislative briefs ..... p. 6,7

## Some programs turn down federal funding assistance

*continued from page 1*

without a business license.

Cullipher said that in trying to spur interest in their program, the city has been promising farmers that once an easement is settled, contact with government officials will be minimal. Cullipher said the federal involvement seemed to jeopardize that policy.

"We said to the landowners, we'll enforce [the restrictions], but we'll leave you alone. The provision that the secretary makes the sole determination on whether the easement is being enforced or not caused concern. We feel farmers have enough to deal with ... there seemed to be a lack of trust — that we weren't going to carry out what is good for the farmland protection program," Cullipher said.

A city councilman told *The Virginian-Pilot*, the area's newspaper, that the federal government would have too great a prerogative in monitoring easements. "If they found any problems, they could have federal agents come on your property and see if you were in compliance ... I don't think we can afford this \$100,000," the councilman said.

Cullipher said he hopes the USDA will consider changing the language in the cooperative agreement. "I'm hopeful in the future they will change that and not have all those strings attached. You've got to make the program as customer -friendly as possible."

Cullipher said another sticking point in negotiations came when NRCS officials wanted to change the Virginia Beach program's buy-back provision, changing the period after which a landowner could petition to reclaim his development rights from 25 years to 30 years. The city had set the period at 25 years because it is the same period it takes to complete the purchase of development rights under the program's installment purchase plan. The request, Cullipher said, seemed arbitrary, and would have added another headache to the process.

"We thought 25 years was reasonable. It was a common sense approach. To change that would have taken time and added cost. We asked them what was the reason. They didn't know," Cullipher said.

NRCS officials were unavailable for comment.

Other program administrators and their attorneys initially found certain clauses in the NRCS cooperative agreements to be worrisome, but not to

the extent that Virginia Beach officials did. Both Pennsylvania and New Jersey program officials were concerned about the "hold harmless" clause that protects the federal government from liability for illegal or damaging actions on the property, but decided it was acceptable.

Pennsylvania program attorneys were somewhat concerned about the contingency clause, as was Virginia Beach, but for Pennsylvania, \$1 million was at stake.

The contingency clause "still gives all enforcement and monitoring to the state and localities, but if the state fails to enforce, the Secretary has the right to," said Ray Pickering, director of the Pennsylvania program. "I guess we weren't terribly happy with it, but the likelihood of it happening is very remote."

Tom Daniels, of the Lancaster County (Pa.) Agricultural Preserve Board, which was awarded \$100,000, said contingency clauses can be expected when public funds are used.

"The question is how often to monitor. The most important thing is a paper trail, because if there's not one, the easement can be challenged. In any easement document a land trust does, they will name a back-up organization. That's essentially what's being done in this case," Daniels said.

Delaware attorney Michael Parkowski reviewed the cooperative agreement for the Delaware Agricultural Land Preservation Foundation and determined there were no clauses that were unacceptable.

While under the contingency clause the federal government would have the right to enforce easements in the event the state failed to do so, it would not have the ability to add restrictions, Parkowski said. Therefore, the NRCS would only be enforcing restrictions the state would otherwise have enforced — only those named in the easement document.

The reversionary clause, which says the easements that use federal funds would revert to the federal government if the state program ceases to exist, didn't trouble Parkowski either. "What difference does it make whether its local, state or federal? I guess it's a matter of attitude," he said.

Since the snafu over the federal funding, the Virginia Beach program has had its first participants accept offers. Development rights on two

*Federal funds, from previous page*

farms, totaling 581 acres, will be purchased for \$2.7 million. Cullipher is working with 30 other farmers, who are considering preserving up to 7,000 acres.

**Thurston Co.: "Predictable negative response"**

In Thurston County, Wa., where a local program created last June is close to preserving 530 acres in a designated farmland preservation zone, county officials turned down an NRCS offer of \$100,000.

"It caused a predictable negative response out here," said planner Steven Morrison. "They were giving us four cents on the dollar, and they wanted us to track their money separately. That created inequities," he said.

The reversionary clause in the cooperative agreement, which provides for easements to revert to the federal government in the event of a program's demise, caused a problem under Washington law, Morrison said.

"Our commissioners decided not to do it. We had a grand total of two days to decide. It was one of those things ... we will not be involved in their program in the future."

Thurston County will pay its own way in a limited program that targets just 920 acres in the Nisqually Valley, "one of the few remaining green areas along Interstate 5," according to Morrison. The County Commissioners have resolved to spend up to \$2.5 million from the county's "conservation futures fund" which assesses 6.5 cents per thousand dollars of assessed property value. The preservation mandate is backed by agricultural zoning put in place last year that decreased allowed density from 1-5 to 1-20 and 1-40. A transfer of development rights program followed the downzoning. No transfers have yet occurred, but will likely occur within the next year, according to Morrison.

**Florida water management district passes the bucks**

The Southwest Florida Water Management District (WMD) was another entity that decided the offer from the NRCS wasn't worth the trouble, so it passed the money on to its neighboring district, the St. Johns River WMD. Michael Mulligan, a spokesman for Southwest, said his district's need was not pressing enough to justify the work required. "It seemed like a lot of involvement for that amount of

money," he said.

The Southwest WMD, which covers 16 counties on the west-central coast and the state's most productive farmland, would have received just over \$100,000 in a 75/25 split of \$433,000 awarded jointly to Southwest and St. John's River. The state has five water management authorities created in 1972 to protect water quality through regulation and land acquisition.

The St. Johns River Water Management District will use the NRCS funds to help purchase an easement on a 2000-acre portion of a 14,000-acre cattle ranch in central Florida, the NRCS funds being a 45 percent match, according to Robert Christianson, director of planning and acquisition for St. Johns. Christianson is optimistic about the federal partnership.

"I think we will apply again. We have over 100,000 acres we're working on for easements. It's important to have the relationship," he said.

That will be increasingly so after the past session of the Florida legislature called upon each of the state's five water management districts to purchase at least two easements per year, a whole new game for the districts, which have historically protected land through fee simple acquisition.

The St. Johns River WMD, however, has a jump on learning the ropes of easement purchase, through working with Georgia-Pacific on protecting from future development 30,000 acres of timberland.

"A silvaculture operation is a whole lot better than subdivisions, and public use is included," said Ray Bunton, director of the district's division of land acquisition. The district purchased some of the land in fee simple to protect a lake from the timbering operations, and then purchased conservation easements on thousands of surrounding acres. "We have closed on about half of the 30,000 acres," Bunton said. The Florida Game and Fish Commission will manage the area.

In addition to the Georgia-Pacific project, Bunton said the district also "deals with farms, from family farms to large corporations." Bunton said the Georgia-Pacific timber operation is considered agriculture under district policy.

*Contacts: Robert Christianson/Ray Bunton, (904) 329-4500; Steven Morrison, (360) 786-5222; Louis Cullipher, (804) 426-5775; Ray Pickering, (717) 783-3167; Michael Parkowski, (302) 678-3262; Tom Daniels, (717) 299-8355.*

Joint effort for farmland, natural resources**Maryland could get big boost in preservation funds***continued from page 1*

establish criteria for the creation of preservation areas and create a steering committee to review local requests for project funding.

Program Open Space is funded through a real estate transfer tax that generates approximately \$73 million annually. The revenue is divided between a number of land protection programs including farmland preservation. It is this revenue that would be leveraged to secure bond funding. The administration is also exploring an increase in the POS budget.

However, the legislature will have the final say in whether bond financing will be allowed, and if so, how much can be borrowed. Proposed amounts are under review, according to Dehart, who said any amounts at this time are purely speculative.

"Our initial ideas weren't based on anything real in terms of negotiating with the administration," he said. "Even what we would propose would be altered by the budget committees."

Dehart said the governor may announce a proposed dollar and acreage figure in the coming month.

**Target: Special regions, focus areas**

While some details could change, the plan is expected to target "special regions of the state" and would start with a pilot project in two or more focus areas, likely one each on the Eastern and Western shores, "to test the concept and protect land that is threatened with development" according to a staff report.

Under the program, counties working individually or with other counties, as well as non-profit organizations working with counties, can propose "an effective plan for the purpose of preserving productive agricultural land and environmentally sensitive areas [that] is likely to be successful," according to a report from the interagency committee that developed the plan. Applications for focus area designation would be reviewed by a public-private steering committee.

**Two types of local requests**

Two types of proposals would be invited: Impeded Focus Area (area where state funds have been underutilized) and Advanced Focus Area (areas where programs have been active but non-strategic).

An Impeded Focus Area is defined as an agricultural and natural resource area of statewide or regional significance where the existing state programs have not been fully utilized or available, and where an infusion of funds, along with an already identified commitment to preservation, can accelerate protection of a major contiguous area.

An Advanced Focus Area is an agricultural and natural resource area of statewide significance where state and local programs have been highly active, but have produced a "scattered pattern" of preserved parcels. The goal of the focus area would be to fill in, or to build upon existing preserved areas "resulting in a large contiguous block of protected land and a permanent agricultural/natural resource region of the state."

For either type of proposal, strategic planning must be developed, with clear goals for preservation of both agricultural and natural lands.

Plans would be evaluated on how well project goals parallel the goals of the statewide initiative and on how well the plan is constructed, that is, how it addresses criteria specified for the type of project, and how likely the project is to succeed.

**Agriculture, natural resources, combined**

According to the staff report, the goals of the state program are: to conserve blocks of contiguous prime farmland encompassing areas that are also rich in natural resource values; to focus on areas of farmland and natural resource lands with statewide or regional importance; to achieve strategic preservation goals in the focus areas that ensure the

*please continue to next page*

*Maryland, from preceding page*

integrity and viability of the agricultural and natural resource-based economies in the areas; and, provide additional incentives to encourage local governments to manage growth.

According to Grant Dehart, criteria developed in the proposal are still evolving and are being reviewed. The objective may be to give equal weight to natural resource protection as to agricultural preservation.

**Criteria for local projects**

Local proposed projects will likely be required to include a coordinated and adequately staffed plan for implementation and have the formal approval of local governments affected. Under current proposed criteria, projects would generally prevent land uses that would threaten protected resources, preserve large contiguous blocks of farmland, and demonstrate how preservation will contribute to long-term economic and environmental stability of the focus area.

Special criteria could be applied for agricultural protection. Projects may be encouraged to give highest priority to farms "with values that can sustain long-term farm use."

Natural resource protection criteria have also been drafted and specify that management practices enhance environmental quality and contribute to water quality improvements. Making connections to linear wildlife corridors and preserving or increasing wildlife habitat of state significance, and farmland buffers to public lands will be big pluses.

In addition, several criteria are set down specifically for advanced and impeded focus areas.

If approved by the legislature, the new program could get underway in FY 1998. The program could be operated within the Maryland Agricultural Land Preservation Foundation, but it's too soon to determine, according to Dehart.

"It's a little premature to tell until the governor signs off on it. They will certainly be heavily involved," he said. Beyond state level easement processing, localities will also have a large part of the responsibility for easement administration, Dehart said.

Contact: Grant Dehart, (410) 974-3581.

**etcetera ...**

**Privately funded program proposed in NY Red Hook, NY** — A local purchase of development rights program could be in the making for the Hudson River Valley region where private funding, a farmer outreach project and a pilot proposal are pushing forward an initiative that could be the first of its kind.

The region, including Orange, Dutchess and Ulster Counties, contains rich farmlands and nationally prominent historic sites and regionally significant scenic areas in the Hudson River Valley.

A feasibility study conducted in the past year examined farmer attitudes about the future of farming in the region and about farmland preservation techniques, according to Hank Stebbins, who performed the study under contract with the Scenic Hudson Land Trust. The study's conclusions: the timing is good, and, farmers are interested in selling easements if the program is operated effectively and with appropriate criteria.

"They were concerned that it not fail, that it not be a program for open space but to preserve a critical core of [active] farmland," Stebbins said. Two pilot preservation areas have been selected.

Stebbins has met with all the principal landowners in the pilot areas and appraisers have been contacted. Negotiations could begin before the end of the year with a goal of preserving 1,000 to 1,500 acres in the first pilot area. Stebbins, (518) 377-1067.

**Retired planner maps Central Valley's future Ceres, Ca.** — A former planner who has spent seven years studying California's massive Central Valley has analyzed 127 local general plans there to determine what will happen to the nation's most vital agricultural region without strict farmland protection laws.

Using private funding sources, the Valley Vision Project has culminated in the creation of the region's first comprehensive future land use map, according to Rudy Platzek, project manager and founder.

By the year 2080 "the richest valley the world has known theoretically could not feed itself," he said.

Plans already approved throughout the Central Valley will allow a doubling of the population, from 5 million to 10 million, according to Platzek.

Formerly of DPM Planning Team of Modesto and Sacramento, Platzek will present his findings to the 127 local governments before publishing the study and maps. Platzek: (209) 537-5019.

National Land Trust Rally 1996**Vermont agriculture highlighted at rally**

**BURLINGTON, VT** — About 1,150 land trust volunteers and professionals from 43 states attended the ninth National Land Trust Rally in Burlington, Vermont in mid-October. It was the largest attendance on record for the annual conference organized by the Land Trust Alliance, a national nonprofit group serving the organizational and skill needs of land trusts.

The conference took place in the region with the nation's largest concentration of land trusts — New England accounts for about 36 percent of all land trusts in the United States.

Conference participants chose from 88 workshops, panel discussions and roundtables and heard from Vermont Gov. Howard Dean, U.S. Senator Jim Jeffords, environmental writer Bill McKibbin and musician Paul Winter.

Land Trust Alliance president Jean Hocker told rally attendees that "in the end all conservation is local" and that land trusts are filling the gap between the creation of national parks and wilderness areas and the acquisition of parks at the state level. "It is equally critical, for the survival of a civil society, to protect greenspaces close to all of our people, rich and poor, rural and urban," she said.

**Farmland preservationists "transfer" information**

Farmland preservation program administrators who have attended the conference for the last several years said they found several sessions that related directly to their field but that most sessions had only indirect application that required them to "transfer" information to make it relate to their daily work.

Ray Pickering, director for the Pennsylvania farmland preservation program said he carried away "bits and pieces" from the rally that add up to a better understanding of land protection issues and practices. Applicability can be elusive, however, because many sessions "are geared to small land trusts," he said.

Karl Czymmek, farmland preservation administrator for the Watershed Agricultural Council of Walton, NY, said he was pleased with the conference, especially since he is new in his position.

"As a neophyte, it was an eye-opener as to the complexity and breadth of the field. What it's done for me is put things in perspective. When I was first introduced to the conservation easement, it was easy to make that the center of the universe." Now, Czymmek said, he sees easements as just one tool in assuring the viability of agriculture.

Czymmek, who has a law degree and has worked extensively with farmers to implement conservation practices, said farmland preservation is a career he was happy to find. "I'm really excited to have stumbled into this field," he said.

**Panelists address agricultural easements**

About 100 people attended a panel discussion and workshop on drafting agricultural conservation easements. Five panelists outlined how their programs handle subdivision, buildings, farm practices, on-

## legislative and program briefs ...

**In Maryland ...** The Baltimore County Council voted to downzone 9000 acres from RC (Resource Conservation) -4 to RC-2, which will decrease allowed density from 1-5 to 1-50. The proposal put forward by the county planning board, originally recommended 12,000 acres be downzoned, with the effect of decreasing potential density from about 2,400 units to 240 (see FPR May 96).

In St. Mary's County ways are being sought to alleviate regulations that make it difficult and costly for farmers to pursue value-added production. The St. Mary's Agricultural Advisory Board is also exploring ways to create and fund a local farmland preservation program. A portion of the state cigarette tax and a local real estate transfer tax are being explored.

The Kent County Planning Commission is examining TDR and a local PDR program, with TDR the priority, according to planner Jeff Farner. Kent planners are also working on a unified development ordinance that will combine planning and zoning into a user friendly document, Farner said.

**In Illinois ...** A lawsuit charging that the Illinois State Toll Highway Authority did not file a proper environmental impact statement (see FPR Oct 96) for a proposed tollway extension will receive a summary judgement by Dec. 12. The tollway is proposed to traverse a farming region in Will County, converting thousands of acres. Meanwhile, a judge has ruled that another lawsuit filed by a group of tollway motorists can challenge the Authority's ability to finance major tollway expansions independently of legislative approval.

**In California ...** Marin County failed to achieve a two-thirds majority required for passage of a tax increase to fund farmland and open space preservation.

The measure would have created a sales tax increase generating \$5 million per year for 10 years for farmland and open space preservation. The measure did achieve a 58 percent simple majority.

"Clearly they liked it, but they didn't love it," said Bob Berner, executive director of MALT.

A major Central Valley grape producer and former undersecretary of the California Environmental Protection Agency, is leading an effort to raise awareness of farmland loss and make recommendations on how to save the Central Valley. The effort is in its early stages, with a committee having its initial meeting. The American Farmland Trust is a participant in the new initiative.

The new state farmland preservation program has not yet announced its first application cycle.

Voters in Sonoma County approved the creation of urban growth boundaries, or community separators and approved a measure that will require voter approval for boundary changes. Four UGBs were approved in separate local ballots, including the city of Santa Rosa  
**In New York ...** Voters approved the \$1.75 billion Clean Water/Clean Air Act that will fund scores of programs including \$150 million for locally initiated farmland protection programs.

**In Colorado ...** In Routt County, voters approved a 1 mill property tax increase to generate \$350,000 annually for a new ranch and farmland protection program.

**In New Jersey...** Voters all over the state were in a good mood for preservation: Monmouth County passed a referendum that will raise property taxes to fund farmland preservation. The tax hike will raise \$6 million annually, bringing the county's farmland preservation budget to \$10 million. In addition, four townships in Monmouth County and four townships in Hunterdon County all passed referendums calling for tax increases to support farmland and open space preservation.

Burlington and Passaic counties both approved funding for farmland preservation, with Burlington voters approving a property tax increase to boost their already progressive program.

*National Rally, from preceding page*

farm businesses and water resource protection on easement properties.

Panel moderator Judy Anderson of the Columbia (NY) Land Conservancy, said when it comes to structures on a preserved farm her organization is loosening rules, acknowledging that farm operations will change over time.

"We are becoming more flexible to allow for agricultural changes ... farming is a business. It's not necessarily pretty," she said, in regard to the industrial nature of farm buildings.

In Marin County, Ca., the desire to build new homes on preserved farms is presenting a policy issue for the Marin Agricultural Land Trust. While MALT doesn't allow subdivision of preserved farms, panelist Bob Berner said the problem is when landowners want to build large estate homes, with plans for 5,000-6,000-square foot houses. "I think it will become an extremely tenuous issue. The problem is the value of the property once the home is built. Within the next five years our board will address the issue," he said.

The Vermont Land Trust, also represented on the panel, had an easy answer to the question of farm structures. It doesn't restrict activity "within a five-acre homesite zone," said Gil Livingston, the VLT's vice president for land conservation.

Regarding farm practices and management, the American Farmland Trust focuses on flexibility, said panelist Dennis Bidwell, director of land protection. While the AFT makes sure a conservation plan is in effect, it is important, Bidwell said, to be on good terms with farmers, as the ultimate goal is to pass along the idea of conservation easements. "Every project is a good will ambassador," he said.

Soil conservation has been a given under the Marin Agricultural Land Trust's easements, even though not much science went into it in the early days, according to Bob Berner.

"In the permitted-use section [of the easement document] we say no practices shall result in soil degradation. It was written 15 years ago and we had no earthly idea of what it meant." Berner said MALT is now taking a more direct approach and incorporating conservation planning into monitoring every two years.

"Our land steward measures and estimates the level of residual dry matter on the ground at the end of the growing season. Then we talk to the landowners. We've had virtually no problem with that," Berner said.

Panelist Tom Daniels of the Lancaster County (Pa.) Agricultural Preserve Board described easements as "negative" in that they cannot require any particular practice to occur, only prohibit certain practices from occurring.

"One thing we don't want is gullies. That's bad, bad advertising," Daniels said.

A woman from North Carolina asked for advice on finding a way to improve agricultural practices in a state where corporate hog farming has boomed, with several incidences of manure lagoon breakages. Daniels suggested getting her legislators to

## Panel discusses ag easements

*continued from page 7*

enact a nutrient management law. Her simple response spoke volumes about the political obstacles conservationists face.

"Our legislators are farmers," she said.

On dealing with farm-related businesses on easement farms, Daniels, whose program created a much-used model farm-based business ordinance, said an important focus when setting policy is that a farm-based business should be secondary to the farm operation. Lancaster requires that 50 percent of the goods sold at on-farm markets be grown or made on that farm. Daniels told workshop participants that when developing farm-based business policy, early decisions on plan approvals will be important. "Be consistent and very aware you are setting a precedent."

"The Lancaster County ordinance has been very useful," said Gil Livingston of the Vermont Land Trust. "We now reserve sole discretion for approval [of farm businesses]. It must be compatible with agricultural goals," he said.

Under the Lancaster ordinance, a bed and breakfast is one example of a farm-based business, and many are in operation and thrive on the county's Amish Country tourism. The ordinance is exclusive to agriculturally zoned properties, is contained in agricultural zoning regulations and permits certain types of on-farm enterprises that supplement or support the farm operation. At least a dozen Lancaster townships have adopted the ordinance, which sets down limitations on floor area and acreage used.

### Vermont agriculture in the spotlight

One of the themes of the 1996 Rally was Vermont-produced foods. On the second evening of the conference, chefs at Burlington's Sheraton Hotel prepared a banquet exclusively with foods grown in Vermont. The three-day rally then concluded the following evening with a "strolling dinner extravaganza" called Taste Vermont, which consisted of dozens of booths featuring Vermont-grown foods prepared by some of the state's top chefs. In keeping with the agriculture theme, the event was held at Shelburne Farms, a 1,400-acre working farm and national historic site seven miles south of Burlington.

Agriculture in Vermont was also a running theme of several workshop sessions during the conference. While the state makes up just 15 percent of New England, it contains a full third of the region's farmland and produces more than half the milk and two-thirds of the maple syrup of the region.

While the state has succeeded so far in retaining more small town and rural character than other states in the northeast, it has not been without growth problems. From 1987 to 1992 Vermont lost 441 farms and 129,343 acres of farmland. Agriculture remaining is known for its dairy operations, including sheep and goat's milk, and a well-known cheese manufacturing industry.

## resources ...

### Publications

**Land Use Regulations Supportive of Sustaining Agriculture and Natural Resources in Urbanizing Rural Communities: Evaluation Criteria and Municipal Officials' Perspective**

By Janet Hammer and Kelleann Foster  
Rodale Institute, 58+pp. 1996

This report contributes two things to the sustainability effort: a way for government officials to determine whether local policies and regulations will help or hinder community sustainability goals; and, a better understanding of how local government officials make the decisions that affect agriculture and farmland retention. The focus area was southeastern and central Pennsylvania, regions rich in agricultural heritage but facing often intense development pressure. The research behind this report had three goals: to develop a method of evaluating the effectiveness of land use regulations; to identify working examples of land use regulation supportive of sustaining agriculture and natural resources; and, to determine whether effective techniques, such as TDR and sliding scale zoning, could be used more widely by Pennsylvania municipalities. To request a copy of the illustrated report, call (610) 683-1400.

**Beyond the Last Fencerow: The Future of the Food & Farm System in Southeast Pennsylvania**

By Janet Hammer, Jonda Crosby and Dr. Kate Smith

Rodale Institute, The Pennsylvania State University, 30 pp. 1996

This well-presented, illustrated report gives a thorough evaluation of agriculture's strength and vulnerabilities in the southeast region of Pennsylvania, which produces 42 percent of the state's market value of agricultural goods on just 16 percent of the state's farmland. To request a copy, call Penn State at (814) 863-0644.



# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

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## New funds could make New York next preservation state

ALBANY, NY — Depending on how local farmland protection efforts evolve, new state money from two different sources could make New York a farmland preservation state if commitment holds steady, according to officials involved in recent initiatives.

Those initiatives involve a \$4 million implementation grant program, and, \$150 million in bond money designated for farmland and open space preservation.

The grants program resulted from a \$4 million allocation by the General Assembly to fund the state Environmental Protection Fund. The amount was unexpected and generous: the governor had asked for just \$2 million.

Then, when New York voters approved the Clean Water and Air bond by a 54-46 margin, they

put \$1.7 billion toward environmental improvements, focusing on clean water, including watershed planning, nonpoint source control projects, and water purification facilities upgrades. But \$150 million was designated for land acquisition and conservation easements. That money will be split between three agencies, including the Department of Agriculture and Markets.

It is not yet determined whether the funds will be split evenly between the three agencies, according to Jerry Cosgrove of the American Farmland Trust, New York office.

"That will be determined in the budget process," Cosgrove said. Farmland preservation would receive "not more than \$50 million, and I hope not less than \$10 million," he said.

*please turn to page 2*

## Sonoma County first in nation with network of greenbelts

SANTA ROSA, CA — Voters in Sonoma County passed ballot measures that create urban growth boundaries around four urbanizing areas, as well as strengthen already existing greenbelt areas, called community separators, designated in the county's general plan. Nearly all measures passed by wide margins.

According to the Greenbelt Alliance, a well-established Bay Area land conservation and urban planning organization, the election results make Sonoma County the first in the United States to create a coordinated network of urban growth boundaries, or UGBs. The boundaries are set for 20 years and can only be changed by referendum.

Four separate measures create new boundaries around Santa Rosa, Healdsburg, Rohnert Park and

Sebastopol. Passage of a fourth ballot question, Measure D, will restrict development in the unincorporated areas adjacent to the new "green-

*please turn to page 4*

Volume 7, Number 3

January 1997

### inside this issue ...

Minnesota project targets easements .....	p. 4
Maryland readies smart growth initiative .....	p. 5
Michigan gears up for statewide PDR .....	p. 6
Legislative briefs .....	p. 6,7

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## Bottom-up approach takes time to evolve in New York

*continued from page 1*

### \$4 million grants program

In mid-November, with a rejuvenated Environmental Protection Fund, the state Department of Agriculture and Markets opened a competitive grants program "for the implementation of agricultural and farmland protection activities" to all counties and municipalities with state approved agricultural and farmland protection plans. Planning grants have been available since 1992, but this is the first time funds are available for implementation of plans.

While the Request for Proposals will allow for other types of projects, there is "a clear bias towards an easement purchase ... the priority criteria lead you down that path," said Kim Blot, director of the Agricultural Protection and Development Services Division.

While many counties are developing plans, so far only five have had them approved by the state, according to Bob Somers, chief of the Agricultural Protection Unit. Those five counties, Cayuga, Erie, Orange, Suffolk and Washington, will be vying for the new implementation funds, along with municipalities that have plans, such as the Town of Pittsford, which garnered \$100,000 in federal funds for an easement program. A number of municipalities are likely to apply for funds, Somers said. Nonprofits are not eligible to apply for funds directly, but can participate in project development and implementation.

No county will be funded above a \$2 million cap or above 75 percent of the total project cost. Applicants must provide a cash match at 25 percent, except where an in-kind administrative credit of up to 80 percent of the cash match or \$25,000, whichever is less, is elected. Municipalities can apply for up to \$500,000, however municipalities in the same county will have to share that amount in this fiscal year, and municipalities are required to provide a cash match equal to 50 percent of the total project cost, with the same in-kind elective. After this fiscal year, the \$2 million cap decreases to a \$500,000 yearly cap per county that cannot exceed 50 percent of the cost of implementation.

Purchase of development rights is only one technique contained in the approved plans. Others are initiatives to promote land conservation and stewardship; model ordinances to protect agricultural resources and operations; outreach efforts;

### New York fast facts

Number of farms: 38,000  
 Annual gross cash income from ag: \$3 billion  
 National rankings: 1st in corn for silage; 2nd in apples  
 Farmland loss: From 1982 to 1992, 707,000 acres.  
 Planning: 55% of municipalities had comp plans in 1994

economic development for agriculture and estate planning forums.

While only five plans have been approved, Somers has been working with 16 counties in developing plans which have applied for up to \$50,000 each in planning grants. Two more counties have requested planning grants this year, and 17 others have expressed interest, Somers said.

As stated in the RFP, priority will be given "to projects that are intended to preserve viable agricultural land."

Under New York law, viable agricultural land is "land highly suitable for agricultural production and which will continue to be economically feasible for such use if real property taxes, farm use restrictions and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of non-agricultural development."

### Clean Water, Clean Air Bond Act

Last fall, New York voters approved a bond bill providing \$1.75 billion to protect the state's environment. The measure passed 56 percent by 44 percent and was carried by Long Island and the larger metropolitan region, with voters backing it largely for its clean water provisions. The clean water program will garner \$790 million from the fund for municipal treatment improvements and nonpoint source control projects as well as aquatic habitat restoration.

Within the the clean water package is \$150 million designated for open space acquisition to protect water resources. It is this money that will be split between the three state agencies that deal with land protection, including the Department of Agriculture and Markets.

The farmland protection initiative thus grew out of water resource protection policy and politics, a new engine for land preservation that has taken on a life of its own in New York since New York

*please continue to next page*

**New York, from previous page**

City's watershed protection initiative, which seeks to protect reservoir regions in the Catskills, was developed over the last several years.

**Other efforts in the state**

Voters in Suffolk County also gave thumbs up to their own municipal bond issues, deciding to raise a total of \$12.7 million to purchase open space and farmland easements. The town of Southampton also decided, 53 percent to 47 percent, to exempt such programs from a spending cap that had been imposed.

The New York City Watershed Protection Agreement is expected to result in a \$10 million fund for the purchase of easements in the 2000-square mile, five-county region that serves up 90 percent of the drinking water for New York City's eight million residents. (See stories in FPR, Sept. 96 & Oct. 95).

Suffolk County and two of its municipalities as well as the Town of Pittsford in Monroe County, surrounding Rochester, each received \$100,000 in farmland preservation assistance under the federal Farmland Protection Program this fall.

In the last legislative session, Gov. George Pataki, in addition to substantial new funds for environmental programs, asked for and got for farmers a tax credit for school property taxes paid on farmland and buildings. Up to 250 acres are exempt from school taxes, an expense that will be picked up by the state, not localities. The governor also succeeded in establishing a historic barn investment credit, against income or corporate tax paid by farmers, for costs associated with rehabilitation of historic farm structures.

**An evolution in farmland protection law**

Farmland protection law in New York is governed by Article 25-AAA, which gives the Commissioner of Agriculture the authority to carry out financial and technical assistance to local farmland protection plans. It is not solely an economic development program, as the language recognizes the importance of land preservation, even for its open space and environmental values.

In 1992, passage of the Agricultural Protection Act provided counties with the opportunity to develop and implement local agricultural protection plans. Agricultural District Boards, which had

been created in 1987, were replaced by Agricultural and Farmland Protection Boards, thus promoting the idea of land preservation as important to the future of agriculture. Agricultural districts by 1989 were protecting more than eight million acres in exchange for agricultural use assessment and certain protections, but the purchase of development rights was still not in practice except in Suffolk County, which had created its own program, the nation's first, in 1976.

During the past two fiscal years, the state authorized \$600,000 to fund the development of county agricultural and farmland protection plans under the Agricultural Protection Act.

**Does New York have a program?**

"I think we're getting there," said Jerry Cosgrove of the AFT, in regard to whether New York has finally reached a point where farmland preservation is a committed state endeavor.

With farmland protection implementation funds in hand, local boards are likely to think harder about using that money for conservation easements, according to Cosgrove. And, Cosgrove believes, farmland protection is well on its way to becoming part of the environmental protection repertoire in a state that is very much forest and watershed oriented.

"There is a recognition in the environmental community and at the Department of Environmental Conservation that there should be a stream of money for farmland protection. It will never be enough, given budget constraints, but at least we can use this money to move the effort forward more widely," he said. "I am optimistic the bond money will really prime the pump."

According to Kim Blot of the Department of Agriculture and Markets, it is "perhaps likely" the Environmental Protection Fund will be equally funded next year, with another \$4 million for farmland protection.

Blot has noted how other state programs have evolved, particularly the Pennsylvania program. Once money is made available, farmland preservation plans can't be far behind, he said.

"We have had an increased level of interest, post-RFP," Blot said. That interest is a result of "a combination of the RFP out on the streets with money available, and the bond act that passed."

*Contacts: Jerry Cosgrove, (518) 581-0078; Bob Somers, Kim Blot, (518) 457-2715.*

California**Sonoma County law puts upzoning in hands of voters***continued from page 1*

lines." Measure D was passed with 70 percent of the vote.

According to Sonoma County planner Greg Carr, passage of Measure D assures that proposals for increased density allowances on lands within the community separator greenbelts will have an exceptionally difficult time attaining approval. Such approvals, he said, are now to be in the hands of the voters as well as county officials.

"It will dampen proposals to develop to an urban density," Carr said. "If a property is in a community separator, any proposal to change the zoning or the density would have to be approved not only by the county but by voters. It's a much more difficult burden [on the landowner]," he said.

Opponents of Measure D, including homebuilders and the county farm bureau, claimed that development pressure in rural areas would increase as a result of more restrictions in the greenbelt areas. But Carr said that any additional pressure to build will be met with additional difficulty to build.

"It may create more pressure, but their ability to build is going to be less likely to bow to that pressure. For the county to even consider development in rural areas is less likely. It's a circular argument," Carr said.

In addition to Measure D's immediate effect, any cities that adopt UGBs in the future will also gain the protection of their community separators that Measure D provides.

"These victories make clear that the urban growth battles of the 1980s are giving way to urban growth boundaries in the 1990s," said Jim Sayer, executive director of the Greenbelt Alliance, which promoted passage of the measures.

The UGB ballot measures are part of a continuing trend in the state. Many other communities, including Saratoga and Cupertino, are expected to adopt UGBs. Last September, a South Bay community adopted a 30-year UGB. In San Jose, a UGB was adopted by unanimous vote. And, also last September, Alameda County supervisors voted to increase minimum lot sizes in the county's rural eastern region from 100 acres to 320 acres.

Contact: Greg Carr, (707) 527-1900.

**etcetera ...****Minn. project targets state's first ag easements**

*White Bear Lake, Minn.* — A plan to protect 10,000 acres in the St. Croix River watershed is expected to get a big boost in the upcoming session of the Minnesota legislature, where \$500,000 is slated to help the Land Stewardship Project lead a coalition of organizations in setting up a pilot for the state's first purchased agricultural easements.

The project will seek to combine the purchase and transfer of development rights as well as land acquisition and other tools to protect farms and open lands in the watershed.

The grant will be used to inventory properties in the designated region and to develop specific approaches for targeted properties, according to Land Stewardship Project program director Lee Ronning.

"The exciting thing is that it's a huge collaborative effort," Ronning said, including the Land Stewardship Project as the lead organization, along with Washington County government, the Minnesota Farmers Union, the Minnesota Land Trust, the Trust for Public Land and a grassroots rural preservation group in Chisago County.

The \$500,000 grant has attained preliminary approval and is expected to be approved by the full legislature. Contact: Lee Ronning, (612) 653-0618.

**Pa. agriculture vibrant but at risk, new stats say**

*Harrisburg, Pa.* — According to recent estimates Pennsylvania has 50,000 farms and 7.7 million acres of farmland, with total cash receipts from the sale of products of over \$3.75 billion.

The estimates were published in the 1995-96 Statistical Summary compiled by the state Department of Agriculture in conjunction with the USDA.

While those statistics show what could be considered a vibrant economy, comparisons to 1970 suggest the alarming trend well known to farmland preservation programs: since 1970 the state has lost almost a third of its farms and a quarter of its farmland, with the biggest loss in small farms.

It is no surprise that the biggest loss in small farms, with an average size of 79 acres, was in eastern and south central Pennsylvania where development pressure is most intense.

The number of large farms in the state have in-

creased by 2 percent with number of acres in these farms increasing by 1 percent. The average size of a large farm is 337 acres and is classified as having sales over \$100,000.

A study published jointly by Rodale Institute and Penn State last June cited development pressure, lack of effective planning and zoning, low profitability, burdensome tax policies and difficulties in transferring farms to the next generation as significant barriers to agriculture.

On the positive side, the report said, were favorable markets, well established food processing and transportation infrastructure, farm diversity and organizations collaborating for support services. The Center for Rural Pennsylvania recently pointed out in its newsletter that "strong public support for protecting farmland" as well as a growing Farm Link program could be added to the list of positives.

The farm link program has so far helped to secure the future of 61 farms and has educated over 700 people in 10 workshops on "Passing on the Farm," according to director Marion Bowlan (717) 787-9555.

#### **New Jersey township wants to be sprawlbuster**

*West Windsor, N.J.* — A new zoning law and a new pot of money for farmland preservation has put this township near Princeton in the fast lane of growth management.

The township is one of about two dozen that have enacted special taxes to pay for farmland and open space preservation over the last five or six years. West Windsor's two-cent tax generates about \$414,000 a year for the preservation fund, which is used to service the debt on \$3.4 million in bonds it sold to buy one 93-acre farm. While the township owns the farm, the former owner has retained lifetime farming rights. Eight other farms are being appraised, and one or several could be purchased with the income stream.

A new zoning law referred to as a timed-growth control, regulates the pace of development within 10 designated districts in the township's 27 square miles. Each district has its own allocation of commercial and residential development that can occur at set intervals over the next 35 years. Rural areas face the longest wait for development, but bargaining can occur, with agreements on reducing the density of projects or financing of road projects, bargains some say substantially reduce the effectiveness of the controls.

The timed-growth control is the only one of its kind in New Jersey.

Contact: Herbert Simmons, state planning commission director, (609) 292-3155.

## **Maryland readies smart growth, rural legacy initiative**

ANNAPOLIS, MD — Gov. Parris N. Glendening has approved a draft of a broad-based initiative that will combine anti-sprawl and economic development efforts and will be presented as legislation to the 1997 General Assembly.

Called the Initiative on Neighborhood Conservation and Smart Growth, the proposal includes what is now called the Rural Legacy Program, which will substantially bolster the state's farmland preservation program (see FPR, last issue). The draft document calls for the protection of "tens of thousands of acres of agricultural, forested and natural resource lands from development."

The proposal calls for \$9 million from both capital bonds and real estate transfer tax revenues to be directed into the Rural Legacy Program, with an additional \$6.7 million currently slated to revert to the general fund to be allocated to the program.

Over the next five years the program would commit more than \$170 million to preserve about 90,000 acres of farm and forest lands. If continued, the draft states, the program would preserve more than 250,000 acres of "Maryland's finest countryside resources" in 15 years.

The Rural Legacy Program would "redirect existing state funds into a focused and dedicated land preservation program specifically designed to limit the adverse impacts of sprawl on our agricultural lands and natural resources," the draft states.

The draft points up a need for "refinements" in the state's easement acquisition process "to increase the capacity of the state to accelerate land transactions," including greater use of land trusts, grants to local governments and streamlined appraisal and approval procedures.

Other major elements in the initiative include: the redirecting of state programmatic and capital funds to Priority Spending Areas, where development projects make use of existing infrastructure; a Brownfields Program, now in use in other states, which would provide the necessary legal framework and financial incentives for the reuse of contaminated industrial sites; a Job Creation Tax Credit that would grant income tax credits to small businesses creating jobs in revitalization areas.

Transferable development rights and regional tax base sharing are mentioned as ideas still under consideration and requiring further study.

For information contact: Grant Dehart, Program Open Space, (410) 974-3581

Midwest's first state PDR program**Michigan gears up for new statewide farmland easement program**

LANSING, MI — With \$12 million in funds, Michigan will join the league of states that operate farmland preservation programs through the purchase of development rights. The program has been long in coming, and has been in the final planning stages since early 1994.

This month the Michigan Department of Natural Resources will announce to all local governments as well as cooperative extension offices the start-up of the program, with full scoring system and priority policies. Landowners apply directly to the state, but must attain local government approval.

Unlike established state programs whose funds come from general appropriations or bond issue, Michigan's Purchase of Development Rights Fund results from the accumulation of penalties from premature termination of contracts under the state's Farmland and Open Space Preservation Act of 1974. The act provides credits on state income tax in exchange for the agreement to forego development for 10 years. Part of the funds, \$700,000, comes from federal assistance under the Farmland Protection Program.

Passage of PA 233 last June requires the Purchase of Development Rights fund to be used only for farmland preservation. Prior to that open space projects could also use the fund.

What is not certain is how the program will sustain itself, since no funding stream has been identified other than the termination penalty proceeds that have taken more than 20 years to accrue just over \$10 million, a sum that can quickly disappear when purchasing development rights. Using the current fund as leverage for borrowing is currently not under consideration.

"That hasn't been discussed," said Rich Harlow, program manager of the Farmlands and Open Space Unit of the Department of Natural Resources. Harlow said the newly formed Purchase of Development Rights Review Committee would have the prerogative to pursue such an initiative.

Meanwhile the only brakes applied on the use of the money are an incentive to acquire matching funds to achieve a higher score in the application process, and a \$5000 per-acre cap on purchases using the state fund. No matching funds are required.

**Program operation**

Like most PDR programs, priority will be placed on farmland with highly productive soils. Development pressure and whether the parcel has been enrolled under the Farmland and Open Space Preservation Act are secondary in the criteria.

But Michigan also will focus on rewarding local governments, in this case municipalities, that have already taken steps to protect farmland. Applications that document a locality's comprehensive, long-range plan for farmland protection, and applications that complement other land protection efforts, will gain points under the

**legislative  
and program  
briefs ...**

**In Pennsylvania ...** Lancaster County Commissioners have committed \$4.5 million in bond funding to farmland preservation over the next three years, \$1.5 million yearly through FY 1999. Last year the local program had \$1.25 million, and has usually had close to a million yearly.

**In Virginia ...** Water quality in the state has worsened under Gov. George Allen, according to a lengthy report issued by a legislative commission, which lists 17 cases of lax enforcement. Air quality inspections have been lax as well, the report said. In one case, when a fish kill resulted from a dairy company's manure practices, the state secretary of natural resources told inspectors not to seek a penalty. Many other cases with similar treatment were cited. In issuing his opinion of the report, Allen, a Republican, revealed his own convictions are in keeping with the enforcement standards criticized by the commission. "I guess what they would prefer, these people who are carping and whining, is we just shut down these businesses, run them out of the state, and all the people who work for them lose their job," Allen told *The Washington Post*.

**In Maryland ...** In Harford County, landowners have applied for more than 400 rezonings in the county's comprehensive zoning review, which occurs every seven years. Many agriculturally-zoned properties have petitioned for rural residential zoning, which would increase allowed density from 1-10 to 1-2. A TDR task force is seeking the introduction of legislation requiring that such approvals require the purchase of development rights in a TDR program. Harford has its own farmland preservation program funded by a real estate transfer tax. More than 15,000 acres have been preserved, but rapid growth since the mid-1980s has caused the loss of some of the county's most valuable farmland.

In Prince George's County the Trust for Public Land worked to combine local and state efforts to save a 515-acre tract known as Belt Woods from development. The tract will be accessible for passive use by permit after it is designated a wildlands under the state's Program Open Space.

**In Washington ...** In Clallam County, a task force will recommend for further study "a bulleted list of what can be pursued" to protect farmland. That list may include purchase of development rights and the creation of an urban growth boundary for the town of Sequim, which is surrounded by farmland.

**In Florida ...** In Lake County, where weather conditions devastated orange groves, cutting 147,000 acres to 40,000, soil and water conservation leaders are exploring the potential for federal support of a program to develop a vineyard industry in the greater Orlando region. "Program Grace" would be an effort to establish "a sustainable grape industry" according to Dr. S.J. Stephany of the Lake County Soil and Water Conservation District. ... The Florida Stewardship Foundation has won a \$9000 grant that must be matched with other contributions by Sept. 1997 for its work with landowners on habitat issues.

**In California ...** State Sen. Barbara Lee (D-Oakland) is the new chair of the Senate Committee on Housing and Land Use. While affordable housing is the most urgent issue facing the committee, she said, "this isn't a call for more suburban sprawl. We know that low density housing eats up natural resources and wastes tax dollars."

**In Iowa...** The Iowa Supreme Court ruled in late October that odor from an 800-head hog facility 2,200 feet south of the plaintiff's residence was a nuisance, and ordered the operators to pay \$45,000 in damages, plus about \$20,000 to the plaintiffs in interest for annoyance, discomfort and loss of enjoyment of their property. The ruling mentioned the legislature's intent to give farmers in agricultural areas protection against nuisance suits, but the defendants did not form an ag area until after the nuisance claim was filed.

*Michigan, from preceding page*

scoring system. Another point-getter: matching funds from public or private sources.

Applications will be reviewed by the Purchase of Development Rights Review Committee. The application then must win approval from the directors of the departments of natural resources and agriculture. Each application will be an individual request for funds forwarded to the state legislature for appropriation from the Purchase of Development Rights Fund.

The program's first application cycle will begin this month and end April 1, leaving local governments only a few months to work with landowners who want to apply, and to create or strengthen farmland protection policy that will bolster applicants' chances for approval at the state level. Decisions in the first round are expected to be made in the fall of this year.

## Background

More than 4.5 million acres are protected through temporary restrictive agreements under the Farmland and Open Space Preservation Act of 1974. The act allows farmers to claim credits on their state income tax. The credit sum is based on the amount by which the property taxes on the acreage entered in the program exceeds seven percent of the household income. Parcels as small as five acres can apply if a gross annual income of \$200 per acre is recorded.

The act is administered by the Farmlands and Open Space Unit of the Department of Natural Resources, which also provides tax relief to owners of open space land, but that provision is barely used, with fewer than 5000 acres enrolled.

In 1994 Gov. John Engler appointed the Farmland and Agriculture Development Task Force which, in less than a year, presented recommendations on how to strengthen and preserve the state's \$37 billion industry. Among the recommendations were the creation of a PDR program. The use of agricultural security areas and use-value assessment also topped the list.

Michigan has about 1800 units of local government and planning entities, including 83 counties. Michigan is one of the half dozen states in the nation where counties have only the authorities granted to them by the legislature. Cities, townships and villages have the responsibility for most local governance and public services. Most Michigan counties have planning commissions, but they have only advisory functions.

Michigan lost about 854,000 acres of farmland, or 85,000 acres per year, between 1982 and 1992. It's 46,500 farms employ more than 100,000 workers and produce the nation's second most diverse group of products, due to the state's micro-climates created by the Great Lakes. But those agriculturally productive micro-climates may give way to the production of homes, as the state's rate of farmland loss is greater than any other state in the Great Lakes region. In 15 years, Michigan will have less than half of the farmland it had at the beginning of the 20th century if current land use changes continue.

Contact: Rich Harlow, (517) 373-3328.

## resources ...

### Publications

#### **The New Urbanism: Hope or Hype for American Communities?**

By William Fulton

**Lincoln Inst. of Land Policy, 32 pp., \$14.**

This illustrated report provides a full discussion of alternative development design, based on conventional town planning, as explored by a growing number in the planning profession who have come to be called the New Urbanists. It is one in a series of reports published by the Lincoln Institute to address timely land-related issues of concern to policymakers, scholars and citizens. Written by the editor of *California Planning and Development Report*. Call 800-526-3873.

#### **Partial Interests in Land: Policy Tools for Resource Use and Conservation**

By Kelth Wiebe, Ababayehu Tegene and Betsey Kunn

**USDA Economic Research Service  
1996, 58 pp, free**

Partial interest in land is another way of saying "easement" when it comes to farmland preservation, but it also applies to other programs such as the Conservation Reserve Program and the Wetlands Reserve Program. This booklet is an excellent overview of federal involvement in land use and conservation, focusing particularly on the nature and application of easements and voluntary restrictions. A well-presented explanation of land valuation. Useful for preservation veterans and should be particularly helpful to those new to the field. Order by calling 1-800-999-6779. To learn about other ERS publications via the internet: <http://www.econ.ag.gov/>

#### **Farmers' Markets '96: The What's Hot/What's Not Guide for Growers & Managers**

By Eric Gibson

**New World Publishing, 12 pp, \$5.**

Here's a quick guide to recommend for direct market farmers, or to help you develop a farmers market. Written by the author of the

widely acclaimed *Sell What You Sow!* and *The Grower's Guide to Successful Produce Marketing*, it is based on interviews and questionnaires from farmers market vendors and managers nationwide. Gives the latest tips, trends and products (both fresh and value-added), and much more. Credit card orders call (916) 62-2248 or send a check for \$5 (includes s/h) to: New World Publishing, 3085 Sheridan St., Placerville, CA 95667.

#### **Smart States, Better Communities; How state governments can help citizens preserve their communities**

By Constance Beaumont

**National Trust for Historic Preservation,  
400 pp., \$30**

This book provides a comprehensive look at the ways local governments can protect the character and historic appeal of their built environment. The book also covers the needs related specifically to rural preservation. Beaumont is director of state and local policy at the National Trust, and is the author of *How Superstore Sprawl Can Harm Communities*, published two years ago. To order, send \$30 plus \$5 s/h to Information Series, NTHP, 1785 Massachusetts Ave NW, Washington DC 20007 or call (202) 588-6286.

#### **The Legal Landscape - Guidelines for Regulating Environmental and Aesthetic Quality**

By Richard C. Smardon and James Karp Van Nostrand Reinhold, 287 pp, \$59.95

Smardon is the director of the Institute for Environmental Policy and Planning at the State University of New York at Syracuse and Karp is professor of Public Law and Policy at Syracuse University. Covers local, state and federal land use law, and provides a detailed bibliography of literature on the laws and practices that protect aesthetic quality in the landscape. Subjects include billboard laws, architectural regulation, current status of aesthetic protections state by state. Call 1-800-842-3636. Book can be reviewed on free trial basis.

**Protecting Floodplain Resources - A Guidebook for Communities  
Federal Emergency Management Agency  
(FEMA) 1996 Free**

This publication is aimed at local officials, citizens, landowners and groups interested in protecting and restoring the natural resources and functions of floodplains. The booklet focuses on local, grass-roots efforts needed to effectively manage and protect the floodplain environment, including wetlands, wildlife habitat, historic sites and scenic resources. Order by calling 1-800-480-2520. Also available on the internet: <http://www.fema.gov/DIZAS/ws96.htm>

**Free Calendar:** Free sustainable agriculture calendar is offered by Alternative Farming Systems Information Center. To order contact Alternative Farming Systems Information Center, Attn: SAN Calendar, Rm 304, National Agricultural Library, 10301 Baltimore Ave, Beltsville, MD 20705.

### Conferences, Workshops

**Jan. 30, Salt Lake City:** Municipal Open Space Acquisition: Preparing and Funding Successful Projects, sponsored by the Lincoln Inst. of Land Policy. Tuition \$115. This program will review the results of the Institute's analysis of the economic value of open space and techniques local governments are using to determine open space strategies. Includes a scenario team exercise. Faculty includes Randall Arendt, Charles Fausold and Phyllis Myers. To register call 1-800-LAND-USE.

**Feb. 15, State College, PA:** New and beginning Farmer Workshop, sponsored by the Pennsylvania Farm Link program. Call Marion Bowlan, (717) 787-9555.

### Subscriber Services

Annotated bibliographies by volume year (Oct. - Sept.), cumulative index and FPR back issues are available to subscribers free of charge for single orders. Volume 6 bibliography, summarizing all stories from Oct. 1995 to Sept. 1996 is now available. Cumulative index goes back to April 1992 and includes the current issue. Contact editor Deborah Bowers for details, (410) 692-2708. You can order by fax (410 692-9741) or by email: [dbowers@harford.campus.mci.net](mailto:dbowers@harford.campus.mci.net)



# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Local commitments to preservation surveyed nationwide

Farmland Preservation Report in January conducted a survey of the nation's leading purchase of development rights programs operated and funded by local governments. Not all localities that have preserved significant numbers of acres are included, only those that have committed substantial resources to a local farmland preservation effort.

The purpose of the survey is to identify strong local commitments to preserving farmland. This can be inferred through number of acres preserved, amount of local funds available and spent to date, and other acres under easement. The last category can be an indication of other land preservation efforts in the locality.

The survey included five counties in Maryland, six in Pennsylvania, four in New Jersey and eight in other states. The programs, which lead efforts in their respective states as well as nationwide in the purchase of development rights, have protected 224,000 acres of farmland. Many more thousands of acres are preserved by localities largely through state funding with a smaller percentage local match.

Farmland preservation programs that use the transfer of development rights (TDR) or other programs not requiring funding, are not included in this survey. The most notable of these is Montgomery County, Md., where more than 43,000 acres are protected under the nation's most effective TDR program. Montgomery has protected an additional 7,255 acres through purchased easements using state and local funds.

Other notable exclusions are Caroline and Queen Anne's counties in Maryland which have preserved 18,552 acres and 10,332 acres respectively. These counties, however, do not have state-certified local programs. This survey does not mean

to disregard these significant acreage achievements, but examines only those counties that have taken steps to establish their own programs.

State programs in Connecticut, Massachusetts, Vermont and Delaware are not administered at the local level, therefore localities that may have significant preserved acreage in those states are not covered in the survey. The state programs of New York, Michigan, California and Kentucky are not yet established enough to have broad participation – *Editor*

### New Jersey

In New Jersey, the leading counties span the state in terms of population and growth pressure, from urbanizing Burlington County to predomi-

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### Local program table, page 3

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nantly rural Salem County.

Burlington is the state's largest agricultural county, with a strong tradition of support for farmland preservation. Joint farmland preservation efforts between the county and municipalities date back to 1975. The first easement under

*please turn to page 4*

Volume 7, Number 4

February 1997

### inside this issue ...

AFT opens Colorado field office .....	p. 4
Going all out for planning, citizen input .....	p. 4
Tax base sharing topic of new book .....	p. 5
Delaware program makes leaps and bounds .....	p. 4
Legislative briefs .....	p. 6,7

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## Local programs take state help, but often forge own criteria

*continued from page 1*

the state program was purchased in Burlington County's Chesterfield Township in 1985. The county also supported a strong effort to establish a transfer of development rights (TDR) program and was the focus of a state-sponsored TDR demonstration project. After several years of trying, however, no township succeeded in establishing a TDR program.

Last fall voters passed a tax increase of up to two cents to create a \$2-4 million annual line item in the county's budget for farmland preservation. That revenue will begin to come in this August, and officials are expected to apply the full two cents this year. So far, the county has preserved 9,621 acres (including acres in contract status), and has spent \$13 million. Last year the program spent \$3.5 million, the most it has ever spent in one year.

In rural Salem County, the state's least populated with 70,000 residents, farmland preservation has become increasingly popular.

"We have a string of older communities on the Delaware River, a lot of traditional hamlets. Agriculture is still our key industry," said Rita Shade, a consultant retained by the county to administer the program. The county government authorized the program to do cost-sharing with the state Green Acres program, which will purchase easements on "infill" farms that are too small to qualify for the farmland preservation program. For example, Shade said, preserving a 29-acre farm in the midst of a large preserved block of farms in Salem County would prevent construction of five homes.

New Jersey municipalities have increasingly committed money, through general fund and bond referendums, to boost preservation activity within their borders. Especially active have been townships in Hunterdon, Burlington and Monmouth counties.

### Maryland

Maryland operates the nation's oldest statewide farmland preservation program and has spurred the establishment of local programs that operate separately with their own criteria and rules and at the same time operate the state program locally as well.

In 1990 the state began certifying local programs, allowing counties to retain a larger share of agricultural transfer tax — 75 percent, instead of the one-third retained by counties without local programs. Certification of local programs allows

counties to have their own criteria for accepting applications, and even their own methods of determining easement value.

In Harford County, where farmland loss has been a most pressing issue since the mid-1980s, preserved acreage has skyrocketed since a local transfer tax enacted in 1993 was partially dedicated to a new local program. Only 50 acres are required for eligibility, instead of the 100 acres needed for the state program. A priority ranking system favoring soil productivity and farm size puts the best farms on the top of the list for offers. A formula devised by the program's advisory board determines easement value, and landowners are paid in installments, receiving interest over 20 years and ending with the principal in a balloon payment. These are called securitized installment purchase agreements, devised for Howard County in 1989 and now used in several other localities in the mid-Atlantic.

Innovations such as this are most likely to occur at the local level, where administrators and their advisory boards are able to determine the needs of area farmers, matching criteria to the peculiarities of local operations.

Almost half of Maryland's counties are certified, and while all are enabled to purchase their own easements, not all are actively doing so, and some counties have left their certified programs scantily funded year after year.

Some certified counties are actively administering both a local program as well as the state program. Harford County is the most active, with a large majority of applicants opting for the local program over the state program, preferring the sizable long-term benefits of tax-exempt installment payments.

Carroll and Frederick counties operate only supplemental local programs, referred to as critical farms programs, which purchase easement options — 75 percent of appraised easement value — on an emergency basis when farm sale is imminent. The counties hold the easements until state funding can reimburse the county and complete the purchase. In four years, the Carroll County critical farms program has helped nine new farm owners, according to administrator Bill Powel.

Several Maryland counties provide tax benefits for preserved farms. In Harford County, owners of preserved farms are excused from paying any local

*please continue to page 5*

## Leading locally-supported PDR programs

**MARYLAND:** Began 1977. Acres preserved: 128,031. Farms: 884. Budget, '97: \$8-10 million.

County	Acres preserved	Number of farms	Approx. local funding available/Source	Local funds to date	Other acres in easement
Carroll	24,068	184	\$2.8 million/gen. fund	\$8.2 million	536
Harford	19,519		\$ 2.6 million/gen. fund, trans. tax	\$5 - 17 million*	2,536
Howard	17,200	145	\$3 million/trans. tax (see note)	\$11-55 million*	n/a
Baltimore	11,716	108	\$1 million/bond issue	\$2.64 million	8,089
Frederick	9,784	55	\$275,000, gen. fund	\$3.45 million	n/a

Notes: Montgomery County transfer of development rights (TDR) program, protecting more than 43,000 acres, not included. Harford and Howard local funds figures show revenue available annually for debt service to installment purchases (see accompanying story). The larger figures (\$17 and \$55 million) are what the counties will commit to a 20-30 year program. Not shown: Caroline and Queen Anne's counties have preserved 18,552 acres and 10,332 acres respectively, but have no locally funded program. Carroll County ranks second in nation for acres preserved.

**PENNSYLVANIA:** Began 1989. Acres preserved: 80,186. Farms: 690. Budget, '97: \$31 million.

County	Acres preserved	Number of farms	Approx. local funding available/Source	Local funds to date	Other acres in easement
Lancaster	23,500	275	\$1.5 million, gen. fund & bonds	\$9.2 million	300
York	9,418	36	\$600,000, gen. fund	\$2.45 million	1,810
Berks	8,357	65	\$1 million	\$4.5 million	1,224
Adams	5,630	37	350,000, gen. fund	\$1.58 million	14
Lehigh	5,417	48	\$500,000	\$2.75 million	270
Chester	5,584	76	\$1.040 million, bond fund	\$11.5 million	22,000

Notes: Lancaster program began 1981 and has cooperative agreement with Lancaster Farmland Trust. Chester benefits from easement activity of Brandywine Conservancy.

**NEW JERSEY:** Began 1984. Acres preserved: 34,320. Number farms: 229. FY '97 projected: \$40 million.

County	Acres preserved	Number of farms	Approx. local funding available/Source	Local funds to date	Other acres in easement
Burlington	9,621	52	\$7 million, dedicated revenue, bonds	\$13 million	n/a
Hunterdon	5,219	36	\$1 million, gen. fund	\$8 million	n/a
Salem	4,960	22	\$1 million, bond issue	\$1.58 million	775
Monmouth	4,486	30	\$2 - 4 million, gen. fund	\$10.88 million	n/a

Notes: Local funds may include both county and township dollars. 15 of 21 counties participate in state program. Total spent to date: \$107.2 million.

### OTHER STATES

Locality	Acres preserved or w/ approval status	Number of farms	Approx. local funding available/Source	Local funds to date	Other acres in easement
Suffolk Co., NY	7,641	65-75	\$7.5 million (incl. municipalities); bonds	\$46 million	1,501
Town of Pittsford, NY	1,200	7	\$9.9 million, bonds, possible grants	\$0	800
Peninsula Twp, MI	2,259	22	\$1.8 million, gen fund, state & fed.	\$1.2 million	389
Virginia Beach, VA	1,923	14	\$9 - 12 million, zero coupon bonds	\$0	0
Town of Dunn, WI	0	0	\$160,000, gen. fund	\$0	n/a
Sonoma Co., CA	21,000	51	\$11 million	\$29.68 million	9,262
Marin Co., CA	25,504	38	\$600,000 state fund	\$15 million	600
Routt Co., CO	0	0	\$350,000	\$0	9,562

### ABOUT THIS TABLE

This table shows leading purchase of development rights programs operated and funded by local governments. It is meant to serve as a sample, not as a ranking. These programs may also receive state or federal funds. States with programs not operated at the local level are MA, VT, DE and CT. States with programs not yet fully active are CA, MI, KY and NY. Funding figures for Md., Pa., and NJ do not include state funds.

Delaware**Acreage rises, so does quest for new funding source**

DOVER, DE — Delaware's farmland preservation program is beginning to see what happens when funding becomes part of a preservation effort. Although the program was established in 1991, funding for easement purchases didn't surface until July 1995 when a special fund created through settlements with the State of New York over abandoned securities and escheat monies was divided up. The governor designated \$40 million from the fund for farmland preservation.

Now, preserved acreage is beginning to mount: 8,600 acres comprising 31 farms are now under easement and another 7,100 acres comprising 35 farms have been selected and approved at the state level — that's 15,700 acres that are likely to be preserved once the process is complete. Meanwhile, another 135 easement applications have been submitted.

Unlike farmland preservation programs in Maryland, Pennsylvania and New Jersey, the Delaware program selects applications and then returns them to localities for committee review.

When the program announced last spring that funding was available for easement purchase, applications began to pour in. In just six months, more than 100 applications resulted in the designation of more than 30,000 acres for district status, the first step toward eligibility to sell development rights. That totaled more than the number of acres put in districts during the first three and half years of the program, when it was without easement purchasing power. The number of acres now under district status is 68,285. Administrators expect that number to go to about 90,000 by the end of March.

Districts in the Delaware program protect the land for 10 years, provide tax benefits and right to farm protections as well as the opportunity to sell development rights.

Some of the state's largest and best farms were approved for district status last month, according to program assistant Stewart McKenzie. The state's largest producer of potatoes — a \$12 million crop in Delaware — some major dairy farms and a thriving aquaculture operation are among the applicants.

While things are going gangbusters, staff are not burying their heads in the sand when it comes to money. At the current \$14 million yearly allocations, the \$40 million from the special state fund will be used up by 1998. There have been no formal discussions of how to fund the program afterward.

Contact: Stewart McKenzie, (302) 739-4811.

**etcetera ...****AFT opens new field office in Colorado**

Fort Collins, CO — Colorado's extraordinary rate of growth and loss of farm and ranchland over the last decade has prompted the American Farmland Trust to open a new field office there effective this month. Jeff R. Jones, a natural resources planner has been hired as field representative.

Critical growth management issues facing the state, particularly along the Front Range where tens of thousands of acres of farmland have been lost every year since the late 1970s, was the deciding factor in opening the office, according to AFT director of field programs Bob Wagner.

"We now will be able to respond far more quickly and efficiently to the many requests for help we are receiving for assistance and to show how agricultural conservation can and should be incorporated into all land use planning decisions," Wagner said.

Jones, formerly project coordinator for the Colorado State Forest Ecosystem Planning and Monitoring Project, will work with state agencies to implement recommendations of Gov. Roy Romer's Agricultural Land Task Force.

Those recommendations addressed specific land use issues that have affected the ability of local governments to curb sprawl. Purchase of development rights programs were among the initiatives urged by the group. It is estimated 90,000 acres of rangeland and farmland is being lost annually statewide.

The new AFT field office address is 401 Edwards St., Fort Collins, 80524. Jones can be reached at (970) 484-8988.

**Chester County goes all out for planning**

Kennett Square, PA — Chester County has more than 25,000 acres of land permanently protected, and a strong agricultural industry, but growth pressure from the ever encroaching Philadelphia region have made extra care toward planning and citizen participation imperative.

A coalition of organizations has put together a conference for the public that will help citizens learn about the county's \$50 million open space program, its comprehensive plan update, planning grants available to municipalities ("make sure your municipality qualifies" says an invitation card mailed out to 8,000 people) and generally hear about ways they can participate in an anti-sprawl effort.

The conference, slated for March 31, is sponsored

by the new Chester County Community Foundation, the county board of commissioners and the League of Women Voters, along with the county planning commission and department of parks and recreation.

"We have created a new comprehensive plan and this conference will report the success of our \$50 million bond issue and then present the "State of the County" and our need to do more in the future," said Henry A. Jordan, planning commission chair. *For more information call (610) 384-7886.*

### **Metropolitcs sets tax base sharing strategy**

A book released by The Brookings Institution and the Lincoln Institute of Land Policy last month chronicles the success of an anti-sprawl technique in the Minnesota Twin Cities region that if applied in other major metropolitan regions nationwide could have the force of a secret weapon in a sci-fi movie.

*Metropolitcs: A Regional Agenda for Community and Stability*, by Minnesota legislator Myron Orfield, is the story of how that state's tax base sharing program has relieved fiscal disparities between city and suburb and could become an antidote to sprawl.

In 1971 the state established a tax base sharing program to try to reduce inequalities in per capita tax base between communities with substantially different growth rates. It is one of only a handful of states where tax base sharing is practiced.

In 1995 Orfield authored legislation to extend the use of tax base sharing from commercial and industrial revenues to residential as well. Studies showed extending the program to residential revenues would reduce disparities from a ratio of 12-1 to 7-1, and the legislature passed Orfield's bill. The governor, however, whose political base is in the region's high property value areas, vetoed the measure (see FPR June 1995).

But Orfield hasn't stopped his one-man crusade. He has stepped up his advocacy of tax base sharing as a way to curb sprawl and has been visiting other cities to spread the news, working with the National Growth Management Leadership Project, headed by 1000 Friends of Oregon founder Henry Richmond. One of his visits was to Baltimore, where tax base sharing got on the "further study" agenda of the governor's Smart Growth initiative.

Tax base sharing makes exclusive "fiscal zoning" less attractive to localities. It reduces competition for ratables among neighboring municipalities and serves to limit tax incentives localities use to attract industry. It is a boon to regional planning, particularly for sharing state mandated facilities.

*For ordering information, see page 8.*

## **Local programs move ahead**

*continued from page 2.*

property tax, and properties under district status, the first step in the state program and optional in the county program, receive a 50 percent property tax credit. Harford County also offers a tax credit of up to \$500 for other lands placed under easement through a land trust. Baltimore, Anne Arundel and Washington counties also offer tax credits for preservation.

### **Pennsylvania**

In Pennsylvania, Lancaster County has always led the pack in farmland preservation, with a nine-year lead on the state program. Its herculean farming industry and culture, matched with political commitment to sustaining its agricultural tradition, makes Lancaster's preservation mandate likely unmatched anywhere in the nation. A strengthened local funding commitment and innovation in preservation strategy that focuses on building greenbelts around hamlets, promises an effective strategy for growth control other localities have not yet adopted.

Chester County's wealth of historic, cultural and scenic values has given rise to a strong preservation community. The Brandywine Conservancy has preserved more than 20,000 acres in Chester County, and the local planning commission is active and innovative in reaching the public about the loss of farmland and rural character. A strong farming tradition that is boosted by the mushroom industry has put preservation at the top of agricultural issues in the county.

Several other counties in Pennsylvania, including York, Adams, Berks, Lehigh and Montgomery have committed increasing resources to preservation.

### **New York**

In New York, where two state funding sources are only beginning to spur farmland preservation initiatives (see FPR, Jan. 1997), Suffolk County, which started the nation's first PDR program in 1974, continues to be the state's only established program. The cost of land in this Long Island community within 45 minutes of New York City has stymied the program, but preserved acreage continues to grow, albeit at a snail's pace. The county got a boost, however, from the federal Farmland Protection Program, and three municipalities continue to support preservation within their boundaries, with voters passing \$2 - \$5 million bond referendums for farmland and open space preservation. Each of the localities have applied for state grants.

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## Local actions ahead of state programs

*continued from page 5*

Elsewhere in New York, farmland preservation initiatives are beginning crop up as news of potential funding has emerged. About a dozen localities have applied for funding under a new implementation grant program. But one locality was a step ahead of state initiatives. The Town of Pittsford set out to convince its residents that preserving at least some of the town's remaining 3,600 acres of farmland was a worthwhile and affordable alternative to build-out. A comprehensive plan update contained "fiscal modeling" that ultimately revealed that saving farmland would cost \$67 per average assessed household per year for 20 years, a total of \$1400. But to not save farmland would have cost \$5000 per household. The town authorized \$9.9 million to purchase the easements on the seven farms that had been identified for preservation.

### Michigan

In Michigan a reconfigured state program is accepting its first round of applications. But Peninsula Township, in Grand Traverse County at the "tip of the mitt" on Lake Michigan, has been ahead of the game, adopting its own program in 1994. Voters approved a 1.25 mil levy to raise \$6 million over 15 years for farmland preservation. So far, \$1.25 million has been committed to the financing of installment purchase agreements, with \$125,300 in cash put out in down payments to farmers. The township is paying out 5.7 percent interest, which makes up the yearly payments the participants receive.

The township is handling not only its own program, but state and federal grants as well for preservation projects. So far, 2,259 acres have been preserved or approved. Another 537 acres have been submitted to the state program, according to administrator Gordon Hayward.

### Wisconsin

In Wisconsin, the Town of Dunn will be the state's first local government to establish a purchase of development rights program. Last fall voters approved a tax increase of 50 cents on every \$1000 of equalized valuation, which will raise about \$160,000 beginning Jan. 1, according to Steve Greb, chairman of the town planning commission.

Greb said legal and administrative needs are being put in place, with a committee established to review applications. He expects first decisions to come as early as April.

### Colorado

In Colorado's Routt County, a virtual hotbed of development pressure as well as preservation activity, a brand new program will get its funding from a recent one mil property tax levy expected to generate \$350,000 per year for farmland preservation, according to planner Ellen Crain. A newly formed PDR committee met for the first time in late January and is charged with reviewing easement applications. Revenues will become available in July.

Last October, Routt County was awarded \$430,000 from the federal Farmland Protection Program. Two ranches will be preserved with the funds, according to Susan Otis of the Yampa Valley Land Trust.

Routt County, in the state's northwest region, benefits from the activities

## legislative and program briefs ...

**In Maryland ...** The proposed Rural Legacy program, SB 388, and HB 507, one of five Smart Growth initiatives submitted by the governor, has seen some wrangling over funding. Environmental advocates want a third of the share proposed for Rural Legacy to go to Program Open Space for park land acquisition, and the farm bureau wants a third to go to the existing farmland preservation program.

Meanwhile, a bill introduced by Carroll County's Sen. Larry Haines calls for an increase in the percentage of funding for farmland preservation from the current 14.5 percent (of state transfer tax revenue) to 23 percent.

The Maryland Agricultural Land Preservation Foundation approved a policy that will allow tillable acreage on preserved farms to be planted in trees under the state's forest mitigation program. Some local administrators opposed the move, saying it conflicted with farmland preservation, as tillable acreage would be permanently removed.

In Harford County, a TDR task force will recommend that requests for increased densities during comprehensive zoning review no longer be granted unconditionally, but be required to be purchased from other lands for farmland preservation.

**In California ...** The California Farm Bureau Federation is suing Fresno County for approving development (in the form of seventeen 20-acre lots) on rangeland currently under a Williamson Act contract. Under the Williamson Act, lands are restricted from development for 10 years. Fresno County is the nation's top agricultural producer.

The Agricultural Lands Stewardship Program, the state's new farmland preservation program, could receive double the funding it received in its first

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year if the governor's biennial budget is approved. It calls for \$1.97 million for the program, up from \$1 million. The program's first easements could be identified by April.

More good news is a bill introduced in the Senate (SB 2) that proposes bond funding for the program of \$10 million that would come if a proposed \$495 bond referendum is passed in Nov. 1998.

Another bill, SB 87, would provide tax credits for donated land or easements.

**In New York ...** Twelve counties and towns applied for funding under a \$4 million grants program, nearly all to purchase easements on farmland. Decisions have not been made on which will be funded. Requests totaled almost \$8 million. Applicants included the Town of Pittsford, Suffolk County, two municipalities in Suffolk, and Orange and Washington counties.

**In Illinois ...** A lawsuit brought by environmental groups against the Illinois State Toll Highway Authority for not filing an environmental impact statement for a proposed tollway through Will County received a favorable ruling. The judge instructed the authority to conduct the study, and to address how construction of the tollway will affect air pollution and contribute to sprawl. The ruling is a sizable victory for a Chicago regional coalition of groups targeting sprawl and urban decline. Transportation reform tops the coalition's agenda.

**In Minnesota...** Bills may be introduced to set up a "state land use framework" to help localities deal with sprawl, according to Bob Patton, of the state department of agriculture, planning division. The legislation would propose replacement of state enabling statutes, he said.

Patton's agency is about to embark on a study of the effectiveness of the state's farmland protection policies.

**In Iowa ...** The Iowa Senate passed a bill to eliminate the state inheritance tax, which is aimed at helping family farms. About \$91 million is paid annually in inheritance tax to the state, but only \$45 million comes from the transfer of family farms and businesses.

### **Local programs, from preceding page**

of major land trusts including The Nature Conservancy, American Farmland Trust and the Yampa Valley Land Trust, which together have preserved close to 10,000 acres in Routt. The Trust for Public Land has also begun activities there.

### **Virginia**

The City of Virginia Beach is the only locality in Virginia to adopt a purchase of development rights program. It is funded with a dedicated 1.5 cent property tax and revenue from a cellular phone tax, resulting in \$3.5 million a year for the program. Like Peninsula Township and several counties in Maryland and New Jersey, the city decided to use installment purchase agreements to expand its purchasing power and to protect farmland as quickly as possible in the face of growth pressures. The city decided to try to protect 20,000 acres of prime farmland south of the city core. Getting off to a slow start because of landowner hesitation about interest rates, the city has approved easement purchases on 1,923 acres in the 19 months since the program began.

### **California**

California inaugurated the Agricultural Lands Stewardship Program last year, but funding is tight. Just \$860,000 has been slated for easement purchases in its first year. Four or five priority projects are underway, according to Chuck Tyson of the Department of Conservation. Next year might be better: the governor's biennial budget for 97-98 calls for \$1.97 million for the program, of which 14 percent can be used for administration. A bill introduced in the Senate calls for \$10 million in a \$495 million bond referendum to go to the farmland program. The referendum would go to voters in Nov. 1998.

Sonoma and Marin Counties remain the shining beacons of farmland protection in the state, the nation's most agriculturally productive. The Marin Agricultural Land Trust has just \$600,000 remaining from a state bond initiative for easement purchases, and continues to operate with local grants. Marin remains number one in the nation for number of acres held under easement in a PDR program.

The Sonoma County Agricultural Preservation and Open Space District is funded through a 1/4 percent sales tax approved by voters in 1990, and has seen its acreage tally sheet grow more quickly than any other program in the nation.

Since purchasing its first easement in May 1992, the District has protected 21,000 acres in 51 transactions. The Sonoma program is a good example of how much acreage would be protected in other localities if funding was not a major obstacle to the preservation mandate.

The Sonoma program differs in many respects from "east coast" type farmland preservation programs. Perhaps most importantly, parcels are not strictly judged by their agricultural use, but on other factors that make the program more holistic in its approach to land protection. Providing a connectiveness to the county's land use planning, parcels within greenbelt areas designated in the comprehensive plan can apply for preservation whether or not they are farmed. Scenic qualities as well as critical habitat are equally important criteria in judging applicants. The program strives to target contiguous blocks of land to avoid a scattered pattern of preserved lands.

## resources ...

### Publications

#### Metropolitics

By Myron Orfield

The Brookings Institution/Lincoln Inst.  
\$28.95 + s&h

In *Metropolitics*, Orfield chronicles how demographic research and colorful mapping that illustrates changes in demographics makes advocating tax base sharing effective (see story this issue). Orfield, a Minnesota legislator, built unlikely alliances between central city and suburban districts strong enough to pass his legislation in 1995. His book documents how divergent groups — in terms of race and income — worked together for a common cause made understandable by mapping wizardry. Orfield brought together religious groups and environmentalists, business leaders and community organizations. *Metropolitics* proves it can be done — an inspiring guide for anti-sprawl efforts nationwide. Call 1-800-526-3873.

#### Municipal Density and Farmland Protection: An Exploratory Study of Central Valley Patterns

By Alvin D. Sokolow

Farmland Policy Project, Univ. of California, Davis. 45 pp. \$12

This report, third in a series on farmland protection, focuses on how density patterns of Central Valley cities affect farmland loss on the fringe. While counties are generally more active in farmland protection policy, most conversions of farmland are a direct result of municipal expansion, Sokolow says. Therefore, this study indicates that farmland protection advocacy should be directed at Central Valley cities.

Relatively low densities characterize the cities of the Central Valley, the state's most productive agricultural region. On a

citywide basis, the 95 cities in the region averaged just 4.5 persons per acre in 1990 — less than one and one-half dwelling units per acre. A comparable set of California Coastal cities had an average density of about a quarter higher, the report states. Single family units dominate Central Valley housing.

One of Sokolow's recommendations calls for Local Agency Formation Commissions, the agencies that make land use decisions, to require infill development prior to expansion of incorporated boundaries. To receive a copy of the study, send \$12 payable to UC Regents, and send to: Agricultural Issues Center, Univ. of Calif., Davis CA 95616, or call (916) 752-2320.

### Web Sites

#### Land Use and Community Alliance Service

Pace University School of Law, Land Use Law Center

<http://www.law.pace.edu>

This new website sponsored by the Pace University School of Law in White Plains, NY, contains over 3000 pages of original material on various land use issues. It also features a Land Use Law Locator, an alphabetical listing of over 150 New York statutes related to land use.

#### Farmland Information Center

American Farmland Trust

<http://www.farmland.org>

The AFT website offers loads of information about agriculture, state by state, about farmland protection policies and programs, and about AFT's work.

### New Center

Center on Urban and Metropolitan Policy

The Brookings Institution

This new entity at Brookings will examine the impact of federal and local mandates

on the ability of cities to compete in the new economy. Among other policy areas, the center will also focus on addressing the "growing concentration of low income and minority families within distressed neighborhoods and form partnerships between cities and their larger metropolitan areas. The Center will be directed by former HUD chief of staff Bruce Katz who was recently named a senior fellow in the Brookings Economic Studies program. Katz served under HUD Secretary Henry Cisneros. For more information, contact the Brookings Public Affairs Office at (202) 797-6105.

### Conferences, Workshops

April 11, St. Louis, MO: *Brownfields and Greenfields: Reconnecting the City to Its Region*, sponsored by Lincoln Institute of Land Policy. Call 1-800-526-3873.

April 27 - 30, Portland, OR: *National Town Meeting on Main Street*, sponsored by the National Trust for Historic Preservation. More than 100 sessions of how-to advice on creating and sustaining livable communities and day-long workshops for in-depth training for professionals on market analysis, fundraising, etc. For preliminary program call (202) 588-6219. Registration by March 1: \$295.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Ag subdivision rules rely on "farm viability" definitions

ANNAPOLIS, MD -- A recent subdivision request from the owners of a preserved farm in Carroll County met with some disagreement between members of the Maryland Agricultural Lands Preservation Foundation at its meeting January 29. The subdivision of a 109.7-acre cash grain farm creating two new parcels off from the original, was approved, but not without the board recognizing the need for stronger policy guidelines for future requests.

Two 21-acre parcels were requested for estate planning and financial purposes. Each of the subdivisions include home sites, one already built, resulting in what one board member called "essentially... two 20-acre child's lots."

Under Maryland law, one child lot is allowed per 20 acres, up to 10 lots, on preserved farms, although that many have never been requested. The largest request has been for four or five, according to a Foundation spokesperson, who said that

number was not considered a problem on a large farm.

The family told the board the sons needed to have title to their own land in order to borrow money to build their homes and operate their family farm, which would continue to be farmed as one unit.

A few board members questioned the true viability of 20-acre farms, and their potential future sale, but program rules set 20 acres as the minimum subdivision based on a 20-acre requirement to qualify for agricultural use assessment under Maryland tax law.

One board member said that Foundation policy has been to approve agricultural subdivision, as it is termed, only for agricultural purposes, as in the case of a farm with two distinct operations such as a vineyard and a pasturing

*please continue to page 2*

*Due out in April by Island Press*

## Bowers, Daniels author farmland preservation guidebook

WASHINGTON, D.C. -- Deborah Bowers, editor and publisher of Farmland Preservation Report, and Tom Daniels, director of the Agricultural Preserve Board of Lancaster County, Pa., have written a book on farmland preservation to be published by Island Press in April. It is the first comprehensive guidebook on farmland preservation to be published in more than a decade.

The 326-page book, called *Holding Our Ground -- Protecting America's Farms and Farmland*, covers farmland protection techniques as well as the larger issues affecting farmland preservation. It is Bowers' first book and Daniels' third. He is co-author of two books on small town and rural planning.

"We hope to help landowners and communi-

ties form strategies to protect farmland and implement those strategies to achieve long-term farmland protection goals," the authors say in the preface. "All too often, well-intended individuals, communities and states have come up with pro-

*please continue to page 3*

Volume 7, Number 5 March 1997

### inside this issue...

Baltimore County cluster law may get the boot .....	4
Ohio farmland task force completes meetings .....	4
AFT boosts Central Valley efforts.....	5
Oregon legislature revisits land use law.....	6

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## “Farm viability” decided case by case in subdivision

*continued from page 1*

use, could be subdivided to be sold separately.

The policy's general guideline states “subdivisions shall be large enough that all portions of the land conveyed and the land retained will remain in productive agricultural use...” consistent with the purposes of the program. An application for subdivision must “describe how the proposed subdivided and remaining parcels will be able to sustain long term viable agricultural production.”

The policy does not address the relationship between new dwelling sites and subdivisions.

Wayne McGinnis, chairman of the board, said the issue of agricultural subdivisions has been a problem that needs to be reviewed, since “the object of our program is to preserve agricultural land and not to continually subdivide farms.”

Ag subdivisions have been handled in other farmland preservation programs with similar reliance on the “agricultural viability” factor, left open for interpretation of local farming practices. Some administrators say that well-defined criteria, while making decisions easier, could take away flexibility that should be there to allow for needs that will differ according to farm size and type of operation. But Maryland's guidelines need revision, many agree.

In New Jersey, deed restrictions call for ag subdivisions to be “for an agricultural purpose and result in agriculturally viable parcels.” But viability is further defined as each parcel being “capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.”

Not many ag subdivisions have been requested statewide, according to Rob Baumley of the State Agriculture Development Committee, which administers New Jersey's program. Of those, there have been none the committee was uncomfortable with, he said.

Cindy Gilman of the Burlington County Land Use Office said only three ag subdivisions have been requested in recent years there, and her office has been satisfied with the results. For example, a 30-acre parcel bisected by a highway was 98 percent prime soils, and 95 percent tillable. Her board saw multiple uses, an element required under the

state rules.

In another case, an ag division requested by two brothers who had inherited 107 acres was at first rejected because neither was a farmer. When one came back with a cattle operation proposal, the division was approved. One dwelling site opportunity exists on the parcel that does not have a house.

Gilman said ag divisions across the state have numbered fewer than a dozen and are larger than those done in Burlington County, indicating, she believes, that the parcels are going to farmers.

In Burlington, “our board totes the line on ag divisions. We want these to be farms. The last thing we want is to see these pieces become estates,” she said.

Under Pennsylvania guidelines, counties may allow subdivision of easement parcels, with restrictions or conditions, as long as “preservation of economic viability for agricultural production” is the guiding factor.

Massachusetts likely has the tightest restriction on subdivision and resale of easement parcels. Regardless of the number of parcels, a preserved farm is “held together by a restriction — they cannot sell off any part of it unless we determine it is a viable unit,” said Rich Hubbard of the Department of Food and Agriculture.

The Massachusetts program controls the resale of easement farms by including in the deed of restriction an option to purchase the property at agricultural value. It may seem an extreme function of a preservation program, but Hubbard said land values in the state necessitate such action.

In Massachusetts, where land values are high compared to the mid-Atlantic states, the farmland protection program has become much more involved in what happens to an easement farm after the original owner is gone.

“We can't leave it to the market because the highest and best use value is not agricultural, it's estate — much higher than a farmer can afford. Our program has always intended to do two things: keep land available and keep land affordable.” Hubbard said the program has never had to exercise the option “because farmers realize they can only sell for agriculture.”

*Contacts: Hubbard, (617) 727-3000x150; Baumley (609) 984-2504; Maryland program: (410) 841-5860.*

## Bowers, Daniels author book on farmland preservation

*continued from page 1*

grams that do little more than throw money at the problem of disappearing farmland and open space," the authors say.

While the issue of farmland loss is not new, the goal of preserving farmland has become a greater political challenge, with techniques that are often difficult for citizens to understand and for practitioners to apply.

The book's first chapters discuss the reasons for protecting farmland and how to explain those reasons to others. In succeeding chapters the authors present comprehensive discussions on: the legal basis for managing community growth, the land use planning process and the importance of forming a community vision; the business of farming, federal farm programs and how farmers relate to their land.

Chapters are dedicated to: federal farmland protection efforts; state-level farmland protection efforts; agricultural zoning; controlling sprawl through urban growth boundaries; the purchase of development rights; tax and estate planning; the transfer of development rights; land trusts; how to form a preservation strategy; and the link between urban decline and farmland loss and how regional strategies such as tax-base sharing are evolving.

Appendices include 12 sample forms and agreements such as a model agricultural zoning ordinance, nuisance disclaimer, urban growth boundary agreement, testamentary easement and easement sale application ranking system and application. Ten pages of notes, a glossary, bibliography and index round out the book.

Following is an excerpt from Chapter One.

### What the Protection of Farms and Farmland Can Achieve

We do not advocate trying to protect or preserve every acre that is currently in farm use. Population growth, economic growth, and real estate development will continue to consume farmland, and some of this growth may be desirable. We do encourage creative, cooperative and strategic efforts to slow down the rate of farmland conversion. Farmland protection efforts should attempt to protect the best quality farmland that has the greatest chance of staying in farm use. Undoubtedly, this means that some good farms will be lost because of their location

close to intense development. But communities that can protect a viable amount of farmland and support the farm operators will reap economic, fiscal, environmental and aesthetic benefits for years to come.

There is no simple or single solution for protecting farms and farmland. Government regulations and money cannot do the job without the commitment of landowners to farm and their ability to earn a living on the land. In fact, a good price for farm products is probably the most important factor in the long run. But good farm management, effective and efficient local land-use planning, and affordable property taxes are also important.

Most states and the federal government have done little limit the flood of low-density residential and commercial sprawl into the countryside. All states offer farmers use-value assessment of farms in an attempt to hold down farm property taxes. But use-value assessment has had limited success...

Some states and counties have undertaken innovative land-use planning programs; others have spent millions of dollars in an attempt to protect agricultural land from development. Farmland protection is mainly a local and regional issue. Decisions on the part of landowners, elected officials, and the general public determine what land will be developed and what land will be protected...

While communities try to achieve that elusive balance between growth and a pleasant environment, powerful growth forces are at work. Robert Heuer, who has written extensively about farmland loss in the greater Chicago area, says that the conversion of farmland is the result of a "civic-industrial complex." This complex is made up of the real estate and development industries, financial institutions, and the media - especially newspapers, with their dependence on real estate advertising. The complex feeds on the continual outward expansion of cities.

Heuer goes on to say "the civic-industrial complex acts on what we have always been and remain today: a people blessed with an abundance of land and cursed by an abiding commitment to carve up every square foot of it..."

*For ordering information see page 8.*

### Ohio task force

## Public meetings in Ohio show strong support for voluntary programs

COLUMBUS, OH – The Ohio Farmland Preservation Task Force, appointed last August by Gov. George V. Voinovich, has completed a series of public meetings where many urged the purchase of development rights as well as tax strategies to curb sprawl.

Hundreds of citizens attended four meetings and speakers told the task force that farmland protection was vitally needed and that the purchase of development rights and other voluntary techniques would be supported.

Some discussion focused on tax strategies that will encourage growth in established areas and away from agricultural lands.

"We didn't have specific proposals, we were just there to listen," said Karl Gebhardt, director of local affairs for the Ohio Farm Bureau Federation and a member of the task force. "There were a wide variety of issues. Now we'll digest that and try to form a consensus," he said.

The mission of the task force was to explore voluntary measures for protecting farmland. Joe Daubenmire of the Ohio State University Extension of Medina County said testimony seemed very supportive of a purchase of development rights program. Others feel public interest was simply supportive of voluntary measures.

"The public has been very interested in this," said Julia Hinders, who serves as staff to the task force under contract with the American Farmland Trust. "There has been more activity with sprawl issues in the Cleveland area, but at all the meetings the purchase of development rights came up. It was my impression that it was seen as one tool and not as the sole solution."

Statewide interest is likely to be spurred following a conference sponsored by the Ohio State University Extension March 25 and 26. It will be the first such conference of its kind in the state, according to convener Joe Daubenmire (see resources, page 8).

According to Daubenmire, Medina County may further spur interest when it considers establishing its own purchase of development rights program, possibly through a sales tax. County commissioners are close to supporting such a

## etcetera...

### Baltimore County's cluster zoning "a disaster"

Towson, Md. – Baltimore County officials will likely repeal or revise a cluster zoning ordinance that county planning director Arnold "Pat" Keller called "nothing short of a disaster," in a recent article in the *Baltimore Sun*.

When the county revises its master plan this year, the cluster ordinance is likely to be dismantled, since its use has brought bitter opposition from communities where it was proposed.

A recent cluster proposal adjacent to a preserved farm in the county's northern, most rural area, has stirred heated debate over the benefits of placing 34 luxury homes on one-acre lots near the parcel's boundary to a 216-acre farm owned by cattleman W. Clay Peterson. Peterson, who is 60 years old and has been working for his dream of a profitable cattle farm "step by step," fears his farm will be devalued and his daily work become a nuisance to new neighbors.

Maryland Agricultural Preservation Board chairman Wayne McGinnis, a neighbor of Peterson, said the controversy represents "a build-up of harassment against the legitimate farmer who was there first... he's going to have to take a loss on his property value because the uses are not compatible."

Peterson has opted to take the case to court despite attempts by the developer to alter the design of the subdivision.

The cluster ordinance allows no more than 30 percent of a parcel to be developed, leaving the remainder in open space. Other counties with cluster ordinances in Maryland are Howard, Harford, Kent and Montgomery.

*This story was culled from an article in the Baltimore Sun of Feb. 11.*

### Report card on Oregon land use law released

Portland, Or. – 1000 Friends of Oregon has released an evaluation of Oregon's state land use planning law, which will be 25 years old next year. The group rated performance of implementation in seven areas: farm and forest land protection, natural and scenic resources, stopping sprawl, transportation reform, affordable

housing, citizen involvement and governance.

The rating was done in two categories: measured against the group's objectives, and, compared to other states. In farm and forest land protection, the group gave the state a B- in the first category and a B+ in the second.

In 1973 passage of Senate Bill 100 created the state Land Conservation and Development Commission, which adopted 19 statewide plan-

**1000 Friends of Oregon Evaluation of State's Land Use Program**

	Measured against objectives	Compared to other states
Farm and Forest Land Protection	B-	B+
Natural and Scenic Resources	D	none
Stopping Sprawl	C	B
Transportation Reform	B	A-
Affordable Housing	B	A-
Citizen Involvement	D	none
Governance	C	none

Ratings  
A: outstanding; B: Good; C: Fair; D: Poor

ning goals. It took a decade to begin to see implementation of those goals through local comprehensive plans and regulations.

**AFT hires extra staff for Central Valley effort**

*Davis, Ca.* – The American Farmland Trust has hired Cindy Hall, a cattle rancher and former member of the National Cattlemen's Association Board of Directors to help implement recommendations from a 1995 AFT study on farmland loss in the Central Valley.

Hall will initially focus efforts in Stanislaus County, where AFT projected that a loss of 62,000 acres of farmland will occur by the year 2040.

"Stanislaus has long been an important county for AFT's efforts," said Erik Vink, AFT California field director.

AFT's Central Valley study showed the Central Valley would be hard hit by urban development under current practices and patterns of growth. Population in the 11 Central Valley counties studied is expected to triple by 2040, bringing a loss of one million acres of farmland and \$49 billion in agricultural sales.

Contact: Erik Vink, (916) 753-1073

*continued from preceding page*

move, but would take the issue to referendum, Daubenmire said. A one-quarter cent sales tax is estimated to raise \$1 million annually. Daubenmire said installment purchase will be studied.

Contact: Joe Daubenmire, (330) 725-4911; Julia Hinders, (614) 728-6200; Karl Gebhardt, (614) 249-2412.

\$138.6 million proposed

**Maryland Rural Legacy Program testimony heard**

ANNAPOLIS, MD – The Senate Budget and Taxation Committee and the House Appropriations Committee heard testimony Feb. 26 and 27 on the proposed Rural Legacy program that would infuse farmland preservation efforts with \$138.6 million between fiscal years 1998 and 2002.

The Department of Natural Resources (DNR) weighed in heavily on presenting testimony from environmental interests as well as landowners. Several landowners testified that the Rural Legacy program's aim to preserve contiguous blocks of land was a strategy needed in the state's farmland preservation efforts.

Funding for the program would come from \$90 million in general obligation bonds, \$10.6 million from a scheduled 10 percent increase in available real estate transfer tax revenue, and \$38 million from the land acquisition budget of Program Open Space, the state's land acquisition fund.

Initially, the Rural Legacy Program was proposed to receive the full 10 percent increase in transfer tax revenue, but to win support for the program from environmental and farm interests, the fund was split three ways, with the largest share, 40 percent, going to the Maryland Agricultural Land Preservation Foundation and another 30 percent going to Program Open Space.

With that funding level, the Rural Legacy Program alone would preserve 74,026 acres by 2002, according to DNR estimates. Another 61,708 acres would be preserved during the same period through the farmland preservation program and Program Open Space.

For updates on the Rural Legacy bills, SB 388 and HB 507, call Maryland Legislative Reference at 1-800-492-7122. For information on the Rural Legacy Program, call DNR at (410) 974-3581. See *Smart Growth at Maryland Office of Planning* home page at: <http://www.mop.md.gov>

Legislature to revisit state land use law**Oregon farm bureau calls for another look at 20-year growth areas**

PORTLAND, OR — When the legislature reconvenes in Oregon, supporters of farmland protection know its time to buckle-up for the perennial attack by development interests on the land use planning law that is looked to as a national model.

So far, no fewer than 15 bills have been introduced to weaken protections for farm and forest lands, with myriad other bills that would make it tougher for citizens to challenge local land use decisions.

This year the state farm bureau is playing for the defending team, calling for a reevaluation of the urban growth boundary (UGB) law. HB2292 would limit the requirement that cities of 25,000 or more people provide a 20-year supply of developable lands within their UGBs. The farm bureau believes the requirement is excessive: it wants urban edge farmland protected.

The state Land Conservation and Development Commission (LCDC) is trying to reverse the damage from last year's decision in Brentmar v. Lane County, in which the state high court ruled that uses formerly treated as permissive, such as private schools, were to be allowed by right. SB 197 would allow counties and the LCDC to limit uses in Exclusive Farm Use zones, to reverse that decision.

In this year's legislature, "we will have to fight a weakening of what we already have," said Jim Johnson of the state department of agriculture, natural resources division.

Johnson said it is time for the legislature to examine the list of uses allowed in the state's Exclusive Farm Use zones which continue to be fragmented by new dwellings approved by local governments. This problem is compounded by state policy created to protect farmland yet requires cities to expand their boundaries to keep the 20-year supply of land on line.

One item that may be looked at this session is the standard for farm dwellings — new homes built on farmland to be occupied by farm workers. "Some want more relaxation on the dwellings issue," said Mitch Rohse of the Department of Land Conservation and Development.

A rule adopted in 1994 that allows farm dwellings to be built on high-value farmland defines high-value farms as those having produced \$80,000 from gross sales "in recent years." For farm dwellings to be allowed on non-high-value lands, other criteria must be met. There may be a move to "reduce or eliminate" the \$80,000 rule, or other criteria, Rohse said.

**legislative  
and program  
briefs...**

**In Maryland ...** Gov. Parris N. Glendening's Smart Growth initiative, including the **Rural Legacy Program** (SB 388, HB 507) and a plan to direct infrastructure spending to existing communities (SB 389), are in committee (see Rural Legacy story page 5).

Howard County program administrator **Donna Mennitto** will leave her post effective March 10 to become director of agricultural programs for the **Eastern Shore Land Conservancy**. Mennitto has managed the Howard County installment purchase program since 1993 and was formerly a planner for Howard County. Mennitto will be providing technical support to Eastern Shore county farmland programs and handling other farmland preservation initiatives.

**In Ohio... Medina County** commissioners may pursue a purchase of development rights program funded through a sales tax approved through referendum. A one-quarter cent tax would raise \$1 million annually. It would be the first program in the state. Installment purchase will be discussed, according to Joe Daubenmire of the Ohio State University extension, Medina County. Daubenmire, (330) 725-4911.

**In New York...** Applications in the \$4 million implementation grants program have been ranked and forwarded to the Commissioner of Agriculture and Markets. Thirteen counties and municipalities requested almost \$8 million in state funds. The **purchase of development rights** comprises many of the projects. With funding required

*continued from previous page*

to be committed by the start of the new fiscal year April 1, decisions must be made by the end of March. Bob Somers, (518) 457-2715.

**In Pennsylvania ...** \$35 million has been allocated for the farmland preservation program for the upcoming year. Legislation is being drafted to enable townships to purchase agricultural conservation easements.

**CORRECTION:** Last month's acreage totals for Pennsylvania appearing on page 3 were incorrect. The total number of acres preserved at that time was 86,639. Following the state board meeting of Feb. 20, that total increased to 89,430 acres, and 716 farms. We regret the error.

**In Oregon...** The farm bureau has sponsored a bill, HB2292, to limit the requirement of a 20-year land supply within urban growth boundaries of cities of 25,000 people or more. SB197 would allow counties and the Land Conservation and Development Commission (LCDC) to limit uses in EFU zones (see story, page 6).

**In Congress ...** The American Farm and Ranch Protection Act (HR 195) was reintroduced in the House and is expected to be introduced in the Senate. The bill would exempt the value of land subject to a permanent conservation easement from the **federal estate tax**. Only donated easements would be covered. A similar bill was approved by Congress in 1995 as part of the budget that was vetoed. "Chances for enactment appear good this year," said Tim Lindstrom of the **Piedmont (Va.) Environmental Council**. "The fact that this proposal has already been approved by Congress in modified form should give it an advantage in negotiations over the composition of the reform package," he said. For more information call Lindstrom at (804) 977-2033.

There are already many allowances for dwellings on farmland, several of which were added in recent years. In addition to "farm dwellings" nonfarm dwellings are allowed if impacts to farming operations are minor; dwellings are also allowed on lots of record, on hard-to-farm parcels of high-value farmland; on small tracts of high-value farmland; and as replacement or temporary dwellings.

On another legislative front is the reduction of revenues at the local level brought on by passage of Ballot 47, called the "cut and cap" bill, which will cut back property tax to 1994 levels and will allow increases of two or three percent per year. Since local governments rely solely on the property tax (Oregon is one of only two states in the nation without a sales tax) planning departments are likely to be targeted for cut-backs, Rohse said. Some localities are trying to fund planning departments solely through fees.

Facts and figures produced by several state agencies confirm the importance of protecting agriculture in Oregon. The Department of Land Conservation and Development has always produced a certain tonnage of information about the state's most important resource and what is happening to it due to development.

The importance of agricultural land and the conflicts of urban growth are written into Oregon law, but that hasn't stopped the continual flow of people into farming regions.

Between 1982 and 1992 about 89,000 acres of farmland were converted to urban uses. In the last 10 years almost 5,000 acres were annexed into urban growth boundaries and another 18,000 acres were rezoned from agricultural to urban uses. Those urban uses include golf courses-- which in 1994-95 alone converted more than 1,000 acres of farmland-- schools, playgrounds, campgrounds, churches, and cemeteries as well as the usual infrastructure -- roads, etc. -- that goes with residential growth.

From 1940 to 1970, the population of the Portland region doubled but the amount of land occupied by residential uses quadrupled, a story repeated nationwide.

The Department of Employment Development reports that nearly 140,000 people in Oregon are working in various occupations that are related to agriculture, with 45,000 and 60,000 of those jobs are in farm production including processing, marketing, and manufacturing jobs. Many of those jobs are part-time or seasonal.

*Contact: Mitch Rohse, (503) 373-0050; Jim Johnson, (503) 986-4706; For legislative information, contact Scott at 1000 Friends of Oregon, (503) 223-4396.*

## Publications

***Holding Our Ground— Protecting America's Farms and Farmland***  
By Tom Daniels and Deborah Bowers  
Island Press, 326 pp, \$34.95

For description, see story page 1. For inquiries or to order by phone, call 1-800-828-1302, Monday thru Friday, 8-5, Pacific time. Outside the U.S. and Canada, call (707) 983-6432. Fax orders to: (707) 983-6414 Mail orders: Island Press, Box 7, Dept. 2AU, Covelo, CA 95428. Postage and handling: add \$4.75 for first book, \$1 for each additional. Ca. residents add 7.25% tax; Washington D.C. residents add 5.75% tax.

### ***Annual Report, Center for Rural Affairs***

Get to know the good work of this mid-west organization that puts in a lot of time on Capitol Hill for sustainable agriculture and conservation issues. The report is 24 pages and describes the Center's programs and publications. Call (402) 846-5428.

### ***Landmark***

*Magazine of 1000 Friends of Oregon*  
This special issue of Landmark, the regular publication of 1000 Friends, evaluates Oregon's Land Use Program, conferring grades for farm and forest protection, sprawl control, governance, and other aspects of the state's land use law. The illustrated 32-page magazine provides news of the organization and reviews the year's grassroots activities, providing a comprehensive look at one of the nation's most effective land use planning organizations. Call (503) 223-4396.

## Video

**Growing Pains: Managing Population Growth in the West**  
Montana State University, \$14.95

Population growth in the west is driven by a desire to live in environmentally attractive communities. This video, funded by the Western Rural Development Center, explores the impacts of population shift and how communities are trying to cope. Included are discussions on planning and zoning, impact fees and intergovernmental agreements.

## Online

### **Coping with Change**

This is the revised version of a publications series produced by the Western Rural Development Center on coping with rapid growth in urban edge and rural regions. It is available on the Utah State University Extension Community Development web page at <http://ext.usu.edu/crd> Click on the publications box to find WRDC publications.

## Conferences

### **March 25- 26, Columbus OH:**

"Growth and the Future; A Land Use Conference for All of Ohio," sponsored by the Ohio State University Extension. Fee: \$75. Call 614-644-2873 for information, or see web site of Ohio EPA at <http://www.epa.ohio.gov/>

### **April 11, St. Louis, MO:**

"Brownfields and Greenfields: Reconnecting the City to Its Region," sponsored by the Lincoln Institute of Land Policy. Fee: \$165 covers lunch, all sessions, materials, including focus report on brownfield redevelopment. Faculty will compare difference perspectives on the significance of brownfield reclamation to social disparities, infrastructure costs, housing and urban design and will discuss successful brownfield redevelopment strategies in the context of regional land use planning. Call 1-800-526-3873.

### **April 27 - 30, Portland, OR:**

"National Town Meeting on Main Street," sponsored by the National Trust for Historic Preservation. More than 100 sessions of how-to advice on creating and

sustaining livable communities and day-long workshops for in-depth training for professionals on market analysis, fundraising, etc. For program call (202) 588-6219.

**May 11 - 14, Baltimore MD:** "O, Say Can You See... Leadership for a Scenic Century" sponsored by Scenic America. Workshop session topics include rural conservation, community development, sign control, scenic byways and highway design. Feature speaker: Charles Kuralt. Plenary speakers include former Houston mayor Kathy Whitmire and community planner Tony Neleson. For conference information: call 202 833-4300. Email: [Scenica@soho.los.com](mailto:Scenica@soho.los.com)

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Maryland's Smart Growth & Rural Legacy

### Nation's most aggressive anti-sprawl measures passed

ANNAPOLIS, MD – Two major statewide initiatives to curb sprawl and preserve rural lands were passed by the Maryland General Assembly near the end of its session April 7. The programs are aggressive compared to other states and will be unique in the nation.

Gov. Parris N. Glendening won passage of his Smart Growth initiative, which will target state spending for infrastructure to areas localities designate for priority spending under state guidelines. While it does not prohibit localities from targeting new roads or water and sewer into agricultural areas, they will have to pay for it themselves.

The Rural Legacy Program, a major component of the governor's initiative, will get a minimum funding level of \$71.4 million over five years, which can be expanded to \$141 million with the purchase of zero coupon bonds, according to the Department of Natural Resources. The program will provide grants to local governments and land trusts to purchase land and conservation easements in rural areas targeted by locally initiated proposals.

#### Smart Growth law with teeth

Only a handful of states have statewide planning programs that mandate certain actions and preclude others by local governments. Ending subsidies to infrastructure that spurs development in the wrong places would seem a sensible approach to state planning, yet Maryland is the first in the nation to take this step.

In New Jersey, a well-engineered state plan was passed in 1992 that created designated growth area

categories, from urban center to hamlet. But Maryland has gone further than New Jersey in terms of putting teeth into planning guidelines, according to New Jersey state planning director Herbert Simmons. The New Jersey law made no provision for withholding of funds to local projects that don't fit a prescribed plan.

Oregon has statewide planning goals that localities must meet, and this would include not putting growth-inducing infrastructure in agricultural areas. A penalty provision that allows withholding of certain revenues to localities has only been used a few times over the Oregon plan's 25-year history. But state money is still used for facility spending regardless of whether state planners like the site.

Maryland's new law should have been part of a statewide planning initiative passed in 1992, but local governments then were even more obstinate in their refusal to accept state planning mandates, regardless of the goals. That year, an attempt to downzone agricultural areas to a density of 1-20 failed, and counties were only required to make

*please turn to page 2*

Volume 7, Number 6

April 1997

#### inside this issue ...

AFT study warns of serious consequences.....	p. 3
Illinois sees link between roads, malls .....	p. 5
Ohio delegation visits Lancaster County .....	p. 4
Florida studies show economic value of ag .....	p. 6
Legislative briefs .....	p. 6,7

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## Infrastructure funding to be directed to growth areas only

*continued from page 1*

land use plans consistent with some statewide policy guidelines aimed at protecting the Chesapeake Bay.

Now, the state has taken the logical next step by putting its money where its "mouth" is, and will direct growth to already serviced areas and away from farm and forestlands.

The Smart Growth bill had support from environmental groups and urban counties, but was in the end somewhat weakened by rural legislators and the Maryland Association of Counties over concerns about local planning prerogative.

"There were quite a few compromises that weakened the bill, but it moves us forward, and that's important," said Lee Epstein, director of Land Programs for the Chesapeake Bay Foundation.

State programs that provide matching funds or grants to localities will all be affected, according to Epstein, including economic development and housing loan programs, industrial development financing and transportation, as well as state construction projects. Road projects, even if currently in the state's transportation plan, won't be allowed to go forward if they are outside of designated growth areas. This, in itself, is quite a bonus, planners say.

Conservationists are calling the bill a major step forward in state planning and land use policy. The ultimate outcome, several advocates of the bill agreed, will be a change in attitude about where new development should occur for greatest benefit to the locality and to the developer. State subsidies will no longer be given for the asking, but will focus on the pattern of growth in a locality.

### **Rural Legacy Program: progressive and unique**

A major component of the Smart Growth initiative is the Rural Legacy Program, passed by a wide margin though with some amendments. Initiated by the Department of Natural Resources and developed with the Department of Agriculture and the Maryland Office of Planning, the program will provide grants to protect farm and forest lands using broader, more inclusive criteria than required by the state farmland program.

The Rural Legacy Program will feature criteria

that create a holistic approach to resource conservation, combining watershed, forest protection, farmland preservation and other conservation objectives, and applying those to targeted areas to achieve large contiguous blocks of conserved land.

It will be the first statewide program in the nation to combine these objectives, and is even more notable with its comparatively strong, dedicated funding – up to \$141 million over five years and potentially \$455 million over 15 years. This level of funding is boosted by use of zero coupon bonds, allowing installment purchases of easements – the first state program to use the method, until now only used by a handful of local governments.

Using installment purchase agreements, in which landowners receive annual, tax-free interest payments and the principal at the end of a specified period, usually 20 or 30 years, \$16 million could be leveraged each year. Added to this funding are transfer tax revenues and general obligation bonds as well as a portion of Program Open Space funds.

But according to Grant Dehart, director of Program Open Space, it is unclear whether the annual \$2 million allocated specifically for purchase of zero coupon bonds will also have to fund the annual interest payments to landowners, or, whether the interest payments will be paid through the state general fund.

The difference to the program would be substantial: a possible \$16 million per year leveraged, compared with \$16 million the first year, diminishing to zero by 2003. If the \$2 million must be used to fund the annual interest payments, preserved acreage through the Rural Legacy Program would be virtually cut in half: 200,144 acres down to 110,041 acres.

A 10 percent increase in transfer tax revenue allocation, with land preservation programs now receiving 100 percent of the revenues, will be divided between the Rural Legacy Program (60 percent in FY98, and 50 percent thereafter), the farmland preservation program (40 percent), and Program Open Space (10 percent).

Throughout much of the legislative period, due to lobbying by the farm bureau and by environmental groups, the percentages weighed heavily in favor of more funding for the Maryland Agricul-

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*Smart Growth, from previous page*

tural Land Preservation Foundation, with the Foundation receiving a full 40 percent and Program Open Space and Rural Legacy each receiving 30 percent of the new, increased funds.

The Rural Legacy Program will have a minimum of \$5 million per year in general obligation bonds, a sum that is expected to be increased by the governor.

Rural Legacy will be a grants program, directed at local governments, but also at land trusts or similar entities that can develop and implement a proposal to preserve a specified area or resource.

Several projects are already in the planning stages and it is likely the Rural Legacy Board, comprised of the natural resources and agriculture secretaries and the director of the state office of planning, will want to award projects from both the eastern and western shores — a matter of contention when the Department of Natural Resources proposed a large land preservation program last year for the eastern shore.

An 11-member advisory committee will have representatives from agricultural, forestry, environmental, local government and business interests, as well as at least one private citizen/landowner. Historic preservation interests were at the last minute knocked out of participation, both from the advisory committee as well as from use of easements for preservation purposes. Historic properties will require use of fee simple.

Regulations for the Rural Legacy Program will be underway immediately, according to Theresa Pierno, director of the Growth and Resource Conservation Division at DNR.

"We need to draft regulations immediately, with an evaluation and point system. We need to complete more specific criteria and initiate a major outreach and educational component," Pierno said.

A technical committee, which worked on the legislative proposal, will likely make up a new committee to draft the regulations and guidelines, which will include a new process for appraising the real estate and easement values of properties to be protected.

The drafting and approval of regulations will likely take about six months, she said.

Contact: Grant Dehart, (410) 974-3581; Theresa Pierno, (410) 974-8474; Lee Epstein, (410) 268-8816.

## AFT study cites national consequences of farmland loss

WASHINGTON, D.C. — Sprawl is covering up farmland so rapidly that the United States, in the year 2050, could be a net food importer, according to a new study released by the American Farmland Trust.

The study names 20 regions that will most likely be first to fall victim to their own inability to control growth, beginning with the Sacramento and San Joaquin Valleys in California and the Northern Piedmont region, which includes parts of Maryland, Pennsylvania, New Jersey and Virginia. The study projects the nation will sustain a 13 percent loss of high-quality farmland by the year 2050, when its population will have increased by 50 percent over current figures.

At a national press conference in Washington, the AFT called upon federal, state and local policymakers to take necessary action to stop "the destruction of a strategic and irreplaceable natural resource."

The AFT said that between 1982 and 1992, 4.3 million acres of prime and unique farmland were overrun by development that could have been accommodated in a more efficient pattern of growth.

According to the report, similar to a report released a few years ago, 79 percent of the nation's fruit, 69 percent of its vegetables and 52 percent of its dairy products are produced on high quality farmland threatened by sprawl. An analysis of 181 geographic units of resource areas showed 70 percent had prime or unique farmland in the path of rapid urban development. Texas was biggest loser in the sprawl equation, giving up nearly a half million acres from 1982 to 1992. California, Florida, Georgia, Illinois, Indiana and Tennessee also lost huge amounts of farmland, the study said.

AFT president Ralph Grossi said the findings are alarming and that unless growth is better managed, the nation's ability deal with social, economic, food security and environmental issues would be severely curtailed.

Grossi called for strengthening and enforcing the federal Farmland Protection Policy Act, expanding the Farmland Protection Program and enacting federal estate tax reforms to help curb the loss of family farms.

Moreover, Grossi said the federal government

*please continue to next page*

### Study measures national threat

## AFT study names Piedmont as second most endangered

*continued from page 3*

needs to "quantify the impact of farmland conversion on key environmental measures such as water and air quality, wildlife habitat and rural economic health. The Department of Agriculture should define farmland by its agricultural importance and vulnerability to rapid growth, he said.

Agriculture Secretary Dan Glickman recently told the AFT that he will remain an advocate for farmland preservation, was pleased to find \$14.5 million to spend on easements last year, and plans to show Congress some early examples of the successes of the Farmland Protection Program.

The AFT study used data from the National Resources Inventory, analyzing how land use changes in almost every state have affected high quality farmland. Local areas that exceeded the statewide average of prime and unique farmland, and exceeded the statewide rate of urban development, were declared threatened.

The Northern Piedmont, which the AFT named as the second most threatened region, included, in Virginia, Albermarle, Culpeper, Fauquier, Greene, Loudoun, Madison and Rappahannock counties; in Maryland, Baltimore, Carroll, Frederick, Harford, Howard and Montgomery counties; in Pennsylvania, Adams, Bucks, Chester, Delaware, Lancaster, Montgomery and York counties; and in New Jersey, Hunterdon, Morris and Somerset counties. Both Maryland and Pennsylvania rank among the 10 top producing states in the nation per acre of farmland. Many of the counties have been among the nation's most rapidly growing.

The National Association of Home Builders (NAHB) took a shot at the AFT's report, calling it "intent on portraying developers as modern-day land rustlers." NAHB executive vice president Kent Colton claimed that development has "little effect on the amount of prime farmland, and said builders are as interested in preserving farmland as the AFT.

"The plain truth is that farmers, not developers, control the conversion of agricultural land... farmers will do what is best for their needs and the needs of their community," he said in a prepared statement.

### etcetera ...

#### **Bernstein to head Maryland Environmental Trust**

*Towson, Md.* — John Bernstein, director of the Valleys Planning Council in Baltimore County, will become director of the Maryland Environmental Trust, a state-funded land trust, effective June 1.

MET, created by the legislature in 1967 to boost land protection in the state, has 10 full-time and contractual staff and a current operating budget of \$455,000. The agency has preserved 53,782 acres.

Bernstein will oversee MET programs that protect environmentally significant lands and rural historic villages through conservation easements, assist the many land trusts operating in the state, and promote highway and community beautification efforts.

Under Bernstein, the Valleys Planning Council, Baltimore County's land use watchdog group, was instrumental in the successful effort last year to downzone over 12,000 acres from one unit per five acres (1-5) to one unit per 50 acres (1-50), to protect one of the county's remaining farming regions.

The Council produced a study on land sales in preservation areas as compared to higher-density areas. The study found little difference in per-acre sales between the two density allowances. Bernstein estimated 1,500 units were retired through the rezoning.

Most recently, the group has opposed the conversion of hundreds of acres of farmland for a golf course and country club development.

Bernstein replaces Tom Saunders, who left MET last year to become a county planning director in Florida. *Bernstein: 410-337-6877; MET: 410-514-7900.*

#### **Ohio delegation tours Lancaster, Carroll**

*Lancaster, Pa.* — A delegation of 51 Ohio elected officials and commissioners descended on two of the nation's foremost farmland preservation counties in March to learn about the purchase of development rights and other techniques used to foster preservation, such as ag zoning and urban growth boundaries. Lancaster County, Pa. and Carroll County, Md., played host to the group.

The officials were from the greater Columbus region, including Delaware and Morrow counties, and included county and township elected officials as well as soil and water conservation professionals and members of the Farmland Preservation Task Force, ap-

pointed last year by Gov. George Voinovich, according to Allen Prindle, an economics professor at Otterbein College and organizer of the trip.

"The impact of being able to see the countryside, and that they've been working on it for 20 years, was impressive," Prindle said. "These ideas are not something we're exposed to or aware of at all."

Prindle declined to predict how the tour participants will use what they learned, but he was optimistic the field trip demonstrated that farmland and farming communities can be protected. A meeting later this month will likely confirm his views, he said. "I predict a lot of people will come and say 'you changed the way I think about my community.'"

The goal of the tour was not to prescribe a particular program, but to expose land use decisionmakers to the possibilities, Prindle said. "We're just raising awareness and the interest level."

Lancaster program director Tom Daniels, who directed the bus tour through Lancaster, said interest in the purchase of development rights was evident.

"I think there is strong interest in several Ohio counties, as well as among members of the task force, in developing a PDR program," Daniels said. "We showed them what a comprehensive program can accomplish." Daniels led the tour through several Lancaster communities where large swaths of farmland have been preserved around village centers.

Contact: Prindle, 614-823-1481.

### Amish expand farm holdings in Lancaster

Lancaster, Pa. - A researcher has found that the Amish in Lancaster County gained a net of 137 non-Amish farms, totalling 11,498 acres, between 1984 and 1995. And, although many Amish farms went up for sale, most, 82 percent, were sold to other Amish, not to developers, the study found.

Sociologist and author Conrad L. Kanagy, who teaches at Elizabethtown College in northern Lancaster County, said while he had expected to find that the Amish, pressured by their own population growth that has been doubling every 20 years, would migrate to areas where open land was more plentiful and cheaper.

But, it is apparent the Amish want to stay Lancaster and are spreading out from their traditional area in the eastern part of the county. Of the 137 farms bought by Amish, 67 were in the southern part of the county. But the east is not being abandoned, despite suburban encroachment: 28 farms were purchased there.

This story was culled from an article by Walter F. Naedele in *The Philadelphia Inquirer* of April 5.

### Of malls and highways

## Without tollway a sure thing, mall developer pulls out

CHICAGO, IL - While many public and private transportation planners in the Chicago region insist highway construction does not induce growth, a mega-mall developer has given a clear indication they may be wrong. Late last month, the Washington, D.C.-based developer of a proposed \$200 million mall in northern Will County said a court-ordered delay in the construction of a tollway extension threatens the success of the project, and will either pull out or scale back.

In January, a U.S. District Court blocked construction of the 12.5-mile extension of Interstate 355, ruling that state officials had not complied with federal environmental laws while planning the road. The ruling came about when an environmental group sued the Illinois State Toll Highway Authority for not filing an environmental impact statement on the effects of the tollway. The judge told the Authority to assess the air pollution that would result from another highway.

The Tollway Authority, an entity that typically doesn't have to worry about federal rules and regulations because it uses its own money for projects, is familiar with opposition. But with this particular tollway extension, and another that would likely come after it, the authority board, made up of business interests appointed by the governor, faces a new kind of opposition.

More than simply property owners in the path of progress, the new opposition is a political squadron of environmental and community groups who are calling suburban highway expansions the bane of good planning and sustainability.

Fighting back, the tollway authority hired an environmental lawyer whose expertise is in the very laws the judge ruled had been violated. Now, the authority has commissioned a study by the University of Illinois at Chicago's Urban Transportation Center. The object is to determine whether highways affect suburban sprawl, by investigating the link between population shifts, urban decentralization and the capacity of roads.

Tollway Authority Chairman Julian D'Esposito thinks he knows what the study will determine. He told a *Chicago Tribune* reporter that growth would occur in the south suburban area with or without the I-355 extension, noting the area's population

## Tollway is road to business interests

*continued from page 5*

had grown by 67 percent from 1970 to 1995 without a tollway. The question will have to be, how much more growth will occur with it.

Another question that must be posed, according to Bob Heuer, spokesman for South Corridor Against the Tollway (SCAT), is whether the tollway authority acts in the interest of the public by spurring growth and development through highway construction, a role the authority has traditionally filled—not solely of a builder of roads needed by people to get from one place to another, but an economic development machine that makes new places for business and industry to locate conveniently.

The Monee Mills mall provides a ready example of how this scenario is acted out, how major projects are planned in conjunction with highway plans. Heuer said it makes the Tollway Authority's study nothing more than an exercise in the obvious.

Taking the game plan further, Heuer said, the tollway extension in question is the forerunner of another extension that will lead to the site of a proposed third major airport for the Chicago region, lying just farther east in Will County. While even major airlines are saying they don't need the airport, a conglomerate of business interests has invested not a small amount of money toward convincing the public that an airport in their backyard would be a boost to the local economy well worth the loss in farmland and their prevailing way of life.

Meanwhile, the game plan for SCAT is to stop the first leg of the tollway extension, thereby conceivably stopping the second leg, and thereby choking off the transportation lifeline for the proposed airport. With the recent Monee mall decision, they have reason to believe such a strategy has merit. *Contact: Bob Heuer, (773) 274-1989.*

## New study shows ag economic value

**BOCA RATON, FL** – Officials in Collier County, one of the highest ranking agricultural counties in the nation, have responded to a call for creating economic development programs for, and streamlining regulations affecting local agriculture, according to Craig Evans, director of the Florida Stewardship Foundation.

A recent study conducted by the Foundation made startling conclusions about agriculture in Collier County, concentrating on the industry's contribution to the local economy — a whopping \$636.6 million in annual sales when combining agricultural production and services dependent on local agriculture.

But local operations, particularly citrus groves, and vegetable growers, are overburdened with regulations, according to the study. The county, therefore, was urged to develop a plan for sustaining agriculture as part of the local economy.

The Collier County study, and two other studies of Florida counties conducted by the Florida Stewardship Foundation, may be the most detailed studies, to date, of the contribution of local agriculture and the vital link between profitability and preservation.

## legislative and program briefs ...

**In Maryland ...** In Harford County, officials have recently completed a round of public hearings on a comprehensive zoning review, with hundreds of comments taken. Planners will now work on their recommendations. A TDR task force report was forwarded to the County Council, calling for a mandatory purchase of development rights by developers who are allowed higher densities through rezoning.

The Maryland Dept. of Environment has denied an operating permit to a farmer proposing a 3,000-hog facility in Kent County based on public concerns about pollution to a nearby stream and groundwater. The case has spurred a move to prevent Maryland from hosting the hog industry, using North Carolina's troubles as an example. After liquid waste lagoon breakages, North Carolina Gov. Jim Hunt has called for a moratorium on siting or expansion of hog facilities.

**In Pennsylvania ...** The state farmland preservation program recently made its first round of technical assistance grants to localities, awarding 13 projects involving GIS mapping, agricultural zoning and other pursuits. Twenty applications were received, according to director Ray Pickering, and those will be awarded at a later date, he said. The program, established in 1994 as the Agricultural Land Conservation Assistance Grant Program, with a pot of \$750,000, the first round allocated a total of \$95,000. In other news, the Pennsylvania program is working to establish installment purchases as an option for farmers.

Gov. Tom Ridge's budget

includes \$1 million to assess non-point pollution, encourage citizen monitoring, educate the public about watersheds and produce action plans.

**Pa.** Farm Bureau is lobbying for a bill introduced last term by Sen. Roger Madigan calling for state agencies to consider impacts on property rights before imposing regulations. The bureau also favors a bottle bill to cut down on litter in fields that can damage equipment.

**In Virginia ...** The Virginia Outdoors Foundation, created by the General Assembly in 1966, has reached the 100,000-acre mark in land preserved under easement. Over the last five years, easement agreements have accelerated, resulting in about 5,000 acres preserved annually.

**In Oregon ...** The legislature is waltzing along midway through its session, according to some officials, and no bills have moved. More than 30 bills could affect the state's land use planning.

**In Vermont ...** The Vermont Housing and Conservation Board, which operates the state's farmland preservation program, is having some difficulty "figuring out what kind of language to use in order to access federal money," according to Ethan Parke. The Vermont program was not developed strictly as a farmland program, and did not establish standard criteria as in the mid-Atlantic programs. Soil conservation plans, for example, were not required of farms that offered to sell easements to the board. To qualify for funds under the Farmland Protection Program, Vermont is making easement language more consistent with FPP criteria.

**USDA ...** 301,650 farmers offered 26 million acres for the Conservation Reserve Program (CRP), 8 million being first time acres. The 10-year program is projected to cost \$1.9 billion per year. The current program, renewed in the 1996 farm bill, calls for enrolling 36.4 million acres by 2000.

*Florida, from preceding page*

Collier County agriculture is under some of the most intense development pressure in the nation. Moreover, according to Evans, local comprehensive plans, in Collier County and throughout Florida, do not contain agricultural elements. Collier's comp plan contains a conservation element, but no agriculture element for the almost 25 percent of land area agriculture covers.

"If one looks at the comprehensive plans adopted by Florida's 67 counties it is apparent that, in the minds of most planners and policy makers, agriculture does not have a future in the state of Florida," the study pronounces.

To prove that agriculture is worth the consideration, the Florida Stewardship Foundation study set out to demonstrate the value of agriculture in the context of long-term protection.

The study claims to break new ground "by analyzing and measuring economic contributions according to land use." Begun in 1994, the study was initially set up as a cost-of-community-service study first developed by the American Farmland Trust.

However, the researchers determined that the AFT methodology was well suited to small local government budgets, but was coming up short in providing a clear picture of agriculture's contribution in a county as large as Collier. The AFT approach, comparing revenues with costs of providing public services to different land uses, therefore, was used as only part of the study.

The new focus was on economic output of agriculture. Two agricultural economists and a senior analyst for the Congressional Budget Office were recruited to help with the 18-month study.

Two new methodologies were developed: one measuring "Community Revenues and Expenses" and one measuring "Opportunity Costs."

The first, using county financial records, measured individual spending and revenue items, allocating those items to land uses based upon whether the land uses provided or benefitted from each spending item.

The second, Opportunity Costs, calculated the long-term value of a land use beyond the five to 10-year boost that home construction typically provides to the economy.

The Opportunity Cost analysis calculated revenues generated by different land uses annually over 50 years — a period demonstrating that the true value of agriculture must be seen in terms of its most important characteristic: its productivity sustained over time. Researchers Craig Evans and Jean McGuire used this methodology on two other studies, in Lake County and in Hillsborough County, Fl. with similar results.

The studies approach the issue of agriculture's economic value by asking the pointed question, "What revenues would be lost, in total ... if agriculture and all the activities directly related to agriculture ... were to disappear?"

To answer the question, the study examined the economic values of agricultural services, processing and wholesale operations. For Collier County: \$636.6 million in annual sales, 18,157 jobs, and \$165.9 million in annual earnings. *To receive a copy of "The Contribution of Agriculture to Collier County, Florida" or the other studies, contact the Florida Stewardship Foundation at (561) 995-1474. Or, visit their web site at: [www.fl-stewardship.com](http://www.fl-stewardship.com).*

## resources ...

### Books

#### **Asphalt Nation – How the Automobile Took Over America and How We Can Take It Back**

By Jane Holtz Kay  
Crown Publishers Inc.  
432 pp, \$27.50

Jane Holtz Kay is best known as the sharp-witted architecture and planning critic for *The Nation*, and as author of "Preserving New England." This is her third book, and is essential reading for planners and preservationists who are looking for ideas on how to approach the enormous task of decreasing auto dependency.

Five years in the making, Kay's work provides all the history and perspectives on how we got to where we are, and how we might begin to turn around and promote better planning and transit.

"A nation in gridlock from its auto-bred lifestyle, an environment choking from its auto exhausts, a landscape sacked by its highways has distressed Americans so much that even this go-for-it nation is posting 'No Growth' signs on development from shore to shore," Kay writes in an introduction that compares a gathering of anti-auto, pro-walking, pro-bicycling urbanites to a conference of highway engineers with a surprise finding—both groups came to the same conclusion: the days of rampant pro-auto highway construction are coming to a close. The question now is, what to do?

Unlike "The Geography of Nowhere" and other recent books that sound an adjective-ridden alarm, this book keeps lush sentiment at bay and instead provides strategies and answers based on years of reporting from different angles of the issue. Not to say that Kay's writing

isn't rich – it is – but because it comes from a deep knowledge of the issue and lengthy experience as a reporter and writer. Kay demonstrates that shifting land use patterns can be "a lucrative proposition" and that sprawl is not necessarily a result of market forces.

*Available this month in book stores.*  
– Editor

### Publications

**A Better Way To Grow — For More Livable Communities and a Healthier Chesapeake Bay**  
Chesapeake Bay Foundation, 32 pp., \$7.95, plus tax

This booklet has loads of eye appeal as well as text that enlightens the average citizen regarding how sprawl has been affecting North America's largest estuary, home to more than 2700 plant and animal species. It covers development alternatives, such as transit-oriented development, using the Fairfax County, Va., Newfair site as an example; mixed-use, and conventional vs. cluster design. It also provides a table comparing development costs of conventional and cluster and a bibliography. It is an excellent introduction to the sprawl issue that extends the discussion into working alternatives. To order, add state sales tax for Md., Pa., and Va., and send order to CBF, Attn. Renee Snider, 162 Prince George St., Annapolis, MD 21401.

*You may also want to request ...*

**A Network of Livable Communities — Evaluating Travel Behavior Effects of Alternative Transportation and Community Designs for the National Capital Region**  
Chesapeake Bay Foundation, 32 pp.  
May 1996

This was a joint study by the Chesapeake Bay Foundation and the Environmental Defense Fund. It presents the finding that the Washington, D.C. region, bursting at the seams from traffic congestion, could reduce the problem by

the year 2010 simply by using transit-oriented development design that would reduce trips per day per household as well as vehicle miles traveled.

#### **The Conflict on the Edge**

By Laura Thompson  
Zoning News, Feb. 1997, APA

This issue of the American Planning Association's Zoning News examines planning tools that aid in reducing the incompatibility of suburbia and agriculture. Zoning News is a monthly newsletter. Copies of the Feb. 1997 issue may be available. Call 312-431-9985.

### Conferences, Workshops

**April 27 - 30, Portland, OR:** National Town Meeting on Main Street, sponsored by the National Trust for Historic Preservation. More than 100 sessions of how-to advice on creating and sustaining livable communities and day-long workshops for in-depth training for professionals on market analysis, fundraising, etc. For program call (202) 588-6219.

**May 11 - 14, Baltimore MD:** "O, Say Can You See... Leadership for a Scenic Century" sponsored by Scenic America. Workshop session topics include rural conservation, community development, sign control, scenic byways and highway design. Feature speaker: Charles Kuralt. Plenary speakers include former Houston mayor Kathy Whitmire and community planner Tony Neleson. For conference information: call 202 833-4300. Email: [Scenica@soho.ios.com](mailto:Scenica@soho.ios.com)

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## New York program underway, eight localities awarded

ALBANY, NY — Eight localities in New York will receive \$3.7 million in grants for the purchase of development rights through a competitive program inaugurated last fall by the state Department of Agriculture and Markets. It is the first time the state has assisted local governments in farmland preservation.

Three counties and five towns will receive grants of between \$69,000 and \$1.5 million. Suffolk County and three of its towns, along with Washington County, Orange County, and the towns of Pittsford in Monroe County and Amherst, outside Buffalo, were award recipients.

"The reality is, we now have a state PDR program in New York," said Jerry Cosgrove, New York representative for the American Farmland Trust. New York joins seven other states in the east that began programs between 1977 and 1991, and include Maryland, Pennsylvania, New Jersey, Delaware, Connecticut, Massachusetts and Vermont.

The funding resulted from a 1996-97 allocation to the state Environmental Protection Fund (EPF). Governor George Pataki has committed the same amount in his next budget, and said the same localities could be eligible for further funds through the state's recently passed Clean Water, Clean Air Bond Act.

The American Farmland Trust has recommended the state invest \$75 million in farmland protection over the next five years, from the EPF (\$5 million per year) and from the bond act (\$10 million per year).

The localities receiving awards differ broadly in development pressure, zoning, remaining farmland, anticipated easement cost, and preservation strategy. In addition, localities that will purchase development rights and negotiate easements for the

first time need training in the legal and procedural work, according to Bob Somers, chief of the agricultural protection unit in the Department of Agriculture and Markets. Some proposed easement documents were too restrictive on use of the land, he said.

Under three rating criteria provided in the department's request for proposals, all farms proposed to be protected must be "viable agricultural land" as defined in the state's agricultural districts law, which concentrates on evaluating development pressure to determine potential for long-term economically viable agricultural use. The second of the criteria calls for a focus on areas that are under development pressure, and the third calls for the land to "serve as a buffer for significant natural public resource containing important ecosystem or habitat characteristics."

### Orange County

The Orange County Agricultural and Farmland Protection Board was awarded \$900,000 for the purchase of development rights on selected farms. Director Maureen Maloney Robb said she is scheduling appraisers, finalizing documents,

*please turn to page 2*

Volume 7, Number 7

May 1997

### inside this issue ...

- Delaware program looks for adjustments, funding ..... p. 4
- Michigan nets its first applicants ..... p. 4
- Former Illinois tollway chief guilty of fraud ..... p. 4
- Maryland ranking methods under scrutiny ..... p. 6
- Legislative briefs ..... p. 6,7

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## New York program, and localities, learn the ropes of PDR

*continued from page 1*

and negotiating with towns to hold the easements.

"We want towns to hold the easements because it forces them to think about protecting that investment," Robb said.

The Orange County board was upset, however, when the state determined one of the farms would have to be dropped from the list because "it was characterized primarily as a commercial horse instructional operation," Robb said.

New York law doesn't classify horse riding facilities as production agriculture. Robb said, however, that the farm does raise and sell hay. Orange County also wants to use its own criteria for selecting farms.

Bob Somers said the Orange County proposal described the farm as a riding facility, so they couldn't recognize it as an agricultural operation. Presented a different way, describing the farm as a hay operation and a boarding facility, the state review would have a different result, he said.

Orange County is on the New Jersey border, is bound on the east by the Hudson River and includes West Point Military Academy. Its western portion includes Port Jervis on the Delaware River and Sparrow Bush, which has for several years been the location of an annual meeting of farmland preservation administrators hosted by the American Farmland Trust.

### Town of Amherst

Just outside Buffalo, the Town of Amherst is focusing on saving a block of 1,200 acres — almost all that remains of farmland within its borders. The state awarded Amherst with \$360,000, and with matching funds from the town already set aside, it might be enough to pay the expected \$6000 per acre for development rights.

John Whitney, director of the board for the Western New York Land Conservancy, which will be heading up the Amherst project, said talks with landowners are underway.

"We have a short list, though we remain cautious about implying certain parcels are highest priority," Whitney said the strategy will be to secure parcels currently held by speculators that are adjacent to working farms.

Preserving the town's remaining open space is the goal of the project, and retaining working farms is considered a bonus for the town's fiscal health. But zoning and infrastructure have all but assured intensive development: "suburban agriculture"

zoning allows one house per acre, and water and sewer is just a few miles from the project site, according to Whitney, although development pressure in the project area is less intense than it is elsewhere in the town. Bargain sales and donations will be encouraged.

"The town has historically viewed "suburban agriculture" as a holding pattern. Zoning amendments are routinely issued," Whitney said. But the Conservancy is optimistic about participation in the project.

"We're pretty much ready to roll," he said.

Town Councilman Bill Kindel said \$6000 per acre is workable when compared to values just a few miles away, where per-acre costs are in the \$20,000 range. Kindel said for every farm saved, the town understands dollars will also be saved, so that farmland preservation is seen as a bargain.

Amherst has 115,000 people and the remaining farms produce wheat, corn, potatoes, and nursery products.

### Suffolk County

While Suffolk County inaugurated the nation's first development rights program in 1974, it wasn't soon enough to save it from having some of the most expensive per-acre costs of all programs nationwide. Intense development pressure also resulted in fragmentation and subdivision of farms: the average size farm is 50 acres, and many preserved farms are just 10 to 15 acres.

But the program has concentrated on the "building block" approach, using a preservation strategy that puts farms contiguous to other preserved farms at the top of the priority list.

The Suffolk County program's most laudable characteristic is its tenacity: despite spending usually \$6000 to \$8000 per acre, and sometimes as much as \$20,000 per acre for easements, the county has stuck with the program, albeit with limited appropriations.

"That's the lesson everyone should learn from [our program]," said administrator Roy Fedelem. "You can buy it now or buy it later [at much higher cost]," he said. "We're allowed to offer up to the appraised easement value by county law, but developers are outbidding us."

This year costs will be just a bit easier to take: Suffolk County will receive a \$1.5 million grant from the state, and three of its towns will receive \$165,000 each.

*please continue to next page*

**New York program, from previous page**

Interest in the program "has been incredible," Fedelem said. Twenty farms comprising 1000 acres went before the farmland commission, with a price tag of \$6 million or more.

"We have a chance to preserve more blocks — and potential for 500 and 1000-acre blocks," Fedelem said. "In another 20 years we wouldn't have that opportunity."

**Washington County**

Along the border of southern Vermont, in the upper Hudson River Valley, Washington County is not yet feeling the development pressures of adjacent Saratoga County, New York's second-fastest growing county over the last 10 years. Planning is something that can be done with strategy in mind, with the aid of the Agricultural Stewardship Association, at work solely in Washington County since 1990.

With a population growth of about four percent, farmland loss in the county seems mostly "due to the older generation retiring, not development pressure," said Rob Brooks of the Washington County Department of Planning.

"One of the reasons we want PDR is we see development happening around us," he said.

With just \$69,000 from the state grants program, and matching funds, Brooks said they can probably purchase easements on two, and perhaps as many as four farms. "There are quite a few interested farm operations. Some want to reduce inheritance taxes," he said.

Although the county does not have an adopted land use plan, it was one of the first counties in the state to have a farmland protection plan under the 1992 Agricultural Protection Act. Completing a farmland protection plan became one of the requirements for eligibility under the state grants program and is the first step in confirming that a locality recognizes both the economic and the environmental benefits of agriculture.

"We recognize the importance of agriculture — it produces \$89 million in revenues. Our feeling is that this is our number one industry, and we don't have to bring in anything else," Brooks said.

Washington County's dairy industry supplies the Boston and New York markets. Average farm size is 185 acres, with most dairy herds of about 100 head. "The vast majority are family farms," Brooks said, although consolidation and land rental has become a trend. The county Board of Supervisors,

with representatives from each of the county's 17 towns, lend strong support to the program and are "generally well-informed," Brooks said.

**Town of Pittsford**

In early 1996 the Town of Pittsford in Monroe County published a full-color "Greenprint for the Future," an "action plan" written by town planner John Behan. It described the town's land resources, what was left of agricultural lands, and what could be done to retain them. More than just preserving land, the plan spoke of protecting family farms, "the livelihood of local families."

The conclusion was that protection of land resources made sense both environmentally and economically.

Publication of the Greenprint was followed by two public hearings. Several months later, town officials voted to authorize \$10 million to preserve seven farms, at a cost of about \$9000 per acre for about 1200 acres.

The town received a \$100,000 from the federal Farmland Protection Program last fall, and now will receive a \$400,000 state grant. Only about 3,500 acres of farmland remain in town boundaries.

**Bottom up has rough spots**

New York's program, which took its cue from local efforts, "is going to take a different path from programs that were top-down," said Jerry Cosgrove of the AFT.

One of the reasons the program has evolved the way it has, through local efforts spurring state assistance, is simply the size of New York, according to Cosgrove. Wide differences in land values, topography, and different perceptions on the issue of farmland loss, all add up to great variations in protection efforts. "It makes it a challenge to set up a state program. The standards will have to be very generic," he said.

The new state program set up a learning process more than anything else, according to Bob Somers, who is part of the team that reviews local proposals.

Local entities that negotiate and hold easements have some homework to do to match easement language to provisions in state law, he said.

"We will have to negotiate with [localities] about restrictions contained in the easements. Some of the language is contrary to provisions in the law. We can't fund something that runs contrary to the

New York**Rough the first time around***continued from page 3*

Ag Districts law," Somers said. The attorney general is reviewing the documentation.

Distributing the funds is also rough the first time around, according to Somers.

"Even though we made the awards, we're still in the beginning stages of how to award the money. It's a complicated process." Somers says the funding process will likely change in the next go-round, with awards being made after project selection is complete.

Contact: Jerry Cosgrove, (518) 581-0078; Bob Somers, (518) 457-2715; Maureen Maloney Robb, (914) 294-8080; Rob Brooks, (518) 746-2290; John Whitney, (716) 652-8480; Roy Fedelem, (516) 853-5111.

Delaware**Program adjusts to demand, administrative needs**

DOVER, DE – With the amount of funding it will receive uncertain, the Delaware Agricultural Land Preservation Foundation has extended the deadline for its current application cycle and postponed appraisal work until the state's budget has been adopted.

Delaware's program is also in the midst of amending its dwelling site allowances for district parcels, and is also looking for funding beyond its current appropriation. Funding from the program's original source, an escheat settlement between New Jersey and New York in 1995, is about to run out.

Gov. Thomas R. Carper has recommended \$7 million for farmland preservation in his FY 1998 budget, down from \$14 million last year. According to planning manager Michael McGrath, the reduction is due to "the rate at which funds are coming from New York state," from the escheat settlement that awarded \$220 million to Delaware, with \$40 million allotted to farmland protection.

McGrath said the level of funding won't be certain until June.

**etcetera ...****Michigan program nets 784 applicants in first round**

Lansing, MI – The first round of the Michigan farmland preservation program has netted a preliminary count of 784 farms applying to sell development rights, according to Rich Harlow, program manager of the Farmlands and Opens Space Unit of the Department of Natural Resources.

No total count was yet available on number of acres offered, but 33,000 acres had been logged, representing about one-third of the farms, as of press time.

"We were pleased," Harlow said. "The large number of applicants shows a strong interest in the program. We are logging them in, scoring them, and then we'll take them to the PDR review committee."

The program has \$12 million to spend, and has placed a cap of \$5000 per acre on development rights purchases. Further funding for the program has not been identified.

Under the scoring system set up by the PDR review committee, the most important criteria are soils, proximity to development, local farmland protection efforts, matching funds availability and other preserved lands in the vicinity (see FPR, Jan. 1997).

Harlow said he is not sure how the committee will spread selections statewide, but most likely will select a limited number per county.

Applications were received from 53 of Michigan's 83 counties. Particular counties saw more active participation. Counties around Lansing, Grand Rapids and Ann Arbor saw heaviest activity, with at least five counties having 40 or more applicants. The biggest player was Lenawee County, in the state's southeast, with 54 applicants.

Decisions are expected to be made by this fall. Each application is being treated as an individual request for funds forwarded to the state legislature for appropriation from the Purchase of Development Rights Fund. Contact: Rich Harlow, (517) 373-3328.

**Former Ill. tollway chief guilty of fraud**

Robert Hickman, former executive director of the Illinois State Toll Highway Authority, along with a

former state legislator and friend, were convicted in April of stealing \$240,000 in a phony real estate brokerage fee in a 1992 land deal. The two will be sentenced in June.

In a grand scheme that they viewed as nothing more than business as usual, Hickman and his long-time deal-making friend, former state Rep. Joseph Kotlarz, along with their attorneys, were so sure what they had done was routine consulting, they didn't even present evidence in their defense, according to a report in the Chicago Tribune.

Kotlarz was hired by Waste Management Inc. to use his influence with Hickman in the purchase of 12 acres adjacent to company headquarters and owned by the tollway authority. Kotlarz took on the assignment with gusto, bringing in an old friend who could act as broker and keep \$50,000 of the \$240,000 Kotlarz charged Waste Management for arranging the \$4.4 million land sale under Hickman's watch.

An account of the courtroom proceedings is an anatomy of cronyism. More than that, it reveals the intricate and powerful relationship between business interests and a development industry machine arrogantly feeding on the conversion of farmland and the splitting apart of communities in Chicago's collar counties.

The most telling testimony by a line-up of lawyers and witnesses was that it had all come about through routine goings-on, like tollway construction contracts being signed without being read, \$300 lunches being consumed while consultants were being paid \$180 to eat them; golf outings for friends who lined up for more consulting work.

Meanwhile, as Hickman and Kotlarz await sentencing, a group that opposes the newer, cleaner, tollway authority's extension of I-355 through rural Will County, have gained a vivid understanding of the inner workings of the agency that plans to push a second leg of the extension farther out into the rural regions to eventually reach a proposed airport site.

State transportation officials evidently want to help create the need for the second leg of the extension: they recently announced they will hire a firm to promote the airport as a financial boon to private investors who should set their sights on Peotone, a small town in rural Will County, and the light at the end of the tunnel for the proposed I-355 extension.

Thousands of acres of farmland are up for grabs—even if all the dealings are on the up and up.

### District dwelling allowances

The Foundation is attempting, for the second time, to simplify rules allowing for residential use on district properties. Under current law, limitations are placed on who can live on the farm (relative or farm worker) and on the amount of land that can be used for residential purposes — capped at one acre for residential use per 20 acres owned, up to 10 units.

The "who" factor has been difficult to enforce, said Stewart McKenzie, and "imposes hardships on farm family members who are compelled or wish to leave the farm for various reasons." And, the acreage limitation factor has been difficult to administer. "It has created an administrative burden of excluding several dwellings and acres from the district applications," McKenzie said.

To make things easier administratively, as well as simplify matters for district landowners, the Foundation is proposing to replace the relative/farm worker requirement with a cap on how many dwellings are allowed. The current proposal is for three residential allowances.

The amendment would retain the acreage limitation of no more than one acre for every 20 usable acres owned, not to exceed 10 acres. A 60-acre farm, for example, would be allowed three dwellings to cover no more than three acres.

Under the current rule, if local zoning allows one-acre lots, a 200-acre district farm would be allowed 10 dwellings.

"Now, all we do is regulate the acreage used," said McKenzie. "[The amendment] would limit the number of homes as well."

### Funding

While the governor has only recommended \$7 million for the program, a coalition of open space, parks and farmland protection advocates will request the full \$14 million — all that remains of the legislature's allocation to farmland protection from the escheat funds.

Future funding sources being explored include a portion of a proposed 4-cent gasoline tax, a portion of the state's cigarette tax, tapping of slot machine proceeds, a bond issue, and an additional real estate transfer tax on open land and new homes. Such a tax, at one percent, would generate \$11 to \$13 million annually.

The Delaware program was established in 1991, but was not funded for the purchase of development rights until 1995.

Contact: Stewart McKenzie, (302) 739-4811.

Bidding wars**Maryland ranking method scrutinized**

ANNAPOLIS, MD — While no consensus has been reached on how to fix it, program administrators, as well as policymakers, agree the Maryland program's competitive bidding system places too much emphasis on saving money, and not enough on saving the best quality farmland.

Under competitive bidding, the Maryland Agricultural Lands Preservation Foundation pays the landowner's asking price, or, the easement value determined by a formula, whichever is lower. The Foundation selects the lowest cost farms from a county's package of applicants. Often, those picks are not what the county Agricultural Advisory Board or administrator feel are the best farms in terms of soil quality or commercial productivity.

"The weakness is, we don't always get the best farms," said Foundation Board of Trustees chairman Wayne McGinnis. "The strength is, we can make the dollar go further."

McGinnis, a Baltimore County farmer, said counties have the ability to "weed out" less attractive farms when they determine which applications to forward to the state. McGinnis said he would like to see a new system that in some way combines a county's own prioritization with a selection process that considers the cost. Such a system, he said, will result in the top-ranking farmers bidding high. The question will be, are good farms worth the higher cost?

"That's what has to be weighed," McGinnis said.

It is in McGinnis' home county where the competitive bidding system has spawned dramatic results. In the early 1980's, according to former Baltimore County program administrator Jeremy Criss, a major point of contention was that wealthy horse breeders were "out bidding" traditional commercial farmers who couldn't afford to discount as low. Preservation was in danger of being perceived — and was perceived by some — as a program for the wealthy, a problem also in parts of neighboring Harford County.

"It created a whole discussion — does it cater to horse farms? Should we keep them out? It's a complicated issue that's not easy to resolve," Criss said.

Despite the validity of Baltimore County's low bid problem, in Montgomery County, where Criss has served as program director since Dec. 1988, competitive bidding has saved the county \$805,000 over seven years. If saving money was the only concern, the system does work, he said.

Wally Lippincott, administrator for the Baltimore County program, said the county's wide variation in land values has created an imbalance that's unfair to traditional farm operations in some parts of the county.

"You take these ratios that are 50 percent, such as an appraised value of \$4000 per acre and an asking price of \$2000 per acre, and you've got a bargain. But that shouldn't be the sole determinant. That's not using [the board's] expertise as farmers," Lippincott said.

That local administrators or boards have no input after the ap-

## legislative and program briefs ...

**In Maryland ...** Harford County's proposed budget contains \$750,000 to boost the county-operated purchase of development rights program, which is funded through a real estate transfer tax. The annual \$2 million the tax generates is now only enough to cover the costs of installment purchase agreements to date. In Baltimore County, former county planning director Jack Dillon is set to take the helm of the Valleys Planning Council May 15. Departing director John Bernstein will head the Maryland Environmental Trust effective June 1.

**In Minnesota...** The legislature approved \$215,000 for a study on the state's farmland protection programs. Included in the study will be an analysis of the cost of public services, comparing sprawl development to compact development, according to Bob Patton of the state department of agriculture (612-296-5226).

Legislation to create statewide land use planning is now being considered in finance committees. One bill provides for voluntary planning with state goals and oversight, and an advisory committee. The governor has taken no position. Another bill clarifies local authority to purchase development rights.

**In Delaware ...** HB 195, introduced April 24, and not supported by the Foundation, would change the program's definition of farmland to exclude marshland or tidal marsh. This would result in such lands being excluded from easements, although the acreage could be counted for easement eligibility.

**In Oregon ...** The governor has proposed a transportation program that would place a transportation "access fee" of \$2 per month on households and businesses that would be collected through electric bills, to be used for public transit and "liveable communities" improvements. An increase in the

gasoline tax is also proposed that would be used for highway improvements, according to Bob Cortright, a land use and transportation planner for the state department of transportation (503-373-0084).

**In Virginia ...** Gov. George Allen signed the Open Space Lands Preservation Trust Fund Act, which will provide \$225,000 for easement purchases and reimbursement to landowners for costs incurred in conveying a conservation easement such as appraisals and legal fees. While the small fund can be used to purchase easements, it is more likely it will be used to offset the costs of donors, said Tim Lindstrom of the Piedmont Environmental Council. "It's really a shot in the arm for the state's easement program," Lindstrom said, referring to the work of the Virginia Outdoors Foundation, a state commission that recently reached the 100,000-acre mark for lands under conservation easement in the state. The new law authorizes local governments and soil and water conservation districts to hold easements.

**In New York ...** The American Farmland Trust and the Open Space Institute are working to protect a 1000-acre parcel in the viewshed of Saratoga Battlefield in Washington County, which recently began a farmland protection program (see story this issue). The parcel includes over 2000 feet of Hudson River footage and river bottom farmland. The farmland will be preserved for ag use, and the river frontage will provide public access.

An effort at Cornell University, with AFT, has produced a farmland protection "action kit" that includes videos on topics such as agriculture and the environment, neighbor relations and planning efforts. Contact: Nelson Bills, (607) 255-7734.

**In Congress...** The American Farm and Ranch Protection Act has been introduced in the Senate as S. 499 by Sen. John Chafee. On the House side, eight new sponsors have signed onto H.R. 195, the companion bill. The estate tax relief issue has gotten national print and broadcast media coverage in recent months.

**Maryland program, from preceding page**

praisal process is a key fault of the current system, according to Lippincott, who said the process should consider a county's priority ranking for soils or other factors, the fair market appraised value paired with the asking price, and the agricultural value. Lippincott believes there must be room for some subjectivity.

"I don't think you can take human decision out of it," he said.

State program director Paul Schiedt said he has been concerned about the results of competitive bidding for years, and that he believes counties should be able to prioritize their farms "so they can build on preservation areas or concentrate on development pressure." The downside, he said, is that top-ranking landowners are going to ask for the full appraised easement value.

"You're going to pay the highest price. But if you've got good quality farmland, you should be willing to pay more for that land. We need to decide — are we buying development rights or conservation easements for the continued production of food and fiber?"

Schiedt proposed two ranking methods to the Foundation last January. The first would allow counties to prioritize farms in round one, with round two offer rankings done by the state. Under the second proposal, counties would prioritize applicants using their own method, while the state would prioritize using the existing ratio system. Then, the two resulting lists would be averaged using the appropriate ranking number of each list to determine a final list for making offers.

According to McGinnis, half of those queried last year wanted to keep the current system. Many counties, however, want to do their own prioritizing.

Harford County, with an active local program and a track record for innovation, wants to do its own ranking for state program applicants, but also doesn't want to pay top dollar, according to administrator Bill Amoss Jr. Amoss favors a combination of price and farm quality considerations.

Carroll County has been satisfied with competitive bidding, despite some criticism, according to administrator Bill Powel.

"I believe competitive bidding works. This debate has gone on a lot here in the county. Certainly some farms are better than others, but can we put in a point system capable of determining that?"

Most administrators agree a single formula-based system for the state would be impractical, given the wide variations in regional agriculture and topography.

While he and his board are satisfied with competitive bidding, Powel support counties having a choice in methods.

"I think it's fine that counties be given more leeway in determining which farms they want, as long as we can continue with competitive bidding."

That proposal is on the table, "but we haven't acted," said Wayne McGinnis. "I imagine we more or less would like to have a consensus. We have to have a strong enough reason to make a change." Contact: Paul Schiedt, (410) 841-5860.

## resources ...

### JOB ANNOUNCEMENT

**Montgomery County, Md:** Planning Specialist III (Farmland Preservation Administrator) Work with Jeremy Criss, Chief, Agricultural Services Division. Position has responsibility for the county's farmland preservation programs. Experience required in administration of county level ag programs; ag statistics; use of regulations, zoning codes, master plans and real estate and tax laws related to farming; excellent communication skills. Salary: \$35,466 to \$58,746. Closing date: June 4. Call (301) 217-2240 for application or send resume to Office of Human Resources, 101 Monroe St., 7th Flr, Rockville MD 20850. Announcement # 4403702 - O

### BOOKS

#### 20% DISCOUNT FOR FPR SUBSCRIBERS

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Tom Daniels and Deborah Bowers  
Island Press, April 1997, 334 pp.  
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Written for professionals as well as the layperson, *Holding Our Ground* provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture — why farmland preservation has come about and why localities need to act to prevent fiscal drift. Serves as a how-to for the newly initiated, as well as a reference for the well-versed — it contains dozens of figures, tables, and appendixes. **DISCOUNT TO FPR SUBSCRIBERS — ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.**

**Preserving Family Lands: Book II -  
More Strategies for the Future**  
By Stephen J. Small  
Landowner Planning Center, 120 pp.  
\$14.95

This new book is not another revised edition of *Preserving Family Lands*, first published in 1988, and a best seller in the conservation field with over 75,000 copies sold. Like the first book, it is the number one how-to book on avoiding estate taxes and saving the family farm. But this new work covers a broader range of issues and techniques. It begins by providing a good long look at conservation easements (the donated kind) and the tax benefits that can arise from them. It continues on to other considerations in estate planning, including life insurance, charitable remainder trusts, private foundations and gifts by will. It covers the use of limited partnerships, corporations ("Never, never, never put family land in a corporation") limited liability companies, living trusts, etc. Three substantive and helpful examples of family estates and their plans are provided. Only one basic conclusion can be drawn from this vitally important work: if you don't plan for your land, Uncle Sam will. Send check for \$14.95 (includes p& h) to: Preserving Family Lands, P.O. Box 2242, Boston MA 02107. MA residents add 5% sales tax.

### PUBLICATIONS

**Risks and Rewards of Brownfield  
Development**  
By James G. Wright  
Lincoln Institute of Land Policy, 32 pp.  
\$14

What is the relationship between revitalizing brownfields and protecting or developing greenfields on the urban fringe? This illustrated report released in April presents a comprehensive review of the facts and the issues as well as case studies of sites in major cities. To order, call 800/526-3873, or 617-661-3016 from outside the U.S. Email:

help@lincolninst.edu

### CONFERENCES, WORKSHOPS

**May 11 - 14, Baltimore MD:** "O, Say Can You See... Leadership for a Scenic Century" sponsored by Scenic America. Workshop session topics include rural conservation, community development, sign control, scenic byways and highway design. Feature speaker: Charles Kuralt. Plenary speakers include former Houston mayor Kathy Whitmire and community planner Tony Neleson. For conference information: call 202 833-4300. Email: Scenica@soho.ios.com

**June 2 - 13, Burlington VT:** Summer Land Conservation Program  
University of Vermont, Natural Areas Center  
Program consists of six short courses, workshops, and field trips for students, professionals and others in regional land conservation work. Program offerings are scheduled on weekdays from June 2 to June 13. Fees for each workshop are from \$50 to \$115, which includes materials and transportation to field trip sites. Does not include meals or lodging. For listing of workshops, call (802) 656-4055 or see Web Site at [www.uvm.edu/~envprog/](http://www.uvm.edu/~envprog/) Click on Natural Areas Center. Register by May 25.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## HARFORD, YORK COUNTIES SHUFFLE RANKING

### Nationwide survey finds 150 localities with PDR activity

A survey conducted by *Farmland Preservation Report* over the last month has found about 150 localities in the United States where farmers are selling development rights in farmland preservation programs and initiatives that use public funds.

That number will increase when Michigan makes selections from the more than 750 farms that have applied to sell development rights in that state's new program. Farmers in 53 Michigan counties responded to the opportunity to retire the development potential of their land.

The survey revealed a new line-up for the nation's Top 10 locally administered programs, with Harford County, Maryland making the nation's most substantial gain in preserved acreage since FPR's last survey in July 1996. The county's locally-funded and administered program made good on offers to purchase development rights on 5,639 acres over the last 12 months, leaving the number eight slot and ascending to fifth place.

Other significant gains were made by Lancaster County, Pa., and Carroll County, Md., which edged by Marin County, Ca. to take the number two spot. Lancaster holds its fourth-place ranking, but only by keeping ahead of Harford.

The Harford County local program began purchasing development rights in 1993, offering farmers tax-free installment payments over 20 years, ending with payment of the principal. Wide popularity of the installment method, plus the substantial added incentive of property tax abatement has kept the program the nation's most active since its inception. The program has been supported by a local real estate transfer tax passed by

*please turn to page 6*

#### Nation's Top 10 Counties

1) Montgomery (MD)	45,775
2) Carroll (MD)	25,543
3) Marin (CA)	25,504
4) Lancaster (PA)	24,232
5) Harford (MD)	22,500
6) Sonoma (CA)	21,162
7) Caroline (MD)	19,198
8) Howard (MD)	17,473
9) Baltimore (MD)	12,383
10) York (PA)	11,139

#### Other top programs

Frederick (MD)	11,067
Calvert (MD)	11,032
Queen Anne's (MD)	10,332
Burlington (NJ)	9,506

\* Rated by number of acres permanently preserved through purchase of development rights (PDR) programs administered and at least partly funded at the local level. See accompanying article.

Volume 7, Number 8

June 1997

#### inside this issue ...

Localities with public-dollar PDR .....	pages 2 - 5
Supreme Court rules woman can sue to build .....	p. 7
NRCS announces \$2 million RFP .....	p. 7
Legislative & program briefs .....	p. 6

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## Localities nationwide with public-dollar PDR activity

**MARYLAND: State program began 1977. 128,000 acres preserved. State funds spent: \$140.6 million.**

COUNTY	ACRES PRESERVED*	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	AVG COST /ACRE, FY96**	VALUE OF SALES***
Montgomery †	45,775	n/a	82,470	316,527	26	n/a	27,717
Carroll†	25,543	201	157,505	287,458	55	1,817	66,966
Harford†	22,500	112	97,312	281,839	35	2,426	28,735
Caroline	19,198	138	126,981	204,898	62	534	85,053
Howard†	17,473	n/a	44,623	161,394	28	n/a	18,949
Baltimore†	12,383	113	83,232	383,095	22	4,049	40,611
Frederick†	11,067	63	222,768	424,283	53	n/a	109,197
Calvert†	11,032	n/a	37,320	137,725	27	1,099	6,795
Queen Anne's	10,332	54	165,349	238,229	69	2,049	55,172
Cecil	5,639	65	80,241	222,824	36	1,437	35,504
Kent	5,573	31	131,283	178,843	73	938	54,479
Anne Arundel†	5,115	n/a	43,320	266,210	16	3,265	11,234
Washington†	4,850	23	123,932	292,223	42	1,607	58,341
Wicomico	3,667	27	91,254	241,415	38	526	164,682
Garrett	3,403	22	110,699	414,812	27	n/a	20,437
Talbot	2,953	15	109,108	172,277	63	745	35,501
Dorchester	2,927	13	123,762	356,855	35	1,061	64,089
St. Mary's†	2,179	14	77,491	231,225	34	2,476	16,349
Somerset	2,070	12	55,657	209,424	27	397	102,881
Worcester	787	5	107,519	302,879	36	328	131,302
Charles†	676	3	59,389	295,095	20	n/a	9,939

Note: State program administered at both state and local level. † denotes counties with state-certified local programs in addition to state program operation. Not all local programs are funded. \* Acres include those preserved through local programs, where operating. May include offers not settled. \*\*Average cost per acre is final payment, usually lower than easement value due to competitive bidding by landowners. Average statewide cost per acre, FY96: \$1537; historic: \$1100. \*\*\*USDA 1992 figures, in millions. Studies performed by localities often show substantially higher values by using data USDA excludes. Most of Montgomery acres preserved through TDR. Howard not currently purchasing easements.

**PENNSYLVANIA: Program began 1989. 94,283 acres preserved. State funds spent to date: \$156 million**

COUNTY	ACRES PRESERVED*	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	AVG COST /ACRE**	VALUE OF SALES***
Lancaster†	24,232	290	388,368	607,443	64	1,400	680,867
York	11,139	43	252,052	578,964	44	1,368	120,068
Berks	8,721	69	221,981	549,901	40	1,890	237,695
Chester†	8,439	86	176,643	483,848	37	4,060	282,566
Adams	5,860	38	172,366	332,834	52	1,531	123,700
Lehigh	5,732	51	82,982	221,869	37	2,341	42,640
Cumberland	3,796	29	141,919	352,115	40	2,021	75,633
Lycoming	2,837	18	132,999	790,354	17	908	38,843
Montgomery	2,721	31	44,425	309,212	14	5,676	27,714
Schuylkill	2,717	21	89,045	498,308	18	998	42,554
Dauphin	2,541	23	90,298	336,207	27	1,273	49,405
Mercer	2,383	15	160,802	429,992	37	585	41,092
Bucks	2,360	27	76,790	388,892	20	5,517	61,812
Wayne	2,260	13	121,907	466,792	26	1,095	26,137
Westmoreland	2,252	16	153,897	654,446	24	2,003	38,614
Northampton	2,235	11	81,479	239,265	34	2,186	29,356

## farmland preservation report

**PENNSYLVANIA (continued)**

COUNTY	ACRES PRESERVED*	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	AVG COST /ACRE	VALUE OF SALES***
Lebanon	1,884	16	104,519	231,560	45	1,681	131,837
Centre	2,095	11	139,918	708,871	20	1,007	44,772
Susquehanna	1,833	7	177,215	526,723	34	590	42,073
Union	1,662	12	63,159	202,723	31	954	37,404
Franklin	1,589	12	234,391	494,061	47	1,452	168,546
Monroe	1,473	19	20,777	388,690	5	2,365	4,038
Blair	1,393	8	76,466	336,534	23	633	41,703
Erie	700	7	167,863	513,276	33	1,690	64,948
Lackawanna	643	7	36,963	293,627	13	1,547	11,441
Perry	620	3	104,292	354,282	29	604	40,509
Snyder	494	4	87,253	211,985	41	800	55,582
Columbia	351	4	101,816	310,766	33	979	28,481
Clinton	289	3	39,412	570,171	7	890	17,081
Butler	255	2	129,323	504,696	26	2,115	28,259
Delaware	198	2	5,095	117,904	4	13,527	6,943
Carbon	180	2	19,026	244,842	8	1,566	5,283
Mifflin	174	1	81,426	262,857	31	550	46,695
Lawrence	151	2	86,402	230,712	38	875	23,983
Washington	143	1	203,026	548,571	37	1,761	26,952
Northumberland	90	1	109,438	294,355	37	709	51,307
Montour	39	1	41,347	83,684	49	1,051	12,629

Note: Program administered at both state and local levels. † denotes counties operating local programs in addition to state program. \*\*USDA 1992 figures in millions. See note under Maryland. \*\* Actual statewide cost per acre: \$1,707. Of 42 participating counties, 35 commit local funds.

**NEW JERSEY: Began 1984. Acres preserved: 55,285 on 225 farms. State funds spent: \$120.3 million.\***

COUNTY	ACRES PRESERVED	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	AVG COST /ACRE	VALUE OF SALES**
Burlington	9,506	55	97,186	515,052	19	4,495	64,563
Salem	6,664	30	98,256	216,222	45	1,662	54,435
Hunterdon	6,148	43	106,324	275,261	39	5,484	26,206
Monmouth	6,053	41	58,578	301,993	20	5,993	50,945
Cumberland	4,989	30	68,627	313,163	22	2,067	72,993
Warren	3,941	25	87,638	229,065	38	4,266	39,929
Sussex	3,397	17	75,531	333,594	23	3,244	19,763
Gloucester	2,313	18	61,748	207,913	30	2,186	54,575
Morris	2,308	23	23,915	300,209	8	11,686	17,660
Middlesex	2,169	19	25,011	198,803	13	10,027	23,518
Somerset	2,145	20	43,989	195,025	23	9,168	12,644
Mercer	2,050	25	35,786	144,613	25	6,474	15,879
Ocean	1,949	14	10,365	407,262	3	2,869	5,046
Cape May	1,463	16	11,644	163,338	7	1,726	5,614
Atlantic	190	1	29,606	359,138	8	1,085	43,444

Note: Program administered at both state and local levels. \*Total bond fund expenditures as of 4-30-97. \*\*USDA 1992 figures in millions. Average cost per acre, statewide: \$4,839.

*continue to next page*

## Localities nationwide with public-dollar PDR activity

**MASSACHUSETTS: Began 1977. Acres preserved: 39,638 on 436 farms. Funds spent: \$92.6 million.**

COUNTY	ACRES PRESERVED	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	AVG COST /ACRE	VALUE OF SALES*
Worcester	11,841	94	114,805	968,424	12	2,097	49,636
Hampshire	7,349	93	53,459	338,578	16	2,057	24,794
Franklin	5,541	78	74,484	449,373	17	2,491	30,028
Berkshire	4,720	30	60,980	596,082	10	1,607	17,967
Bristol	2,771	35	34,235	355,864	10	4,341	29,614
Essex	2,494	31	25,470	318,764	8	5,459	17,769
Hampden	1,651	20	37,477	395,851	10	1,521	18,947
Middlesex	1,444	30	31,583	527,069	6	6,051	44,882
Plymouth	813	8	72,247	422,775	17	2,507	95,756
Norfolk	462	5	9,882	255,746	4	1,697	8,928
Dukes	264	6	5,757	66,445	9	10,331	849
Barnstable	262	3	5,340	253,287	2	3,779	8,700
Nantucket	25	1	n/a	30,580	n/a	n/a	n/a

Note: Massachusetts program administered at state level only. \* USDA 1992 figures in millions.

**CONNECTICUT: Began 1978. Acres preserved: 25,420., on 169 farms. Funds spent to date: \$74.6 million**

COUNTY	ACRES PRESERVED	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	AVG COST /ACRE	VALUE OF SALES*
New London	6,252	35	65,987	426,290	16		97,687
Litchfield	6,000	42	86,581	588,804	15	\$2500	30,086
Windham	5,515	36	55,263	328,192	17	-\$3000	33,770
Tolland	3,040	20	38,715	262,454	15	statewide	21,429
Hartford	2,354	21	56,510	470,719	12		90,845
Middlesex	1,434	10	19,830	236,341	8		22,274
New Haven	688	6	25,882	387,707	7		32,175
Fairfield	200	2	9,975	400,546	2		8,717

Note: Connecticut program administered at state level only. \* USDA 1992 figures in millions.

**DELAWARE: Began 1996. Acres preserved: 15,479, on 65 farms. Funds spent to date: \$17.8 million**

COUNTY	ACRES PRESERVED	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	COST /ACRE FY97*	VALUE OF SALES**
Kent	9,233	37	197,375	378,022	52	858	111,769
Sussex	4,265	19	304,680	600,101	51	1,395	407,707
New Castle	2,251	9	87,134	272,831	32	1,790	40,289

Note: \*Delaware costs per acre are actual costs. Statewide actual cost per acre is \$1153. \*\* USDA 1992 figures in millions.

### About this table

This table shows in what localities the purchase of development rights is occurring using local, state and/or federal dollars. It uses data provided by states, localities and the USDA. We wish to thank Marlow Vesterby of the USDA Economic Research Service for providing data from the 1992 Agricultural Census in a tabulation for selected states.

State program activity in California (four localities) and Michigan is preliminary and not included. Kentucky state program not yet active. Approximately eight localities in other states where funds have been allocated but where no activity could be confirmed, are not listed.

## farmland preservation report

**VERMONT: Began 1987. Acres preserved: 65,935 on 192 farms. Funds spent to date: \$32 million.\***

COUNTY	ACRES PRESERVED	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	COST PER ACRE	VALUE OF SALES**
Addison	17,896	46	209,677	492,825	43	Statewide cost per acre: \$700	93,598
Franklin	14,661	44	203,503	407,731	50		94,107
Orleans	8,176	22	149,503	446,001	34		54,845
Windsor	3,603	10	89,785	621,645	14		13,017
Washington	3,543	12	58,891	441,324	13		12,756
Caledonia	3,469	12	96,704	416,615	23		24,572
Rutland	2,861	8	132,674	596,597	22		27,347
Chittenden	2,658	6	82,849	344,933	24		21,306
Orange	2,648	12	93,364	440,791	21		24,760
Essex	1,857	2	17,710	425,783	4		5,907
Bennington	1,495	5	33,682	432,844	8	6,685	
Grand Isle	1,427	6	24,848	52,882	47	8,765	
Lamoille	999	3	41,348	294,781	14	13,503	
Windham	642	4	43,987	504,819	9	14,086	

Note: Vermont program administered from state level only. \* Figure excludes private assistance to the Vermont Land Trust, which performs easement acquisition with grant funding through the Vermont Housing and Conservation Board. Majority of acres with public funds, including federal. State funding derived from a dedicated portion of the property transfer tax and capital bond funds. \*\*USDA 1992 figures in millions.

**NEW YORK: Began 1997. Acres preserved: No purchases completed. Funds allocated: \$3.7 million.\***

COUNTY/TOWN	ACRES PRESERVED	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	COST PER ACRE	VALUE OF SALES**
Suffolk	7,641	65 - 75	35,353	583,189	6	6,627	133,762
Town/Southampton	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Town/Southold	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Town/East Hampton	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Town of Pittsford	1,200	n/a	3,600	15,360	23	8,250	n/a
Orange	n/a	7	102,733	522,479	20	n/a	74,644
Town of Amherst	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Washington	n/a	n/a	205,954	534,743	39	n/a	81,263

Note: Program operates through grants to localities. Easement acquisition may be carried out by nonprofits. \* Does not include local funds spent by Suffolk Co. and towns of Southampton, Southold and East Hampton from 1974 to 1996. Town of Pittsford allocated \$9.9 million for preserving 1,200 acres. Other localities were awarded state funds Spring 1997 for proposed projects. USDA data not available for towns. \*\* In millions.

**OTHER STATES: Local activity in CA, MI, WA, VA, CO, WI, RI, NC**

COUNTY/TOWN*	ACRES PRESERVED	# FARMS	LAND IN FARMS	TOTAL LAND AREA	% IN FARMS	COST PER ACRE	VALUE OF SALES**
Sonoma Co. CA	21,162	54	550,000	1,008,640	54	1,458	280.8
Marin Co. CA	25,504	38	165,000	264,000		666	42.1
Virginia Beach, VA	3,046	9					
Routt Co., CO	n/a	n/a					
Town of Dunn, WI	174	1				1,431	
Thurston Co. WA	0	0					
Peninsula Twp MI	850	13				3,176	
Rhode Island	215	4	49,601	668,793	13	9,958	39.5
4 towns							
Forsyth Co., NC	n/a						

\* Sonoma operates local program with 1/4-cent sales tax. Marin Agricultural Land Trust currently without funds for easement acquisition. City of Virginia Beach funded through a dedicated 1.5 cent on property tax. In Fall 96 Routt Co. voters approved a 1-mill property tax increase, and voters in Dunn, WI approved a .50-mill property tax increase to fund PDR. California state program began spring 1997. \*\* USDA figures, in millions. Does not include wine industry in Sonoma, which would put the county's ag value at \$3 billion.

## "Top 10" earmark funds, rack up acres

*continued from page 1*

two-thirds of county voters in 1992.

Revenue from that tax, however, has quickly become tied up as the dedicated source for financing installment purchases already committed. To shore up the deficiency, the county recently earmarked \$750,000 from its general fund, an allocation that will have to be repeated if the program is to clear its backlog of over 60 applicants.

Other counties that have committed substantial funds to local programs are Lancaster County, Carroll County, and Burlington County, NJ.

Lancaster County commissioners committed \$4 million over the next several years to its popular program, which preserved more than 2,200 acres over the last year. Carroll County's FY '97 budget appropriated \$2.8 million for farmland preservation.

In Burlington County, a voter-approved property tax increase will begin to net an annual \$4 million for the county's program beginning in August. Last year Burlington spent \$3.5 million on development rights and gained 1,323 acres.

While the amount of committed funds in Burlington seems substantial, the proof will be in the pudding: average cost per acre in Burlington is \$4,495, more than double the average in Carroll County, and more than three times the average in Lancaster, where soils and agricultural commitment are a nationally recognized premium.

It's no surprise that Montgomery County, Md., still leads the nation in farmland preservation through its unique, mandatory transfer of development rights (TDR) program established with much political fortitude in 1980. In addition to TDR the county operates a local purchase of development rights program and serves its urban farmers with a full-time ag economic development program.

Sonoma County, Ca., which made the headliner news last year for its fast-lane gains in preserved acres, was overtaken by Harford County in this year's ranking, and now takes sixth place with just 162 additional acres. Three Maryland counties – Caroline, Howard, and Baltimore, and York County, Pa., round out the remaining top 10. York County enters the Top 10 for the first time, bumping Queen Anne's County, Md., off the list, but just edging by Frederick and Calvert counties, solid "runners-up." Just 35 acres separate Calvert and Frederick.

This year's survey, the first complete survey of all known localities where PDR is operating, includes New England states, where programs are administered at the state level, and local government is structured differently. County governments in Massachusetts, Connecticut and Vermont do not contribute funding to the state preservation efforts. If the survey were measuring landowner participation by locality instead of local government commitment, two counties in Vermont would place in the nation's Top 10 for preservation activity. Addison County landowners have preserved 17,896 acres and Franklin Countians have preserved 14,661 acres. Worcester County, Ma., would be a solid runners-up with 11,841 acres preserved.

Burlington County, NJ, retains its "up-and-coming" status, gaining 1,323 acres since July 1996 and promising to make substantial gains in the coming year with its new dedicated funding.

### legislative and program briefs ...

**In Pennsylvania ...** Bucks County passed a bond referendum by a wide majority that will provide \$59 million for open space and farmland preservation.

Gov. Tom Ridge has nominated Samuel Hayes Jr. of Huntingdon County to become Agriculture Secretary, replacing Charles C. Brosius, who announced his resignation in April. ... The Department of Agriculture now has a web page at: [www.state.pa.us/PA\\_Exec/Agriculture/](http://www.state.pa.us/PA_Exec/Agriculture/)

The Bureau of Farmland Protection is preparing standard documentation related to the installment purchase of development rights to assist localities that are considering use of the method.

**In Maryland ...** St. Mary's County will likely establish a 100% tax credit on land farmers enroll in a five-year agricultural district. The tax credit would also extend to \$40,000 of assessed value of agricultural improvements, such as barns, but not of residential structures.

In Harford County, emergency legislation has been introduced that will extend indefinitely a 50% tax credit for ag district properties that began in 1990. The tax credit is in exchange for restriction on development required of ag districts in the state program. Continuation of the credit, which had been set at seven years and was due to end, will not require new five-year agreements, and can be terminated at any time with reimbursement of three years credit. Passage of the bill will affect about 40 properties, some of which have never applied to sell easements. The credit applies to the assessed value of land and residence.

The Department of Planning and Zoning has recommended approval of about 24 percent of more than 400 requests for zoning changes, the majority for greater intensity residential development. The county Planning Advisory Board opposed many of the recommendations. The County Council will review

the rezoning requests this fall.

**In Washington ...** Thurston County's specially targeted PDR program received applications from eight landowners with 19 properties comprising 950 acres.

Offers will be made by July 30. The county's TDR program is not yet active.

**In North Carolina ...** The Piedmont Land Conservancy will purchase development rights from a farm with the aid of a grant from the federal Farmland Protection Program sometime this year, according to director Kathleen Tremor.

**In Virginia ...** Gov. George Allen and a prominent northern Virginia developer are pushing for a \$1.5 billion highway that will provide a western bypass for Washington, D.C. The Washington Airports Task Force, a promoter for Dulles International Airport, say the airport needs better access from the south. Major environmental groups oppose the road, saying it will cut through Piedmont countryside and spur sprawl.

**In Georgia ...** An effort in Carroll County, west of Atlanta, will be the state's first farmland preservation initiative, according to Chris Petty of the Chattahoochee/Flint Regional Development Center. The center recently received a grant from the state's Department of Community Development to pursue a farmland protection plan. Petty: (706) 675-6721 x 125.

**USDA ...** USDA has invited farmers in nearby states to participate in a farmers' market held on Fridays in the parking lot at USDA headquarters. Contact Lee Powell at (202) 720-8219.

**In Congress...** The American Farm and Ranch Protection Act will see committee action this month. The House Ways and Means Committee is scheduled to act on H.R. 195 on June 9, and the Senate Finance Committee will act on S. 499 on June 23. The Act will provide estate tax relief for landowners who donate conservation easements.

HR 1135, recently introduced, would expand the boundaries of Pt. Reyes National Seashore in Marin County, providing a possible source of funds for the Marin Agricultural Land Trust (MALT), according to MALT director Bob Berner.

## etcetera ...

### Supreme Court: lot owner can go to court

A transferable development rights program at Lake Tahoe has escaped invalidation by the U.S. Supreme Court, but a woman who claims the program resulted in a taking of her undeveloped lot has the right to sue following the high court's ruling May 27.

An attorney for the Tahoe Regional Planning Agency (TRPA), which has administered a development right transfer program since 1987, said the court's ruling is a victory for the program because the constitutionality of its regulations were not addressed.

The court ruled only on whether lot owner Bernadine Suitum's takings claim was ready to be heard. Two lower court rulings had concluded that since Suitum's development rights had not been sold, no economic impact had been determined, therefore no ruling could be made on whether a taking had occurred.

"Our position is that there was no taking, and the Supreme Court did not rule on that issue," said TRPA attorney Rochelle Nicolle.

The transfer program was devised 10 years ago by The California Tahoe Conservancy in agreement with the Tahoe Regional Planning Agency. Development rights are allocated based on the number of points a project receives under a scoring system. Points are given for transfer and retirement of parcels and existing development, with more points given for transfers from sensitive parcels. The agency removes structures, pavements, and facilities from sensitive sites, restoring soils and vegetation with the goal of improving water quality in Lake Tahoe.

The agency's innovative program also regulates tourist accommodation units and commercial floor area rights. For more information on the Lake Tahoe program, contact Pam Drum, (702) 588-4547.

### July deadline set for \$2 million in FPP

Washington, D.C. — Some state farmland protection administrators say all the paperwork isn't worth the trouble to compete for just \$1.92 million in federal assistance, but that's all that's being offered in the FY 1997 Farmland Protection Program, according to Carl Bouchard of the Natural Resources Conservation Service.

State NRCS offices must receive proposals by July 14. Special requirements are in effect for 1997. Having other funding sources and combining natural resource values will be key, according to the Request for Proposals published in the Federal Register May 28.

In 1996, farmland preservation efforts nationwide were awarded \$14 million in assistance for the purchase of development rights. It was the first time federal money was offered for the purpose.

The Federal Register notice can be viewed on-line at [www.nrcs.usda.gov](http://www.nrcs.usda.gov). Click "Our Web Site At a Glance" and page down to "1996 Farm Bill Conservation Provisions. Click "What's New" and the FPP - RFP will appear. For more information, call (202) 720-2847. Email: [cardd.nrcs@usda.gov](mailto:cardd.nrcs@usda.gov)

## resources ...

### BOOKS

#### 20% DISCOUNT FOR FPR SUBSCRIBERS

**Holding Our Ground - Saving  
America's Farms and Farmland**  
By Tom Daniels and Deborah Bowers  
Island Press, April 1997, 334 pp.

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Written for professionals as well as the layperson, *Holding Our Ground* provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture — why farmland preservation has come about and why localities need to act to prevent fiscal drift. Serves as a how-to for the newly initiated, as well as a reference for the well-versed — it contains dozens of figures and tables, and a wide variety of appendixes serve as additional models and tools. **DISCOUNT TO FPR SUBSCRIBERS — ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.**

### Web Sites

**The Sustainable Agriculture Network**  
[www.ces.ncsu.edu/san/](http://www.ces.ncsu.edu/san/).

**North Carolina State University**  
This web site was developed by Kevin Gamble of NSU's Cooperative Extension Service. It features quick access to the SAN's publications, press releases and information about the four regions of the Sustainable Agriculture Research and Education (SARE) program, a USDA-funded initiative, as well as information from the national SARE office, grant funding schedules, descriptions of current funded projects, etc.

#### The Conservation Fund

[www.conservationfund.org](http://www.conservationfund.org)

This newly operating site provides information on TCF's programs, as well as case studies and initiatives.

#### Center for Rural Pennsylvania

[www.ruralpa.org](http://www.ruralpa.org)

In its March/April newsletter, the Center reviewed municipal planning and zoning in Pennsylvania, providing a listing of counties, number of municipalities in each, and number of planning commissions, comprehensive plans and zoning ordinances. Review compares planning and nonplanning communities.

#### National Trust for Historic Preservation

[www.nationaltrust.org](http://www.nationaltrust.org)

Features historic travel destinations, old house fix-up tips, news, and information about the Trust.

### Conferences, Workshops

**June 19, Hunt Valley, MD: *Making the Connection: Land Use and the Chesapeake Bay***, sponsored by the Maryland Department of Natural Resources, Growth and Resource Conservation Division. Details about Maryland's new Smart Growth and Rural Legacy programs will be presented. Workshops on Environmental financing alternatives, low impact development, GIS, bay cleanup, local watershed protection, urban redevelopment, protecting agriculture and rural landscapes and Smart Growth and Tributary Strategies. Call (410) 974-5594 for information and registration. Cost: \$25, includes materials, lunch and refreshments.

**July 24 - 26, Portland OR: *Managing Growth - Learning from the Oregon and Portland Experiences***. A seminar on the practice, politics and transferability of the Oregon and Portland planning programs, for public policymakers, advocacy

organizations and the press from outside Oregon. Three field trips offered. Limit 200 registrants. Cost is \$250. Some financial assistance available — apply by June 15 to 1000 Friends of Oregon. Call (503) 497-1000 for information on financial assistance. Call Britt Parrott at (503) 223-8633 for information on registration or to receive brochure. Email: [britt@friends.org](mailto:britt@friends.org)

**Sept. 27 - 30, Savannah, GA:** Registration begins this month for the 10th annual National Land Trust Rally. The last two rallies were booked months in advance. Register early. Cost is \$250 for Land Trust Alliance members, \$350 for others. Accommodations cost is \$92 per night. Call (202) 638-4725 for information or email a message to [afreeman@lta.org](mailto:afreeman@lta.org).

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## California Ag Land Stewardship program makes first offers

SACRAMENTO, CA — Three California counties will receive an estimated \$4.4 million from state and federal funds for farmland preservation under the first round of the state's Agricultural Land Stewardship Program. A fourth county may also receive funds.

Four farms in Fresno, Monterey, and Solano Counties have been selected, encompassing 940 acres. Criteria for selection included development pressure, soils and natural resource values.

"This is all prime agricultural land, stressed by urban development," said Ken Trott, program manager for the Office of Land Conservation.

Preservation projects were developed and presented for grants by local land trusts exclusively, Trott said.

"In this first round we didn't have local govern-

ments taking the lead," Trott said. Land trusts, however, were ready and able to respond. "We're working with those [land trusts] that have a track record," he said.

Last year, California received \$1.9 million from the federal Farmland Protection Program. A \$1 million appropriation from the state and \$1.8 million in proposed local and other funding rounds out the estimated \$4.44 million needed for the four farms.

One of the properties, a 192-acre farm in Monterey County, will be acquired through fee simple at \$3 million.

In addition to making the grants, Trott said the California program is evolving and taking on additional roles. The program is anchored by the 1965 California Land Conservation Act, known as

*please turn to page 2*

## Montana ranchers dust off 44-year old state zoning law

CARDWELL, MT — Many think of Montana as a territory big on space with citizens not so big on government. Yet a law enacted in 1953 that put planning and zoning power in the hands of citizens has only recently begun to produce some interesting results. The objective: to protect farm and ranch land from development.

In 1953 the Montana legislature passed the *Special Zoning District Act*, giving counties zoning authority, but only with the consent of landowners — a full 60 percent of those landowners affected must petition for creation of a zoning district. Since then local government has won more latitude, but meanwhile citizen initiative may be catching on in the Big Sky state.

"We have a unique situation in Montana," said

Bozeman planning consultant Keith Swenson. "A portion of a county that simply defines itself can create its own zoning district. The zoning must be

*please turn to page 2*

Volume 7, Number 9

July-August 1997

### inside this issue ...

Ohio effort blocked by real estate lobby .....	p. 4
R.I. program active for first time since 1991 .....	p. 4
Rural Legacy rules to be released by July 30 .....	p. 4
Thurston Co. WA set to make first PDR offers .....	p.5
Special summer resources section .....	p. 7

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## California's Williamson Act due for auditing and user options

*continued from page 1*

the Williamson Act. The law is a preferential assessment program, which restricts development in return for reduced property taxes. The state will take a more proactive stance in developing the capacity of localities to forge preservation initiatives, Trott said.

"We will target some money to land restoration on easement properties and policy development grants" — competitive grants to help generate preservation plans in land use elements and ordinances.

### Watching the Williamson Act

Several initiatives could benefit the program this year, including an allocation for auditing local participation in the Williamson Act.

Since established in 1965, the Williamson Act, officially the California Land Conservation Act, has provided reduced property taxes to farm land in return for a 10-year contract to restrict development. The program is voluntary for both landowners and local governments, which must administer the tax credit and apply for reimbursements, called subventions, from the state.

But the state Department of Conservation, which administers the Williamson Act, has never had a fulltime auditor for the program, according to division chief Ken Trott. Counties receive millions each year in subventions according to urban prime, other prime and nonprime land under contract. But the Department of Conservation has had limited ability to review county subvention requests for accuracy.

"Fresno County gets \$5 million a year in subventions and its never been audited," Trott said. His office has also found Williamson Act contract "cancellations that 'happened' that didn't." According to one source outside the department, other counties may be overcharging for subventions.

If the array of lawsuits filed by the state and county farm bureaus against localities that have approved subdivisions on Williamson Act contracted lands is any indication, an auditing function for the program is long overdue. The California Farm Bureau Federation has been filing lawsuits since 1993 to halt development on contracted lands in various localities including the City of San Jacinto and Fresno, Toulumne and Santa Barbara counties.

### Strengthening the Williamson Act

Trying to address the short-term nature of the program, legislation has been drafted by the farm bureau, and introduced by Sen. Jim Costa, that would create a 20-year Williamson Act contract option that would provide tax and other incentives for creating multi-parcel farm security zones. The idea, according to Ken Trott, is "to build in regulatory streamlining, including "a regional approach to pesticides, safe harbor-type provisions, to manage land as a unit," Trott said. The legislation will be a two-year bill, according to John Gamper of the farm bureau.

Contact: Ken Trott, (916) 324-0859.

### Preservation Ranch Style

## Montana, Colorado ranchers put developers off the range

*continued from page 1*

in conformance with a master plan, but since the plan must be created by those asking for the zoning, they can draft the plan in a way that gives that unincorporated area an extraordinary power even if they're unelected."

Jefferson County is the state's second fastest growing locality. Its wheat fields, pastures and national forest lands are sandwiched between Butte on its south end and Helena on its north. In the last three years, two agricultural zoning districts have been initiated by landowners — mostly ranchers — who want to protect large contiguous areas from speculators.

In 1992, a group of ranchers concerned about land speculation and sales activity in the area of Milligan Canyon and Boulder Valley, began to talk to other landowners about the future of ranching in the region. By 1995, 54 landowners, who together hold about 125,000 acres, had signed a petition to create a special zoning district with their lands. With Swenson's assistance, the group drafted its own land use plan and zoning ordinance to restrict subdivision. Adopted by the county government, the minimum lot size within the boundaries of the

*please continue to next page*

*Montana, from previous page*

district is 640 acres.

Under Montana law, the plan can be, and has been, enforced by landowners. In a case involving a special zoning district in Gallatin County, landowners sued county commissioners when they approved a subdivision landowners said was inconsistent with their district's land use plan.

Swenson says ranchers in the Milligan Canyon/Boulder Valley district are glad they formed their district, and the idea may be catching on.

"They are every bit as adamant today as two years ago. Since then, a number of other rural communities are interested in pursuing it."

Jefferson County planner Dave Bishop said this spring another district initiated by landowners in the Montana City area was adopted by the county, and includes zoning restrictions with 160-acre minimum lot sizes. Montana City is 29 miles south of Helena. The move by concerned ranchers couldn't have come sooner, he said.

"In three years I've reviewed 59 subdivisions — that's a lot for Jefferson County," he said. The subdivisions have created 257 lots, 72 condominiums and 67 RV spaces.

Bishop said he expects to see more citizen zoning initiatives, and he expects the objective will be to preserve farm and ranchland.

Ranchers who often talk about protecting private property rights from government actions are now talking about protecting land from speculators and developers and the inflated land values they bring. Rapid development around Boulder has spurred concern about stability in the land base.

"I see a heightened degree of concern and understanding of the cause and effect relationship between subdivision and high taxes," Swenson said. In addition, several years ago the legislature limited the ability of school districts to impose impact fees on new development.

"Now, suddenly the ranchers have no way to advocate that developers pay. So they have to find more creative solutions."

### **Colorado Cattlemen use easements for estate planning**

Montana isn't the only Rocky Mountain state where ranchers are as much concerned about the negative effects of development as the bureaucracy

and the "z" word.

The Colorado Cattlemen's Association, in 1995, was the first major agricultural organization to form its own land trust specifically for farmers and ranchers who wanted to explore conservation easements but with fellow ranchers, not with environmental groups, according to Todd Inglee, director of communications for the association.

"We wanted to have an agricultural organization that is trusted by ag producers," Inglee said. The concern was that a typical land trust would seek to place environmental restrictions in conservation easements that ranchers didn't desire. All ranchers wanted to do was retire development rights as a means of augmenting estate planning.

Thus the Colorado Cattlemen's Agricultural Land Trust was created and is operated under the auspices of the Association.

"Many of these people have reason to associate the words 'conservation' and 'easement' with an attack on their way of life," said CCA director Reeves Brown in a recent article in *The Denver Post*, "but they can trust an organization governed by conservative landowners."

Even that degree of trust was hard won, however. The proposal to create the trust went before the association three times before garnering enough votes to pass. Some stalwart members argued against its establishment defending the principle of no restrictions on private property rights, even if voluntary.

That way of thinking wasn't lost in the creation of the land trust. Emphasis is placed on the estate planning benefits, rather than on the land protection aspect of conservation easements. Brown said the goal of the group "is not to protect land, but to protect land owners and agriculture ... open space is a welcome by-product."

The Cattlemen's Agricultural Land Trust was instigated by Routt County rancher Jay Fetcher, who attended the Land Trust Alliance conference held in Tennessee in 1994.

As Fetcher told writer Sam Bingham, for *The Denver Post*, "I discovered there [at the LTA conference] that agriculture was very low on the agenda of protection. They talked about habitat, riparian zones and open space, but I kept saying, 'Where's agriculture? Isn't that most of our land?'"

Accepting easements only since last March, the trust expects to protect 4,200 acres of ranchland this year, according to interim director Tim Wohlge-

## Home on the range: land preservation with a twist

*continued from page 3*

for estate planning is promoted by the Colorado Cattlemen's Association in its recently published book, "Keeping the Family in the Family Ranch: Traditional Values, New Perspectives." The 36-page, illustrated collection of case studies describes farmers and ranchers who have used conservation easements as a way of assuring safe transfer of land from the present generation to the next (see Resources section this issue).

*Contact: Colorado Cattlemen's Association, Todd Inglee, (303) 431-6422; Keith Swenson, (406) 587-4434; Dave Bishop, (406) 225-4040.*

## Ohio effort thwarted by legal snafu, real estate lobby

**COLUMBUS, OH** — A ruling by the Ohio Attorney General and opposition by the real estate development lobby has dealt a serious blow to a statewide purchase of development rights initiative in Ohio.

A farmland preservation task force appointed last year by Gov. George Voinovich completed and forwarded a report to the governor in June, recommending immediate establishment of a state purchase of development rights program.

Attorney General Betty Montgomery said that Ohio law doesn't allow the state or its localities to buy development rights, and that enabling legislation would be required. Sen. Grace Drake, who served on the task force, set about drafting an amendment to the state's budget bill that authorized the director of agriculture to acquire and hold conservation easements. It had strong support from officials in Wayne, Portage and Medina counties, where farmland preservation programs are under consideration. Several daily newspaper editorial pages picked up on the action and supported the Drake amendment.

But the real estate lobby saw the legislation as a threat to their industry, according to Joe Daubinmire of the Ohio State University Cooperative Extension in Medina County.

"The Realtors were acting from blind fear, that

*please continue to next page*

## etcetera ...

### Rhode Island program active for first time in six years

*Providence, R.I.* — Beginning in July the Rhode Island Agricultural Land Preservation Commission will begin scoring farmland preservation applicants for the first time since 1991. Farmers had until June 30 to apply for \$1.5 million in funds from a bond referendum passed last fall.

The state's farmland preservation program has been out of money since it spent the last of its funds from a 1990 bond issue. Just \$14 million was invested in the program to 1990, saving 2,529 acres, with an average cost per acre of between \$6,000 and \$7,000, according to Ken Ayers of the state department of agriculture. Funds from the federal Farmland Protection Program will protect another 215 acres on four farms when settled.

The applicants to the renewed state program represent a wide variety of farms, large and small, from 600 acres to 15, Ayers said.

Agriculture in the state caters to its urban consumers, and to the development industry, with large turf, nursery and fresh produce operations. About 30 dairies remain, the number diminishing by at least one each year since 1990. Farms are scattered throughout the state, but Washington County, the state's southernmost, would be considered more agricultural than its other four counties, Ayers said. *Contact: Ken Ayers, (401) 277-2781 x 4508.*

### Rural Legacy rules to be released by July 30

*Towson, Md.* — Regulations for Maryland's new Rural Legacy Program will be presented to the Rural Legacy Board on July 11, and released to project sponsors most likely after July 23, according to Grant Dehart, director of Program Open Space in the state Department of Natural Resources.

Speaking to a group of land trust representatives from Baltimore and Harford Counties, Dehart said the regulations "will not interpret

in any greater detail than provided in the law," how sponsors — in most cases land trusts — should develop or present their proposals.

"We will let innovation and creativity deal with the criteria in their plain form. Don't retard progress to wait for the state to respond to questions," Dehart advised. Noting that the program was designed as a catalyst for local initiatives, Dehart limited his advice and commented only that applicants should "put economic rationale in a high place" in their proposals.

Several Baltimore County land trusts have committed their resources to an inter-jurisdictional proposal from Harford County that will focus on a region encompassing upper Deer Creek and the Little Gunpowder River, the boundary between the two counties.

### Thurston County (Wa.) set to make first PDR offers

*Olympia, Wa.* — Appraisals have been completed, and offers are about to be made in a local purchase of development rights program in Thurston County, Washington. Offers will be made by the end of this month, according to Steven Morrison of the Thurston County planning department.

"It's likely we will offer the appraised value. We have \$2.5 million set aside. We're confident we can make a 100 percent offer," Morrison said. The offers could involve all eight landowners who applied, offering 19 parcels for preservation, and a total of 950 acres in an area designated for preservation by the county.

"It's a tight cluster of ownership. Our goal is to get all of it in." After these purchases, however, the county has not planned to continue easement acquisition.

A transfer of development rights program, however, is in the wings. There has not yet been any activity. "That's the way we assumed it would be for a number of years," Morrison said. This year the county will review its farmland preservation goals and program. *Morrison, (360) 786-5222.*

## Ohio agriculture

Crop	National Ranking
Corn for grain	6th
Soybeans	5th
Sweet corn	5th
Tomatoes	
for processing	2nd
Eggs	2nd
Milk	9th
Swiss cheese	1st

### Counties exploring PDR, state rankings

Wayne	1st in hay, oats, cattle, milk
Medina	no rankings
Portage	no rankings

Source: Ohio Dept. of Agriculture, 1994

it was an anti-growth measure rather than a pro-ag measure," he said.

The killing of the amendment has effectively slowed a determined movement toward a purchase of development rights program in Medina County, Daubinmire said.

"We were moving toward a November referendum. In April we were going to fund it with a sales tax," then the attorney general made her ruling, he said.

Medina County has a population of 145,000 that continues to grow with influxes of new residents from nearby Cleveland and Akron. According to Daubinmire, the county loses about 40 acres each week to development, and 20 percent of all its farmland has been lost to development since 1972.

In 1995, Daubinmire and his extension colleagues obtained a grant to travel to farmland preservation states and localities to see first-hand farmland preservation techniques at work. OSU extension sponsored a statewide conference on sprawl in March and local meetings and public education on farmland loss during the last three years. Agriculture in the state generates \$56 billion a year in gross sales.

While Sen. Drake's office has acted quickly to draft and introduce a separate bill approximating the budget bill amendment, it will most likely not be in place in time for Medina County's deadline for filing a fall ballot initiative. *Contact: Joe Daubinmire, (330) 725-4911; Sen. Drake's office, Ted Berry, legislative aide, (614) 466-7505.*

## legislative and program briefs ...

**In Pennsylvania ...** A bill (HB 680) has been introduced to direct accrued interest from rollback taxes under the ag security area law into the respective locality's fund for purchase of conservation easements. If the county does not have a program, the funds will be directed to the state easement purchase fund.

Another bill, SB 930, will enable municipalities to help fund county purchase of conservation easements within their borders. Municipalities would be able to jointly hold easements. While some townships have participated in easement purchases, the Township Supervisors Association has requested clarification of a township's authority to do so. "The benefit is that it spells out how municipalities and counties can work together to purchase easements. No state money will be involved," said Tom Daniels of the Lancaster County Agricultural Preserve Board, who helped draft the bill. *Daniels, (717) 299-8355.*

**In Maryland ...** In Harford County, a year-long effort to establish a transferable development rights program ended with two failed legislative efforts. A TDR task force, working since last August, urged the county executive and county council to require that developers receiving approvals for increased density under the current comprehensive zoning review be required to purchase development rights. Task force members said lack of support from the administration made it difficult to draft a bill and find adequate support on the council. The council will review and vote on rezoning requests this fall. Of 9,105 acres under request for rezoning, the department of planning and zoning has recommended approval for changes affecting 3,327 acres, or 37 percent. Many of these approvals, if granted by the council, will increase density on agricultural land from 1-10 to 1-2. Some

of the parcels are near or adjacent to preserved farmland. *Contact Arden Holdridge, (410) 638-3103.*

**In Illinois ...** A Cook County judge, ruling in a class action suit against the Illinois State Toll Highway Authority last month, said the agency's spending practices violate the Illinois constitution and that he will effectively shut down the 274 mile tollway system on Dec. 15 unless the legislature assumes budget oversight of the agency. The suit is one of many grassroots efforts to block tollway expansions into Chicago's collar counties and beyond. The lawsuit, filed in 1993, claimed the tollway authority's use of toll collections to build tollway extensions instead of retiring debt on existing roads is illegal. One of the extensions would lead to a proposed airport that would, if built, convert thousands of acres of farmland in Will County. *Contact Bob Heuer, (312) 274-1989.*

**In California ...** SB1240, sponsored by the state Department of Conservation, would allow landowners wishing to cancel Williamson Act contracts to do so by purchasing a conservation easement of equal value on another property. Another bill sponsored by the farm bureau, SB 1182, would create an option under the Williamson Act for 20-year contracts for multiple parcel ag security zones in exchange for additional benefits. *Ken Trott, (916) 324-0859.*

**In New Jersey ...** It's been five years since passage of the New Jersey state plan. Read a full review and update in the next issue of FPR.

**In Indiana ...** The Purdue University Cooperative Extension has established a Land Use Team made up of extension educators who by law serve on county planning commissions. The Land Use Team will train educators in farmland preservation issues and techniques to better serve the needs of planning commissions throughout the state, according to *Mark Thornburg at Purdue (765) 494-8499.*

**In Minnesota ...** A Green Corridor proposed for 10,000 acres in Washington and Chisago counties, first reported in FPR last year, will receive a \$500,000

grant as a state model for land preservation. The grant recipient is the Land Stewardship Project, which was also instrumental in passage of the Community-Based Planning Act, which will create a framework for citizen based land use planning. *Lee Ronning, (612) 653-0618.*

**In Congress ...** Estate tax reform: 23,000 farmers wrote letters to Congress urging elimination of the "death tax." The letter writing drive is being conducted by the American Farm Bureau Federation. The organization is disappointed with a slow phase-in of higher tax exemptions recently passed by the House Ways and Means and Senate Finance Committees. The farm bureau's goal is a total repeal of the estate tax, but currently is pushing for a \$2 million exemption, up from the current \$600,000 for each spouse, or \$1.2 million.

The American Farmland Trust supports such reform, but urged passage of an amendment to exempt from estate tax properties subject to a conservation easement, whether donated or sold. More likely to be included in the tax bill (S949) on its way to conference committee is a provision that would provide an estate tax break of up to \$1 million per estate for properties on which easements were donated. Such properties would have to be located within 25 miles of a metropolitan area. *Contact: Ed Thompson, AFT, (202) 659-5170.*

### Corrections to June issue

◦ The Pennsylvania "State Funds Spent to Date" on page 2 in the June issue was incorrect. State funds spent to date should be \$156 million. The figure shown, \$30.4 million, was the amount spent by the state from April 30, 1996 to April 30, 1997. We regret the error.

◦ Page 5, "Other States": The Rhode Island state program has preserved over 2,000 acres. The figure shown represents acreage recently accepted for preservation in four towns. The state program was inactive and unfunded through most of this decade.

## resources ~ summer edition

### JOB ANNOUNCEMENT

#### LAND BANK DIRECTOR SAN JUAN COUNTY (WA) LAND BANK

Salary: \$44,767 - \$56,837

Seeking an innovative and experienced professional for the county's public land conservation program. Broad mandate to protect important agricultural and ecological areas. Program funded primarily through a 1% real estate excise tax.

Responsible for administration of all Land Bank programs, including land acquisition and stewardship, public information and education, community relations, budgeting and financial management.

The program has a history of innovation and hopes to continue in this vein. For example, the Land Bank is a forerunner among conservation easement programs in using a formula for setting conservation easement purchase prices.

The Land Bank Commission now hopes to venture into limited development of purchased properties, reselling them with retained conservation easements; a new director should be prepared to lead the program in this direction. Closing date: July 24, 4:30 pm. Starting date: ASAP. Call (360) 378-4402 for app.

### BOOKS

#### 20% DISCOUNT FOR FPR SUBSCRIBERS

**Holding Our Ground - Saving  
America's Farms and Farmland**  
Tom Daniels & Deborah Bowers  
Island Press, April 1997, 334 pp.  
\$34.95+ s&h

With subscriber discount:  
\$30 postpaid

Written for professionals as well as the layperson, *Holding Our Ground* provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture — why farmland preservation has come about and why localities need to act to prevent fiscal drift. Serves as a how-to for the newly initiated, as well as a reference for the well-versed — it contains dozens of figures and tables, and a wide variety of appendixes serve as additional models and tools. **DISCOUNT TO FPR SUBSCRIBERS — ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to:** Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.

#### **Keeping the Family in the Family Ranch: Traditional Values, New Perspectives**

By John Covert

**Colorado Cattlemen's Agricultural  
Land Trust 36 pp., \$10 + \$5 p&h**

The Colorado Cattlemen's Association, in 1995, was the first mainstream agricultural organization to establish its own land trust. The purpose was to have an entity that large ag producers could work with, without being annoyed by the environmental protections urged by most land trusts.

A lot of information is packed into this booklet, which features eight case studies on how individual ranchers in Colorado and Montana have used conservation easements for estate planning, and other tools to protect their land and communities.

The studies offer a remarkably candid look into the tough-as-nails land ethic that puts developers in the same category as government when it comes to messing with local land use stability. User friendly, it lists contacts and has both color and b+w photos. Call (303)

399-4456 to order, or send check for \$15 to: CO Cattlemen's Agricultural Land Trust, 8833 Ralston Rd, Arvada, CO 80002.

#### **Your Land is Your Legacy: A Guide to Planning for the Future of Your Farm** By Jerry Cosgrove and Julia Freedgood

**American Farmland Trust, 60 pp.  
\$9.95 + \$4.75 s&h**

Knowing about conservation options is a central issue in estate planning. Cosgrove, AFT New York field representative, and Freedgood, AFT's Director of Farmland Protection Services, bring substantial experience to the task of writing about this increasingly urgent aspect of land protection. To order, call 1-800-370-4879. Bulk order discounts. Price to AFT members: \$8.95.

#### **Land Evaluation and Site Assessment (LESA) Systems for Arid and Semi- Arid Landscapes** By Anubhav Bagley Arizona State University May 1997

This is a 200-page master's thesis that produces the first application of LESA in Arizona — one of the fastest growing states in the nation, and yet a state where farmland preservation remains unexplored.

The study areas for the project are Maricopa and Cochise counties, which have high growth rates and diverse agriculture. LESA was developed by the SCS (now NRCS) for non-irrigated regions, and this is the first use of the system using water availability in the rating criteria.

The study explores the need for preservation and the importance of agriculture in arid and semi-arid regions. Contact ASU School of Planning and Landscape Architecture at (602) 965-7167, or write: P.O. Box 872005, Tempe AZ 85287-2005.

*continue to page 8*

## resources ...

### WEB SITES

#### U.S. Census Bureau

[www.census.gov](http://www.census.gov)

This is where you can check out the Ag Census, all the basic information about agriculture in your locality or state, from land in farms (and farmland loss from 1982 to 1992) to value of sales. Access to 1,000 Census Bureau publications. Congressional directory and other links.

#### The Sustainable Agriculture Network

[www.ces.ncsu.edu/san/](http://www.ces.ncsu.edu/san/)

#### North Carolina State University

This web site features quick access to the SAN's publications, press releases and information about the four regions of the Sustainable Agriculture Research and Education (SARE) program, a USDA-funded initiative, as well as information from the national SARE office, grant funding schedules, descriptions of current funded projects, etc.

#### The Conservation Fund

[www.conservationfund.org](http://www.conservationfund.org)

This newly operating site provides information on TCF's programs, as well as case studies and initiatives.

#### Center for Rural Pennsylvania

[www.ruralpa.org](http://www.ruralpa.org)

The Center deals with rural and small town planning and revitalization, economic, social and land resource issues.

#### National Trust for Historic Preservation

[www.nationaltrust.org](http://www.nationaltrust.org)

Features historic travel destinations, old house fix-up tips, news, and information about the Trust.

### VIDEO

**Beyond Sprawl: Towards Sustainable Patterns of Growth for the 21st**

#### Century

#### Chesapeake Bay Local Government Advisory Committee 15 Minutes

Planners and citizen groups can borrow this video to initiate discussion of techniques illustrated, including urban growth boundaries, TDR, clustering, infill development and transit-oriented development. Call 800-446-5422.

### CONFERENCES, WORKSHOPS

**July 24 - 26, Portland OR:** *Managing Growth - Learning from the Oregon and Portland Experiences.* A seminar on the practice, politics and transferability of the Oregon and Portland planning programs, for public policymakers, advocacy organizations and the press from outside Oregon. Three field trips offered. Limit 200 registrants. Cost is \$250. Some financial assistance available — apply by June 15 to 1000 Friends of Oregon. Call (503) 497-1000 for information on financial assistance. Call Britt Parrott at (503) 223-8633 for information on registration or to receive brochure. Email: [britt@friends.org](mailto:britt@friends.org)

**Sept. 3, Waukesha, WI:** Agriculture and Land Use — Understanding the Purchase and Transfer of Development Rights, sponsored by Wisconsin Environmental Initiative. Speakers include Robert Wagner (AFT); Tom Daniels (Lancaster Co. PA); Jeremy Criss (Montgomery Co. MD); a developer from Montgomery County, and a farmer from Vermont. Cost: \$30. Call (608) 249-5834.

**Sept. 3 - 5, Washington, D.C.:** *America's Town Meeting*, conference of the National Association of Towns and Townships and the National Center for Small Communities. Sessions include How Communities are Managing Growth, Protecting Local Drinking Water, welfare reform, fundraising strategies. Call (202) 624-3550. Email: [natat@asso.org](mailto:natat@asso.org)

**Sept. 27 - 30, Savannah, GA:** Registra-

tion has begun for the 10th annual National Land Trust Rally. The last two rallies were booked months in advance. Register early. Cost is \$250 for Land Trust Alliance members, \$350 for others. Accommodations \$92 per night. Call (202) 638-4725 or email a message to [afreeman@lta.org](mailto:afreeman@lta.org).

**Oct. 15 - 19, Santa Fe, NM:** *People and Places; Living in Cultural Landscapes*, 51st National Preservation Conference of the National Trust for Historic Preservation. Choose from 40 sessions. Issues range from heritage tourism to dealing with sprawl. Accommodations are limited. Register early. For preliminary program call (800) 944-6847. For a registration form or hotel reservation info. via fax, call (800) 755-4023. Send request via email to: [santafe\\_npc@nthp.org](mailto:santafe_npc@nthp.org)

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Midwest

### Iowa commission to study farmland loss, urban decline

DES MOINES IA — The Iowa legislature has established a special commission to study and make recommendations on farmland loss and urban decline in the state. It is the first time farmland protection and growth management has been formally approached at the state level.

"I hope by the time it's done, we will have done extensive research, built a broad consensus and recommended significant land use legislation," said Rep. Ed Fallon, a Des Moines Democrat and lead sponsor of the bill that created the commission, as yet unnamed.

"It's too early to tell, but my hope is we'll be able to make some changes that will reverse the trends that are making farmland fall to bulldozers

and older neighborhoods decline."

The commission will bring together a host of perspectives from academia, local government, the building industry and environmentalists, but Fallon said "by far the most compelling issue for public concern is the issue of farmland preservation."

The commission will have 17 voting members and "study and make recommendations concerning urban planning, growth management of cities, and protection of farmland and natural resources," according to the House resolution. It will "survey the status of Iowa farmland and natural areas over the past 20 years to determine how much of these areas has been converted to

*please turn to page 2*

### Pa. administrators criticize fed program, call for changes

READING, PA — The federal Farmland Protection Program not only needs more money, it needs to be administered with a focus on where the money is needed most, according to testimony presented at a joint U.S. House and Senate subcommittee hearing in Berks County, Pa., Aug. 8.

Pennsylvania Senator Rick Santorum, who was instrumental in obtaining \$35 million for the program in the 1996 farm bill, said he will push for more substantial funding for the program when he submits a reauthorization bill next year. The FY 1998 agricultural spending bill allocates \$18 million for the Farmland Protection Program, all that remains of the \$35 million farm bill appropriation.

The Natural Resources Conservation Service announced in May that just \$1.92 million would be

available for the 1997 round of applicants, an amount that some state administrators said was not worth their time in the paperwork required.

*please turn to page 3*

Volume 7, Number 10

September 1997

#### inside this issue ...

Criticism aimed at Delaware choice of farms .....	p. 3
Maryland lot exclusion policy up for changes .....	p. 5
Estate tax relief for donated easements passed .....	p. 6
Legislative briefs .....	p. 6,7

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## Iowa commission to explore agriculture, land use question

*continued from page 1*

residential, commercial or industrial use." The quality of farmland converted will be an aspect of the commission's report.

The charge of the commission combines the dual concerns of urban decline and farmland loss. Urban problems involving crime, poverty, infrastructure, housing and taxes will be studied.

In addition, the effectiveness of current state, regional and local planning and zoning laws will be evaluated.

While Iowa has one of the most comprehensive soil conservation programs in the country, Iowa law exempts agricultural land from local zoning. But little has happened statewide until recent years that would seem to warrant a look at land use patterns. According to the USDA National Resource Inventory, Iowa lost only about 500,000 acres of farmland between 1982 and 1992, and only a fraction of those acres were lost due to urban encroachment.

But Iowans are seeing the beginnings of sprawl, according to Anita O'Gara of the Iowa Natural Heritage Foundation.

"We're just now seeing new homes in rural areas cropping up, and people don't like what that means," she said.

Jill Knapp, organizer of a grassroots effort called the Rural-Urban Stewardship Project, said sprawl is not considered a problem in the rural areas of the state, but increasingly it is seen as a problem in metropolitan areas.

"In the last two years we have had two bond issues for school construction in Des Moines. Western Des Moines is seeing rapid growth encroaching on farmland. People are beginning to talk and recognize it is a problem," Knapp said. She is looking forward to the commission's work and said her organization will form a nucleus of support for recommendations that will address the sprawl issue.

Ed Fallon believes the people of Iowa harbor a special resentment to the onslaught of sprawl. "A lot of it is historic ... we identify ourselves as a rural state."

Fallon points out that in Iowa, corn is king, with 7.9 metric tons per hectare, compared to 4.9 metric tons from all of China, and almost twice the production of next ranking nation. To Fallon, that must be worth something in the political arena when it comes to considering land use.

A trouble spot in the state is along Interstate 380

### MIDWEST ON THE MOVE

The Iowa initiative is the latest effort in the midwestern states to bring the farmland loss issue into public view. Here is a recap of initiatives in other midwest states.

**OHIO:** Several counties are considering PDR programs and others are forming study groups; the state legislature came close in June to passing enabling law that would have authorized the state Department of Agriculture to acquire conservation easements (see FPR, Jul-Aug. 1997).

**INDIANA:** A group of Purdue University extension specialists have formed a Land Use Team to study farmland preservation techniques and policy. They will travel to Michigan and Ohio for further study.

**ILLINOIS:** A group of conservation district and extension personnel formed the Illinois Coalition for Farmland Protection last year. Several groups representing urban and rural issues have formed a regional coalition to stop state tollway expansion and construction of a third major airport.

Source: Farmland Preservation Report

from Iowa City to Cedar Rapids. "That whole corridor is developing rapidly," Fallon said, with people from outside the state who are finding bargains in acreage compared to the east coast, he said. Another area is Dickinson County in the state's northwest corner, which contains "our only natural lakes." It is being developed rapidly for retirement homes.

The Iowa Farm Bureau "is acutely aware of the problem, but we have no formal policy yet," said president David Machacek.

"I think our people are always concerned about more houses all around," said Iowa Farm Bureau public affairs director Jerry Downin, "especially when considering expanding operations. A lot of our people are concerned because of the economics of it," he said. As for a formal policy, that will be taken up by the organization's state resolutions committee. Within the next year "we probably will have a policy" on sprawl, Downin said.

*Contact: Ed Fallon, (515) 243-8828.*

## Pa. program leaders advise changes to federal program

*continued from page 1*

Ray Pickering, chief of the Pennsylvania Bureau of Farmland Protection, said at the hearing that the "extremely limited funding availability made the application process questionable for a number of programs from a cost-benefit perspective. We would recommend funding rounds with at least \$10 million available," he said. States and localities requested \$6.5 million during the seven-week 1997 application period — more than three times the amount available. Many programs did not bother competing for the limited funds. Grant awards had not been announced at press time.

In addition, Pickering said, funding should be targeted to regions where the need is greatest. In the 1997 application cycle, the nation was divided into four regions, resulting in just three farms selected from each region. The entire northeast, including the mid-Atlantic states, was grouped into one region.

"Given that there are at least 10 eligible state programs in this region, the most of any region, we believe Pennsylvania is placed at a disadvantage compared to other programs around the country. We would recommend significant revisions in the proposal selection process in future rounds," Pickering said.

Pennsylvania has 42 participating counties with at least 1,000 farmers on county waiting lists, Pickering said, translating into about 100,000 acres to be protected. The program is rapidly approaching a 100,000-acre milestone in acres preserved.

Tom Daniels of the Lancaster County Agricultural Preserve Board testified that he would like to see \$50 million per year for the Farmland Protection Program, and that the NRCS "must decide whether to fund by regions or based on the merit of individual farm applications, or some combination of the two."

Daniels said federal dollars should not be spent in counties with less than \$50 million a year in gross farm product sales. "Counties below this level of production are generally seeing their farming industries steadily decline, and the cost of buying development rights is likely to be high. In these counties, farmland preservation is really aimed at

preserving open space rather than a viable agricultural economy."

Daniels' recommendation was aimed at counties with low agricultural output and soaring land values, such as Montgomery County, Pa., a Philadelphia suburban area where per-acre easement costs are as high as \$15,000.

However, a \$50 million cap would be hotly contested by prominent farmland preservation localities whose farm sales fall below that figure when using the USDA 1992 agricultural census. Local and state studies of farm sales using varying criteria such as equine operations, show substantially higher gross sales than USDA criteria produce. Counties that fall below \$50 million in USDA figures and yet rank in the nation's top ten for number of acres preserved in farmland programs include Harford, Howard, Montgomery, Calvert and Baltimore counties in Maryland and Marin County in California. Other notable localities below the \$50 million USDA figure but ranking high in their states for preserved acreage include Lehigh and Cumberland counties in Pennsylvania and Hunterdon, Warren and Sussex counties in New Jersey.

### Paying for wetlands

## Criticism aimed at Delaware program's choice of farms

DOVER DE — Delaware's purchase of development rights program has come under fire from one of its chief architects, a state legislator who says the program is not targeting prime farmland under the most development pressure, but has instead paid for development rights on farms along the coastline that include wetlands under little or no development pressure.

State Rep. G. Wallace Caulk Jr., chairman of the House Agriculture Committee and director of the Delaware Farm Bureau, tried last year to require that wetlands and marsh be excluded from conservation easement purchases, a move strongly opposed by agriculture officials, who said such a policy would be difficult to administer and that wetlands were an insignificant expense in the program.

"I worked seven years on getting the Aglands

*continue to page 4*

Delaware**Critics say farmland program should exclude wetlands***continued from page 3*

Preservation Act passed," Caulk told the *The News Journal*, the state's largest daily newspaper. "There was never any mention of bringing in wetlands and marsh. The intent of the bill was to preserve productive farmland or forest land ... how can you purchase development rights on land that can't be developed?"

Program critics point to examples such as farms owned by nonfarmers who lease hunting rights along the state's expanses of tidal marsh. Critics say one 736-acre farm near Bombay Hook National Wildlife Refuge on the Delaware Bay is a good example of how they feel the intent of the program has been dodged. The farm has 201 acres of leased cropland and 70 acres of forest, with the remaining 465 acres in wetlands. The program paid \$718,778 for the development rights.

But director Michael McGrath said there are no plans to change program policy.

"On the farms we buy development rights on, large parts are suitable for development. We can't exclude the wetlands," McGrath said. "You have to look at the criticism in the context of zoning and growth management in Delaware. It's nonexistent." There is no area of the state safe from development, whether it occurs next year or in 10 years, he said.

Zoning in each of the state's three counties allows for generous development, often at high densities in agricultural areas, and farmers along the state's rapidly developing Route 1 corridor are not interested in missing out on a development boom that has no end in sight.

McGrath points to a University of Delaware research project conducted under assistant professor John MacKenzie of the College of Agriculture that shows the farmland program is saving the types of farms citizens prefer. Using a visual preference survey on a web site, the study asks individuals to choose farms to be preserved as if they were members of the state Agricultural Lands Preservation Foundation. Farms are described using nine characteristics: total acreage, farm type, cost of protection, local pace of development, annual income, acreage in forest, contiguity with already-protected farmland, prior loss of road frontage and long-term viability of local agriculture.

MacKenzie said the results show that the public prefers the choices the Foundation has been making. The preliminary model for the study evaluated 53 farms offered to the PDR program, including 31 that were accepted and settled in the program's first year, at a cost of \$11.2 million.

"The model indicates that the actual farm selections made by the Agricultural Lands Preservation Foundation are clearly consistent with public preferences as expressed in the survey. We calculate that aggregate net economic benefits from protecting these 31 farms is a least \$61 million," the study results note.

But in the political arena, McGrath notes, "there are major differences of opinion on what farmland preservation should be accomplishing."

A highly charged criticism is that some farms preserved had little or no development pressure or had soils that couldn't support septic systems.

But according to program staff, the state's septic permitting practice is anything but predictable. Permits are granted often in areas where perk tests traditionally fail.

And, zoning is anything but restrictive. Over most of the state, "there's no prohibiting development whatsoever ... on average, there's one dwelling unit per acre," said Stewart McKenzie of the Agricultural Lands Preservation Foundation. "You never know how our towns are going to grow and where sewer lines are going to go."

Tom Daniels of the Lancaster County (Pa.) Agricultural Preserve Board, who has consulted in Kent County, Delaware, said there was an unwillingness to zone for the future of agriculture.

"If your land is within three miles of sewer, you can get 1-1 zoning [in Kent County]," he said. "If you're going to be successful, you have to create large contiguous blocks of preserved farms away from growth areas."

Lack of agricultural zoning by localities has dogged the Delaware program since its start in 1991. Without restrictive zoning to limit the number of development rights on a given parcel, preserving farmland near growth areas is not a likely outcome due to the difference between development value and agricultural value.

"We are going to work where there is the best opportunity to save large amounts of farmland," McKenzie said. "We are not a default growth management mechanism."

Contact: Mike McGrath, (302) 739-4811.

Maryland

## Program's lot exclusion rules headed for changes

ANNAPOLIS, MD — One of the most controversial regulations of the Maryland farmland program — lot exclusions and how to allocate them — is headed for changes, and some administrators are worried that the changes may not be an improvement. How landowners can divide preserved properties would be substantially altered by proposals adopted by the Maryland Agricultural Land Preservation Foundation in July.

The draft legislation calls for eliminating lot exclusions and agricultural subdivisions and creating a new category called divisions.

Under current policy, lot exclusions allow up to 10 children's lots at a density of one per 20 acres owned. Under the change, child lots would be discontinued and replaced with a straight allowance of one lot per 50 acres up to 150 acres (three lots total) and an additional lot per 100 acres above that allowance. Properties under 50 acres with no pre-existing dwelling would be allowed one lot.

Of equal significance, the creation of lots would no longer be limited to original landowners. Lot allowances would exist until they are all used. Under current policy, it is left to chance whether landowners with children will request lots. Children are supposed to occupy new homes, but the law cannot prohibit sale of the homes.

"It really will change the program quite a bit," said executive director Paul Schiedt. "Under this proposal I think every lot would be used over time."

The last several years have seen an increase in the number of requests for lots and ag subdivisions, with much debate about how the rules are working, and how they are affecting the future and the intent of the program.

Some local programs, when established, recognized that the cost of lots would make lot exclusions a controversial aspect and approached it carefully.

In Howard County, like the proposal for the state program, lot rights were assigned at one per 50 acres, rights that went with the land, to prevent pressure from landowners, and, to avoid the issue of unfairness inherent with a policy built on exis-

### Lot exclusions: How other states do it

**Pennsylvania:** one dwelling site is allowed by right per farm, but additional lots must be approved prior to easement purchase.

**New Jersey:** owners may request one building site per 50 acres and forfeit four times the value of the development rights for acres taken off.

**Massachusetts:** has the strictest law for lot exclusions. Owners may petition for only one dwelling site for the owner or farm worker only, and location is subject to approval.

tence or number of children in a family.

Howard County program administrator Bill Pickens said one of the reasons the state program policy should be changed is to make it consistent with Maryland Code, which was changed a few years ago "to get out of the family transfer business."

Donna Mennitto of the Eastern Shore Land Conservancy, and administrator of the Howard program until last year, said other methods of allowing lots should be explored.

"The child lot provision has outlived its usefulness in terms of value to the landowner and in terms of what it was supposed to do administratively."

Mennitto said she believes the state program should attempt to "do away with lots... if I had it to do over, I would do no lots, but have a price formula structured so there were significant penalties or bonuses for either giving up or keeping lots," she said.

Bill Amoss, administrator for the Harford County local and state programs, said it is important to update the lot exclusion law.

"I think all administrators are looking forward to drafting legislation to improve the program, but it definitely needs work to assure the inconsistencies in the bills are worked out."

Amoss said that allowing lots to carry over to subsequent owners is the most troubling aspect of the proposals.

Contact: Paul Scheidt, (410) 841-5860; Donna Mennitto, (410) 827-9756; Bill Pickens, (410) 313-5407; Bill Amoss, (410) 638-3103.

Taxpayer Relief Act:**Estate tax relief for donated easements, other benefits for inherited farmland**

WASHINGTON, D.C. – When President Clinton signed the Taxpayer Relief Act on Aug. 5, he brought to a close a long and arduous effort by land conservation groups to include estate tax relief as among the benefits of donating conservation easements.

The American Farm and Ranch Protection Act, Sec. 508 of the Taxpayer Relief Act, will allow an executor to exclude from an estate 40 percent of the value of land subject to a conservation easement, but will apply only to donated conservation easements, not to easements sold under farmland preservation programs.

However, one concession won by the American Farmland Trust could effectively eliminate the recapture of the estate tax that was required under the special valuation election option (2032A). The 2032A provision, which allows avoidance of estate tax on inherited farmland if certain criteria are met, disallowed sale of a conservation easement within 10 years of inheritance. The rule had caused difficulty for a number of landowners desiring to participate in the farmland preservation programs of Massachusetts, New Jersey, Maryland and Pennsylvania (see FPR June 1996).

The language for the 2032A change states that a conservation easement by donation, gift, "or otherwise" will not be deemed a disposition under the section.

"We have to convince them in the rulemaking process that 'otherwise' must mean by sale or bargain sale," said Chuck Beretz of the American Farmland Trust. "We want to open up the floodgates that way."

The American Farmland Trust pushed to have easements sold under farmland preservation programs qualify for the estate tax relief, but without success, and with no help from other conservation organizations who felt such a stand threatened the viability of the estate tax relief effort.

William Sellers of the Brandywine Conservancy, and others involved in the legislation since first initiated several years ago, felt that to push for the inclusion of sold easements was to "upset the apple cart."

"There was fear on the part of Treasury and tax staff that the bill was too broad," Sellers said.

Tim Lindstrom, attorney for the Piedmont (Va.) Land Conservancy, said in an interview two years ago that the Congressional Budget Office viewed the exclusion of easement sales from the bill "as a factor that saves substantial amounts of money." Lindstrom, an early advocate of estate tax reform for conservation purposes, was on vacation and could not be reached for comment at press time.

In addition to the 40 percent land value exclusion, Section 508 has these added requirements: that the property is within 25 miles of a

## legislative and program briefs ...

**In New Jersey...** The State Agriculture Development Committee (SADC), which administers the NJ farmland preservation program, has activated the state's \$20 million TDR bank, in existence but unused since 1989. Several municipalities have explored TDR but none has established a traditional program.

According to Greg Romano, executive director of the SADC, a committee staffed by the agency is considering a formula to determine development rights values.

The committee will soon award a \$10,000 grant to Lumberton Township in Burlington County to assist in creating a TDR plan. Springfield Twp is also once again exploring TDR, he said. The state farm bureau continues to lobby against TDR. In other news, the SADC has received a \$100,000 grant from the state Department of Agriculture to construct a right-to-farm ordinance.

**In Maryland ...** Kent County had a local program certified by the state in July ... Bill Pickens is the new program administrator for Howard County.

**In New York ...** The NYS Department of Agriculture and Markets has announced its second Request for Proposals under its farmland protection program. At least \$3.4 million is expected for FY 97-98 from the state's Environmental Protection Fund, with additional funds anticipated from the Clean Water/Clean Air Bond Act. Localities must meet an Oct. 20 deadline.

**In Pennsylvania ...** The state program has now preserved 781 farms in 37 counties, including three new county-owned easements, protecting 98,617 acres. A 100,000-acre milestone celebration will take place this fall.

Legislation that would enable countywide TDR has been introduced as HB 1615. Only a handful of Pa. municipalities have used TDR, with about two dozen transfers completed.

SB 270 and HB 1613 call for a State Policy Plan with guidelines for municipal and county comprehensive plans.

HB 1614, promoted by 10,000 Friends of Pennsylvania, is aimed at fostering regional planning, urban growth boundaries, and rural resource areas. This has been dubbed Pennsylvania's Smart Growth bill.

HB 1694 would allow preserved farms to sell or lease one-half acre parcels for communications towers, a move opposed by the Farmland Protection Bureau. In 1996, the state's Clean and Green law was amended to allow farms enrolled in that program to lease one-half acre parcels for towers.

SB 930 would allow townships to purchase easements jointly with counties. Bureau Chief Ray Pickering said the bill will most likely provide for three-way easement purchases, involving state, county and township participation.

Charlene Reilly has resigned as Chester County administrator to spend time with her growing family. No replacement has been named.

**In Colorado ...** Summit County will try to mitigate potential development effects on properties along the Snake River that are out of compliance with the county's master plan objectives. TDR and design overlay districts are on the table.

In Douglas County, planners will try to preserve a plateau region held by about 100 landowners, just beyond reach of Denver's growth explosion.

**In Oregon ...** Antiquated lots in Deschutes County — more than 18,000 — is the catalyst for a possible TDR program that would transfer development to infill areas where sewer is available.

**In Ohio ...** A residential development cap enacted in Hudson, a rapidly growing area between Akron and Cleveland, was challenged in court by homebuilders. The federal 6th Circuit Court of Appeals recently held that the city has the authority to enact this type of growth control and specifically approved it. Planning consultants are now drafting a new development code for Hudson, according to Clarion Associates, Inc., (312) 630-9400.

### **estate tax**, from preceding page

Metropolitan Statistical Area (MSA), a national park or national wilderness area; that commercial recreational use is prohibited or minimal; that the easement was donated by the decedent or a member of the family; that the decedent or the family owned the land for at least three years prior to death.

The maximum that can be excluded under the provision is \$500,000 per estate, phased in at \$100,000 per year over five years beginning in 1998. The exclusion applies only to the land, not to structures.

To qualify for the full 40 percent exclusion, easements must reduce the fair market value of the land by at least 30 percent, minus the value of any retained development rights.

An important provision will allow executors or trustees to donate the easement after the death of the title holder to qualify for the exclusion.

Jean Hocker, president of the Land Trust Alliance, said it is too soon to tell what impact the new provision will have on the conservation efforts of local land trusts.

"The word is just getting out, and some information is yet to come in the regulations, but I think it's going to help a lot of landowners ... it is a major new tool to encourage voluntary land conservation."

The Brandywine Conservancy, of Chadds Ford, Pa., was "deeply involved" in the estate tax legislation because of escalating land values in the suburban Philadelphia region, according to Sellers.

"I think in a metropolitan region where land prices have escalated wildly, the farming community has been inflicted ... In Chester County we have some of the finest conditions for farming in the world, and the specter of estate taxes was a serious issue. The relief provided in the bill will make it possible for [farmers] to see that land can be passed to the next generation and a decision to protect the farm [can be a viable one]."

Sellers said a big disappointment came during the legislative process when a \$1 million exclusion, already substantially lower than what was originally pursued, was reduced to \$500,000.

"I think that was unfortunate. We would have preferred to see \$1 million so the impact would be more immediate," he said.

According to the Land Trust Alliance, additional provisions will allow beneficiaries to:

- elect to extinguish any development rights remaining from an easement agreement, further reducing estate tax before it is due. Alternatively, payment of taxes on these remainder rights can be deferred for up to two years.
- qualify for the reduction by retiring mineral rights. Prior to this new provision, only mineral rights retired prior to June 13, 1976 qualified for estate tax reduction under the tax code.

The law becomes effective Jan. 1.

Contact: Chuck Beretz, (202) 659-5170; Hocker, (202) 638-4725.

## resources ...

### JOB ANNOUNCEMENT

**SAN JUAN COUNTY  
LAND BANK DIRECTOR  
Reopening to Sept. 15  
Salary: \$44,767 — \$56,837**

The San Juan County Land Bank has re-opened its search for a new director. Seeking an innovative and experienced professional to direct the county's public land conservation program, which has a broad mandate to protect important agricultural and ecological areas. It is funded primarily through a 1% real estate excise tax. Position responsible for administering all programs, including land acquisition and stewardship, public information and education, community relations, budgeting and financial management. The program has a history of innovation - it was among the first to use a formula for setting easement value. It now hopes to venture into limited development. Call (360) 378-4402 for application.

### BOOKS

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**Holding Our Ground - Saving  
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By Tom Daniels and Deborah Bowers  
Island Press, April 1997, 334 pp.  
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Written for professionals as well as the layperson, *Holding Our Ground* provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture — why farmland preservation has come about and why localities need to act. Serves as a how-to for the newly initiated, as well as a

reference for the well-versed — it contains dozens of figures and tables, and a wide variety of appendixes serve as additional models and tools. ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.

### CONFERENCES, EVENTS

**Sept. 13, Deerfield, MA:** 20th Anniversary Celebration for the Massachusetts Agricultural Preservation Restriction (APR) Program. Master of Ceremonies, Jonathan L. Healy, Commissioner of Food and Agriculture, outdoors at the Deerfield Inn, 10:30 a.m. For information call (617) 727-3000, x 102.

**Sept. 18, Washington, D.C.:** Book signing for the 2nd edition of *Saving America's Countryside: A Guide to Rural Conservation*, with authors Sam Stokes, A. Elizabeth Watson and Shelley S. Mastran, at the National Trust for Historic Preservation, 1785 Massachusetts Ave, NW, 5:30 to 7:30. RSVP (202) 588-6037 by Sept. 12.

**Sept. 27 - 30, Savannah, GA:** Cost is \$250 for Land Trust Alliance members, \$350 for others. Call (202) 638-4725 for information or email a message to [afreeman@lta.org](mailto:afreeman@lta.org).

**Oct. 15 - 19, Santa Fe, NM:** People and Places; Living in Cultural Landscapes, 51st National Preservation Conference of the National Trust for Historic Preservation. Call (800) 944-6847.

**Oct. 26 - 29, St. Louis, MO:** Revolution '97: Building Livable Communities With Transit. This is the premiere national conference on transportation and community development. Workshops are structured into three tracks: Cost: \$295 before Sept. 26, \$345 after. For more information call 1-800-788-7077.

**Nov. 2 - 5, Columbus, OH:** Natural Resources in Urban America, A National

Urban and Community Conservation Conference, sponsored by the National Association of Conservation Districts. Plenary session: Ralph Grossi, "Quality Urban Development" and Kweisi Mfume, Pres. NAACP, "Quality Urban Redevelopment." Cost: \$240 before Oct. 2. To receive the brochure, call (303) 988-1810 or fax request to (303) 988-1896.

**Dec. 2 - 4, Baltimore, MD:** Partners for Smart Growth Conference, sponsored by the Urban Land Institute and the U.S. Environmental Protection Agency. Focus on profitable development, livable communities and environmental quality. To register call 1-800-321-5011. See the ULI web page at <http://www.uli.org> for more details.

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# farmland preservation report

*Covering the policies, practices and initiatives  
that save farmland and open space*

Since 1990 • Deborah Bowers, Editor

## Indiana task force to examine, advise on farmland loss

INDIANAPOLIS IN — Farmland loss in the Hoosier state will get plenty of attention over the next year by a task force appointed by Gov. Frank O'Bannon in August. Creation of the task force follows several efforts underway over the last year by the Indiana Farm Bureau, Purdue University Cooperative Extension and a working group convened by the Commissioner of Agriculture. The consensus: the issue of farmland loss needs to be taken up by state and local lawmakers.

The governor's 19-member Hoosier Farmland Preservation Taskforce has three objectives: to examine the causes and consequences of farmland loss; to identify incentive-based solutions; and, to recommend strategies for strengthening the future of Indiana agriculture.

The farmland loss issue in Indiana began with

separate efforts by the Indiana Farm Bureau, through a farmland preservation task force it convened last year, and, by the Purdue University Cooperative Extension, through an 11-member Land Use Team it created, also last year. But most recently, a Land Use Working Group convened by the Commissioner of Agriculture, released a report and set of recommendations that will serve as a focal point for the governor's task force, which met for the first time in September.

### Beginnings of Indiana's farmland preservation effort

*Indiana Farm Bureau*

In 1996 the Indiana Farm Bureau convened a farmland preservation task force. It produced a

*please turn to page 2*

### Maryland

## Land trusts, localities, at work on Rural Legacy proposals

ANNAPOLIS MD — More money and more time for land protection proposals under Maryland's new Rural Legacy Program was good news for land preservation efforts across Maryland over the past month.

The program's first year awards may now total \$23.4 million — up from \$10.9 million — and, sponsors, that is land trusts and local governments, have until Jan. 30 to submit proposals — an extra six weeks.

Even so, sponsors will still be scrambling to complete the writing and research required for a successful application by the deadline.

As many as 20 grant proposals are expected to be forwarded to the Rural Legacy Board by the new

deadline. A number of plans underway are multi-jurisdictional and cover large areas, according to

*please turn to page 6*

Volume 8, Number 1

October 1997

### inside this issue ...

Federal program grant awards named .....	p. 3
DuPont gives 3,300-acre easement in Md. ....	p. 4
New web site highlights farmland preservation .....	p. 4
Legislative briefs .....	p. 6,7
Job announcements .....	p. 8

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## Hoosiers worried about threat to rural heritage, way of life

*continued from page 1*

report that for the first time pointed to farmland loss as a problem in the Hoosier state, and recognized the need for a government-level task force.

The report noted, simply, that "the farm character and rural way of life in Indiana are part of what we all cherish and appreciate about our state."

Not long after, the farm bureau began a new grassroots problem-solving program called Local Issue Focus Teams (LIFT) that was piloted in 15 of the state's 92 counties.

LIFT provided a structure for discussing issues important to farmers at the community level. Last April the topic for discussion was farmland preservation. Among the land trends noted by farmers were "an explosion of subdivisions" and "urban sprawl."

When asked what impact these trends had on farming in their communities the answers included "nuisance complaints," "increased traffic," and "less land in production/fewer large tracts."

When asked what farmland loss would do to local agriculture for the longer term, the answers included "will lose the small farmer," "may need to designate ag areas," land prices beyond reach for farmers, and farming becoming "frustrating and dismal."

### *Agriculture and Natural Resource Land Use Working Group*

Not long after the Indiana Farm Bureau Farmland Preservation Task Force report, the Commissioner of Agriculture convened a meeting of agriculture and natural resource representatives. Called the Agriculture and Natural Resource Land Use Working Group, the membership included many commodity groups, conservation and wildlife organizations, elected officials, extension educators and farm organizations.

The objectives were to build a coalition of support for addressing land use, to generate interest in farmland loss and to spur action at both the state and local level through recommendations.

Attitudes about land use in Indiana are clear in the 45-page report produced by the Land Use Working Group. One of the first questions pondered is, "How can state government help facilitate local and county governments in analyzing their circumstances while avoiding the danger of having top-down planning from the state capitol?"

Yet, the report produces a discussion of how development "based primarily on market forces"

has caused problems for Indiana's citizens because "development [is] not based on community needs ... we don't believe that in many regions of Indiana the current mix of land uses meets the desired landscape conditions of an increasing number of Indiana residents."

Property rights figure heavily in the report, which underscores the importance of pursuing a "locally determined, market based, and incentive laden" approach to addressing land use. The report states it is vital to "make clear the idea that land use planning can occur within a framework that protects private property but accounts for the needs of the community as a whole."

Indiana farmers have a reputation for protecting their lands from any intrusion of public uses, most notably in recent years during a rails-to-trails effort.

"The regulatory approach to land use policy is unlikely to receive broad political support in Indiana. Zoning in particular is perceived by many to constitute a regulatory taking..." the report says. The recommendations of the group, directed to the governors Hoosier Farmland Preservation Task Force, reflect this.

The recommendations call on the state to establish a statewide farmland and open space protection policy, and a state policy on land use that will help localities develop and implement land use planning that emphasizes protection of resource lands.

Additionally, "the state should explore enabling legislation for creative and innovative solutions to land use conflicts in Indiana," namely the purchase of development rights and agricultural security districts.

"By resolving land use conflicts with voluntary incentives rather than statutory regulations, the state can ensure policy development with minimal political opposition," the recommendation states.

The report also calls on the state to provide technical assistance to localities for land use planning, including providing planning staff, possibly housing that staff with the Purdue Cooperative Extension Service, providing planning grants, and establishing a resource library that could help localities make "an assessment of the financial contribution made by all land uses, including farm, forest and open lands."

The state should also "explore the implications

*please continue to next page*

*Indiana, from previous page*

of tax policy on land use issues, continue to support research in sustainable agriculture, create an inter-agency review committee to decrease or mitigate the effect of state development projects on farmland and natural resources.

The report also has several recommendations for localities, including working with the state to implement statewide policy.

#### *Purdue University Cooperative Extension Land Use Team*

What makes the Purdue University Cooperative Extension Service unique among extensions in the nation is that agents, called educators, are mandated to sit on local plan commissions. In this role they assist with land use issues by providing knowledge of land use techniques not provided by state or local government agencies. Extension educators are not advocates of any particular policy or technique, they are only advocates of public participation in the issues, according to Janet Ayres, leadership and community development program leader.

Purdue Extension educators have been trained in farmland protection techniques and programs in other states, but they must be "careful about not using the language of farmland preservation, ... we're very, very sensitive to that," Ayres said. "We help to provide education so people become conscious of how we are using our land, and what alternatives are available."

The new farmland preservation program in Michigan was a major influence in starting the land use team at Purdue, according to Ayres.

"The Michigan governor's task force and enabling legislation were very influential. And the farm bureau up there influenced our's here," she said.

The team took a field trip to Michigan as well as Ohio recently to learn about farmland preservation and other land use initiatives, she said.

"The last two years I have seen this as a growing issue — we're experiencing population growth and a healthy economy, which means more competition for land. The three states may work together on developing materials to use in land use education.

*Governor's Hoosier Farmland Preservation Task Force*

In late September Lt. Governor Joe Kernan, who also serves as Indiana's Commissioner of Agriculture, convened the first meeting of the task force as its chairman.

Michigan's influence was evident: the group's first presentation was from David Skjaerlund of the Michigan Department of Agriculture, who outlined the process Michigan used to develop recommendations regarding farmland loss.

A number of counties may be pursuing farmland preservation on their own, according to Gerry Harrison, an attorney and ag economist at Purdue University. Purchase of development rights is talked about, and Indiana law clearly authorizes it. Still, it is a new idea in the Hoosier state.

"It's possible for PDR to work, but we need help in Indiana to accommodate that activity," Harrison said. *Contact: Julia Wickard, Dept. of Agriculture, (317) 232-8770; Janet Ayres, Purdue Cooperative Extension, (765) 494-4215;*

#### Farmland Protection Program

## Federal funds awarded to 11 states, localities

WASHINGTON, D.C. — Eleven states and localities will receive \$1.92 million in federal funds in support of farmland preservation projects from the Farmland Protection Program for fiscal year 1997.

Awards were spread over three regions — the east, midwest and west. Six state programs and five local programs will receive grants.

Because of the small amount of funding for this round of federal grants, some major state programs, including Maryland, Delaware and Connecticut, did not bother applying for the funds.

Next year, however, the participation will be greater when \$18 million will be allocated for the program's third round, the largest amount at one time thus far in the program. Funding after that is uncertain. Congress allocated \$35 million in the 1996 farm bill for the program and once the \$18 million is used, that allocation will be gone.

Fen Hunt of the Natural Resource Conservation Service, Community Assistance and Resource Development Division, said the Farmland Protection Program must be reauthorized. Sen. Rick

*etcetera*

## Land trust launches web site on land protection

*Cyberspace, U.S.A.* — An ambitious new web site focusing on land protection issues and techniques has been launched by a regional Maryland land trust as a public education project.

The Patuxent Tidewater Land Trust, headquartered in St. Mary's County, is host of the site developed by Jim Conrad, chairman of the county's Agricultural Preservation Advisory Board.

"I developed the web site as a hobby out of my personal interest in these issues and to advance public awareness of land protection," Conrad said.

The site will be progressive, seek to complement other sites such as those developed by the American Farmland Trust and the Farmland Information Library, and "try to contribute to a sense of community among those interested in these issues."

The site contains descriptive summaries of transfer of development rights, purchase of development rights and a primer on why farmland needs to be protected, and recommends additional sources for further reading. An annotated list of resources and other useful web sites is under construction. The initial focus within the site has been farmland preservation, but this will expand, Conrad said, to include more information on related issues such as habitat and watershed protection.

"Eventually the site will describe, analyze and evaluate selected land protection programs and public policy affecting rural land use in place across the country. There will also be an idea exchange forum," Conrad said. The target audience is landowners as well as professionals. *Contact: Jim Conrad, (301) 475-2425, email: jconrad@mail.ameritel.net*

## DuPont donates 3,300-acre easement in Maryland

*Washington, D.C.* — In a ceremony at the National Press Club last month, John A. Krol, president and CEO of DuPont announced that his corporation had donated a conservation easement on its 3,300-acre Chesapeake Farms, in Kent County, Maryland. It is the largest easement donation ever given in the

state.

The donation, called a major conservation coup for Chesapeake Bay protection efforts, will be held by the American Farmland Trust and The Conservation Fund.

"What a company does with the lands in its care reveals its values," Krol said.

Maryland Lt. Gov. Kathleen Kennedy Townsend said she hoped DuPont's action would be an inspiration to other land holding corporations.

DuPont will retain use of a portion of the property, currently used as a demonstration farm, conference center, and hunting preserve. Five building rights were also retained.

Krol said the donation "demonstrates our belief that preservation of farmland and greenspace is becoming increasingly important in sustainable growth," and that the combination of economic and environmental goals was a source of pride for the company.

The property, about 10 miles southwest of Chestertown, has about 1,100 acres planted in corn and soybeans, as well as 1,700 acres of woodlands and 500 acres of other habitat including freshwater wetlands.

About 100 acres of the agricultural area is dedicated to a sustainable agriculture research initiative. Called the Chesapeake Farms Initiative, the project is a collaboration among state and federal agencies, universities, environmental interests and the private sector.

The site is also renowned for its wildlife habitat. Two pairs of bald eagles and a population of endangered Delmarva fox squirrels inhabit a pine woods on the property.

DuPont vice president Paul Tebo is in charge of the company's Land Legacy Program, which now has donated about 12,000 acres to various conservation groups from its surplus properties.

In a telephone interview, Tebo said the program examines DuPont surplus properties for conservation opportunities, but has "no master plan - it tends to be as business goes. We like to see these things happen."

DuPont currently has about 4,000 acres actively on the market. Some of the properties could be used for conservation and will be looked at on a site by site basis, according to a company spokesperson.

*Chesapeake Farms is open to the public. For more information about Chesapeake Farms and the conservation easement, call Mark Conner at (410) 778-8400.*

Book Review

## Farmland seems unimportant to "Saving America's Countryside"

*Saving America's Countryside: A Guide to Rural Conservation*  
Second edition

Samuel N. Stokes, A. Elizabeth Watson, Shelley S. Mastran  
Johns Hopkins University Press, Sept. 1997, 480 pp. \$25.95

It's been eight years since the first edition of this highly useful and smartly designed guidebook put the concept of rural preservation in the hands of the people who needed it most — citizen activists struggling to link the abstract concepts of preserving rural character with the how-to.

Since then, preserving farmland, open space and cultural and historic landscapes has become a mainstream planning goal and a banner activity for nonprofits and local governments in an increasing number of states. The progress of such concepts as smart growth and heritage corridors made a second edition essential.

Heftier than the first edition by 175 pages, the strength of the book is its case studies. Several new ones have been added and many less inspiring ones from the first edition were dropped. There are 32 case studies in all, appropriately touching all regions across the nation.

A chapter focusing on how to link economic development initiatives with rural conservation goals has been added, an important adjustment that shows a maturing of the rural conservation movement in practical and political terms. A substantive discussion of downtown revitalization for rural towns and tourism development is a welcome addition.

The book's weakness, with no improvement over the first edition, is its cursory discussion of farmland preservation programs. The latest program information provided is from 1995, a considerable oversight given the rapid growth of programs and availability of information. The number of localities where PDR is practiced has tripled in the last two years.

Too much space is devoted to a discussion of nomenclature (the difference between development rights and conservation easements) and no space given to the long term benefits to rural conserva-

tion efforts that can be expected from the nation's premiere farmland preservation programs at the state and local levels.

If a third edition is pursued, it is hoped that the nation's farmland preservation programs will be surveyed and understood in terms of how they will ultimately provide (literally) the raw material — a protected land base — without which rural conservation efforts in urbanizing regions would not be possible. — *Deborah Bowers*

## Federal farmland program grants awarded

*continued from page 3*

Santorum of Pennsylvania has said he will submit a reauthorization bill for the program next year.

"We submitted a budget reauthorization for FY '99. If [Sen. Santorum] is proposing a bill, that's good news for us," Hunt said.

Localities, each receiving \$100,000, were: Baltimore County, Md., Town of Londonderry, NH, Orange County, NY, and Town of Dunn, in Dane County, WI. Peninsula Township was awarded a joint grant with Michigan of \$350,000. *Contact: Fen Hunt, (202) 720-7671.*

### Farmland Protection Program awards, FY 97

MD	Baltimore County	100,000
MA	Dept of Food & Ag	200,000
NH	Town of Londonderry	100,000
NJ	Dept of Agriculture	200,000
NY	Orange County	100,000
PA	Dept. of Agriculture	270,000
VT	Housing & Conservation Bd.	100,000
MI	Mich. & Peninsula Twp	350,000
WI	Town of Dunn	100,000
CA	Dept of Conservation	400,000

## Maryland Rural Legacy applicants create plans while guidelines unfold

*continued from page 1*

several sources at the Department of Natural Resources.

While some proposed Rural Legacy Areas may be extra large compared to others, the Rural Legacy Program will not set limitations regarding size, it was concluded at a well-attended Rural Legacy Board meeting Oct. 1.

More important, guidelines state, is whether a plan can be achieved given other factors present, such as preservation that has already occurred, and, landowner commitment to participating.

And, while partnerships between jurisdictions are encouraged, "no preference is to be given for large multi-jurisdictional Rural Legacy Areas" independent of other elements, such as a sponsor's ability to carry out a plan, according to guidelines.

On that point, Grant Dehart of Program Open Space, said areas should be "large enough to be significant, but small enough to be achievable."

John Griffin, Secretary of the Department of Natural Resources and a member of the Rural Legacy Board, said sponsors should "be creative" and that the program was designed to "let counties and other local sponsors demonstrate what they feel is most responsive to the program."

A guideline submitted to the Board for review was forthright about political realities and Rural Legacy awards— that applicants should judge the size of proposed areas according to what can be reasonably accomplished not only in practical terms in working with landowners, but in terms of how much money might be awarded to a particular plan.

"Sponsors should have reasonable expectations about what proportion of the total program budget might be awarded to any one Rural Legacy Area, and expect that the Board will want to maintain some geographic balance to this statewide program," the guideline stated.

### Proposals underway across the state

While no accounting can yet be made of proposals that will be finalized, most counties throughout the state will likely be represented in Rural Legacy Area proposals, including joint proposals from Baltimore and Harford Counties, and Montgomery, Frederick and Washington Counties, as well as six Eastern Shore Counties that will submit a joint proposal spearheaded by the Eastern Shore Land Conservancy. A joint proposal between Montgomery and Howard is developing.

Single proposals are believed to be underway in Charles, Anne Arundel, Calvert, Queen Anne's, Frederick and Baltimore Counties. Many of the proposals will be sponsored by nonprofits.

In the state's central region, a coalition of land trusts in Balti-

## legislative and program briefs ...

**In Maryland ...** St. Mary's County commissioners voted to establish an agricultural tax credit for landowners who sell easements in farmland preservation programs. The law will not take effect until next year, and excludes those who have already sold easements.

The Harford County Council approved legislation that will increase density on 1,559 acres scattered throughout the county formerly zoned for agricultural use at 1-10. Most of the density will increase to 1-2, some higher, and will affect fringe areas where farming still occurs and in some cases is the predominant use. Thousands of residents opposed any upzoning, with advocacy led by a new group called Friends of Harford. Developers and homebuilding industry representatives pleaded for new growth areas, claiming housing stock would be in short supply before the next land use plan update and comprehensive rezoning occurs in eight years, but planning department data shows nearly 27,000 units are yet to be built under current zoning allowances. Friends of Harford and other citizen groups may initiate overturning the legislation through referendum. Harford County's population stands at about 200,000 and ranks fifth in the nation for number of acres preserved through farmland preservation programs.

**In Ohio...** Legislation has been drafted that will authorize localities to purchase and hold conservation easements. The bill will be introduced by Sen. Grace Drake in about two weeks. The legislation was sought after the attorney general ruled last spring that localities lacked the authority to purchase easements, a ruling that stymied PDR efforts.

**In California...** SB 1240, Chap. 495 recently signed by the governor. It authorizes a city or county to enter into agreements with landowners to rescind a Williamson Act contract if that landowner

simultaneously places other land under an agricultural conservation easement. This would be in lieu of paying a Williamson Act cancellation fee. The easements would be held by the state Ag Land Stewardship Program.

**In Pennsylvania ...** The Pennsylvania farmland preservation program celebrates 100,000 acres preserved at an event in Northampton County Oct. 14. ... The Pennsylvania Farm Link Program has become an independent non-profit organization. Incubated by the Center for Rural Pennsylvania, the program has helped to match 30 retiring farmers with beginning farmers. The program has over 500 registrants. Its new telephone number is (717) 558-7726. Email: pafarmlink@redrose.net. ... The Pennsylvania Farmland Preservation Association, an organization of Pa. county program administrators, will meet Oct. 15 in Chambersburg. ... Bucks County is in the process of appointing a board to administer \$59 million in bond monies that will be issued following voter approval several months ago. \$13.5 million will go to farmland preservation over 10 years. The remainder will be for parks and open space.

**In Michigan ...** The Michigan farmland preservation program has sent forward 31 farms comprising over 6,000 acres for the state's first round of PDR. Final approval is expected by the end of Nov. A \$7 million appropriation is requested.

Local governments, farmers and environmentalists are smarting after Gov. John Engler signed into law amendments to the Land Division Act that will curb local control of subdivision regulations. Among the new laws are a one-acre minimum lot size unless there is adequate on-site water and sewer. Local government and environmental groups and the Michigan Farm Bureau will work for changes.

**In Rhode Island ...** The state's reactivated farmland preservation program is completing scoring of close to 30 applicants for PDR. In November the top 10 applicants will be screened and final selections will be made. Just \$2 million is available to be appropriated over two years.

#### *Rural Legacy from preceding page*

more and Harford counties will submit a joint proposal that encompasses the eastern half of northern Baltimore County and the northwestern corner of Harford County, where large contiguous blocks of farmland have been preserved under several existing conservation easement programs operated at the state and local levels in both counties.

The area includes three important Chesapeake Bay tributaries. The objective of the plan will be to retire development rights on parcels within or adjacent to existing preserved blocks of farmland, to secure buffers along streams, and to protect properties adjacent to parkland in the region.

While the Baltimore and Harford plan will be sponsored by nonprofits, it also has the involvement of a Harford County government-appointed commission and has the assistance of farmland preservation administrators Wally Lippincott of Baltimore County and Bill Amoss of Harford County, and other staff support. The effort is chaired by *Farmland Preservation Report* publisher Deborah Bowers.

Another joint proposal encompassing parts of Montgomery, Frederick, and Washington counties will seek to protect significant lands near South Mountain, Sugarloaf Mountain, and the Potomac River corridor. The project has ample staff support from Frederick County.

"We've got what we feel is a unique area ... some of our best farmland is on the south side of South Mountain and the northwest slopes of Sugarloaf," said Tim Blaser, farmland preservation administrator for Frederick County. Protecting viewsheds and providing buffers along state park corridors will be a focus, Blaser said. Area boundaries have not been finalized.

#### Model easement valuation and document

A model easement valuation system devised specifically for Rural Legacy goals that uses development rights as base points is being tested in five counties and guidelines are expected by December. Points are given for land and land management categories and natural resources categories, such as size of property, soil quality, protected land contiguous with easement, stream and waterway buffers, aquatic resources, and wildlife habitat conservation.

Several farmland preservation administrators have been providing input to the point system and exploring customizing options for their localities, a prerogative under the Rural Legacy Program.

A model Rural Legacy Easement was presented at the Board meeting that was admittedly a hybrid of easement documents used by the Maryland Agricultural Lands Preservation Foundation and the Maryland Environmental Trust. Those attending the meeting indicated some adjustments to the model language are likely.

Contact: Grant Dehart, (410) 260-8403; Theresa Pierno, (410) 260-8710.

## JOB ANNOUNCEMENTS

**Agriculture Program Director**  
**Chester County, Pa.**  
**Planning Commission**  
**Starting Salary: \$36,600**

Minimum requirements: degree in agricultural sciences, four years of applied experience. Master's degree preferred. Responsible for coordinating programs and activities of the Chester County Agricultural Development Council and the Agricultural Land Preservation Board.

Includes developing and implementing the annual work programs; developing and initiating farm retention strategies; providing assistance to municipalities on the Agricultural Securities Areas Program; producing educational materials; coordinating with local land trusts and implementing and administering the Agricultural Conservation Easement Program, which involves distributing program information, coordinating the application and settlement processes, meeting with landowners, maintaining complete and accurate program files, completing required reports and monitoring existing easements.

Strong communication, presentation and organizational skills required; knowledge of conservation practices; ability to work with the farm community; knowledge of Pennsylvania agricultural-related legislation; knowledge of appraisals, as well as legal processes related to land transactions; word processing and spreadsheet skills.

Submit resume to: William H. Fulton, AICP, Executive Director, Chester Co. Planning Commission, Suite 270, 601 Westtown Rd, West Chester PA 19382-4537.

**Policy Associate**  
**Sustainable Agriculture Coalition**  
**Salary: \$30,000 + depending on exp.**

Work in Washington, D.C. representing the Coalition in its dealings with federal policy officials. SAC is the advocacy arm of the Midwest Sustainable Agriculture Working Group, consisting of nearly 40 farm, food, conservation, environmental and rural organizations. Responsibilities include policy research, analysis, development and education, as well as developing issue strategies, building coalitions, facilitating grassroots, representing SAC before Congress and federal agencies and serving as public spokesperson. Expected start date: Jan. 2, with minimum two-year commitment. Send letter, resume, reference list and a writing sample to SAC, 110 Maryland Ave., NE, Washington D.C. 20002. Deadline: Oct. 31.

**Farm Preservation Programs Manager**  
**Eastern Shore Land Conservancy**  
**Salary: Commensurate w/ experience**

Regional nonprofit land preservation organization on Maryland's Eastern Shore seeking an experienced farm preservation program manager to coordinate all programs and activities in furtherance of ESLC's Agricultural Security Corridor initiative including farm preservation projects, education and public information, farm community relations, and related staff and volunteer supervision. Qualifications: farmland preservation experience, a commitment to farmland preservation; self-motivated, and computer literacy. GIS experience helpful. Salary based on experience. Benefits included. Send resume to ESLC, P.O. Box 169, Queenstown, MD 21658.

## BOOKS

**20% DISCOUNT FOR  
 FPR SUBSCRIBERS**  
**Holding Our Ground - Saving  
 America's Farms and Farmland**  
**By Tom Daniels and Deborah Bowers**  
**Island Press, April 1997, 334 pp.**  
**\$34.95+ s&h**  
**WITH SUBSCRIBER DISCOUNT:**  
**\$30 postpaid**

*Holding Our Ground* provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture — why farmland preservation has come about and why localities need to act. Serves as a how-to for the newly initiated, as well as a reference for the well-versed — it contains dozens of figures and tables, and a wide variety of appendixes serve as additional models and tools. **DISCOUNT TO FPR SUBSCRIBERS — ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.**

## CONFERENCES, EVENTS

**Oct. 26 - 29, St. Louis, MO: Rail-  
 Evolution '97: Building Livable Communi-  
 ties With Transit. Call 1-800-788-7077.**

**Nov. 2 - 5, Columbus, OH: Natural  
 Resources in Urban America, A National  
 Urban and Community Conservation  
 Conference. Call (303) 988-1810.**

**Nov. 17 - 18, Harrisburg, PA: Center for  
 Rural Pennsylvania, 10th Anniversary  
 Dinner and Conference at Harrisburg  
 Hilton. Cost is \$30 for Mon. dinner, \$20  
 for Tues. conference. Registration  
 requested by Oct. 31. Call 717 787-9555.**

**Dec. 2 - 4, Baltimore, MD: Partners for  
 Smart Growth Conference, Urban Land  
 Institute. Focus on profitable develop-  
 ment, livable communities. Call 1-800-  
 321-5011. See the ULI web page at <http://www.uli.org> for more details. Call 1-800-321-5011.**



# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## After five years, New Jersey plan's progress is debated

TRENTON, NJ — Five years have passed since enactment of the New Jersey State Development and Redevelopment Plan, which called for fundamental changes in how the state and its localities accommodate growth. While the 182-page plan prepared by the state planning commission has not collected dust on town hall shelves, observers differ on whether the plan can achieve its goals.

According to some, the plan has become widely accepted as a reference for planning efforts and a catalyst for change in how development occurs throughout the state. Others believe the voluntary nature of the plan puts the state on a collision course with wall-to-wall development.

According to state planning director Herbert Simmons, the plan is dynamic and continues to evolve, especially now as it undergoes a revision

and a new cross-acceptance process.

"The state plan is alive and well. It's not being implemented as fast as we would like, but it is absolutely a living document," Simmons said.

Michelle Byers, a member of the state planning commission, agrees that the state plan is beginning to show up in the routine decisions agencies and localities make, but that the change is slow.

"State agencies are going through rule revisions to reference state planning areas, to reflect where they give permits. That hasn't happened yet, but it's beginning to. It's baby steps, but compared to what happened without them, it's going in the right direction," Byers said.

Some would like to see more regional planning, but Byers said the combination of municipi-

*please turn to page 2*

## Loss of 25 square miles of farmland deemed "negligible"

UNIVERSITY PARK, IL — The Illinois Department of Transportation announced in late September that it was "exceedingly happy" about the results of its own draft environmental impact assessment of a proposed third major airport for the Chicago region to be built in Will County.

The report asserts there will be a "negligible impact on the environment" from the paving over of 22,690 acres of prime agricultural land and nothing but a positive economic impact from the destruction of 95 operating farms to be replaced by an estimated 236,000 airport jobs.

The report was released the same day U.S. Senate Agriculture Committee chairman Richard Lugar of Indiana urged international attention to the need for tripling worldwide food production in

the coming decades "on current arable land so that the world's rain forests are spared in desperate efforts to grow food."

*please turn to page 5*

Volume 8, Number 2

Nov. - Dec. 1997

### inside this issue ...

Economic arguments starting point .....	p. 3
Pennsylvania hits 100,000 acres .....	p. 4
California UGBs catching on .....	p. 6
Pa. administrators meet .....	p. 7
Legislative briefs .....	p. 6,7

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## Court decisions help New Jersey state plan stay on track

*continued from page 1*

pal, county and state government would make regional coordination a daunting task.

"It's a huge obstacle because every town has its own tax base," Byers said.

Enacted in June 1992, the New Jersey State Plan resulted from the State Planning Act of 1986, which called for coordinated investments in infrastructure. The plan was a call to save substantial portions of the state's remaining farmland, to work toward a more efficient use of infrastructure and to spur more sensible development that would recognize land and water resources as finite. More than half of New Jersey's farmland disappeared between 1950 and 1987.

According to Simmons, farmland preservation is "one of our fundamental challenges," but the equity issue continues to hamper moves to make the plan stronger. Even a move to merely suggest densities for rural areas was kept out of the commission's plan update.

### Support from governor, courts

The New Jersey State Plan is not regulatory but a set of policy guidelines intended to be used in local government and state agency decisions. While it doesn't change the criteria for issuing state permits, Gov. Christine Todd Whitman has directed state agencies to consider whether projects are consistent with the state plan and to report annually on compliance.

"We've had strong support from the governor and state agencies are beginning to use the plan more comprehensively in their planning and decisions," said planning director Simmons. So far, about 35 towns have come to the commission for endorsement of their plans.

Even more important for the state plan is support through recent court decisions that have upheld local zoning and development actions, referencing the state plan.

The plan called for the designation of five types of planning areas throughout the state, from metropolitan to environmentally sensitive.

In August a superior court judge ruled that a plan for more than 1,000 homes on 566 acres in an area designated environmentally sensitive required too much infrastructure investment for Pohatcong Township in Warren County, and that it was

inappropriate under state plan guidelines. The plan would also have displaced a number of threatened or endangered birds on the site, a bluff overlooking the Delaware River.

Other court decisions have upheld local actions against development plans for designated rural planning areas. In upholding actions by Springfield Township Planning Board, both a trial court and appeals court referred extensively to the township's reliance on the state plan as support for its actions.

The court rulings bode well for the state plan, according to Michelle Byers.

"Over time the state plan will become the master plan guidance document it's supposed to be. It will be used more and more by towns that want to be protected from lawsuits."

### "Rendezvous with suburbia"

But the governor's support and favorable court decisions are not enough to make up for the voluntary nature of the state plan and not enough to hold back a tidal wave of new growth set in motion by ineffective zoning throughout the state, according to Bill Neil of the New Jersey Audubon Society. The group feels the state is losing ground in the fight to preserve its last farmlands and open space, and has organized a petition drive calling for a stronger state plan that requires implementation.

The petition, called the People's Petition to Implement the State Plan, calls upon the governor, legislature and planning commission to "promptly alter the character of our State Plan to give it some teeth."

The petition calls for a statewide transfer of development rights (TDR) program, 1-40 agricultural zoning statewide enacted by localities that will lose state funding if not implemented, a new town center element that limits the size of centers, clear urban growth boundaries, and a procedure that empowers citizens to protect sensitive areas.

The petition claims that state-level leadership is the only way land use policy will work in New Jersey and points to the state's successful wetlands protection program.

The New Jersey Audubon Society believes the State Planning Commission's 18-month revision of the plan did nothing to add teeth, and was a waste

*please continue to next page*

*New Jersey, from previous page*

of time in light of the plan's own statement that "continuing growth trends into the mid-21st century suggest that much of the rural landscape of New Jersey will disappear."

The state plan, according to the Society, will be ineffective because it only puts "soft, ineffective, purely voluntary tools out for local governments to ignore..."

The petition drive, which began in late April, is co-sponsored by the New Jersey State Federation of Sportsmen's Clubs, Inc. and endorsed by 21 state and local conservation and civic organizations and four members of the legislature. So far, about 8,000 signatures have been gathered.

The petition drive will go on, according to Bill Neil, "for as long as it takes to move the state legislature and the state Planning Commission off their inert, voluntary model," because to continue on a voluntary basis is to "take the remainder of what's rural in our state to a 'rendevous with suburbia.'"

Contact: Herbert Simmons, (609) 292-3155; Michelle Byers, (908) 234-1225; Bill Neil, (908) 766-5787.

### Land trust workshop

## Economics figures heavily in successful initiatives

LONG GREEN, MD — To kick-start a farmland or open space preservation effort, use research that shows how preservation is an economic benefit, two speakers told attendees of a land trust training workshop in Maryland Oct. 17.

Marty Rice of the Frederick County (Md.) Planning Commission told about 60 conference participants at a Baltimore County winery that a cost-of-community-service study (CCSS) performed in Frederick County was the first of its kind in the mid-Atlantic. Most similar studies, like those performed by the American Farmland Trust, use data from towns or townships, not an entire county, she said.

The \$12,000 study, paid for by a local foundation, found that for every dollar in revenue from a residence, the county paid \$1.14 in services.

"This was a lot lower than we expected it to be," Rice said. Even so, in 1995 "that meant residential

development cost our county government almost 20 million dollars."

For industrial and commercial development, just 47 cents were spent on services for every dollar of revenue generated, and farmland cost just 43 cents to service for every dollar taken in.

Such studies empower citizens by providing the factual basis to argue for better planning and zoning decisions, Rice said.

"We are currently engaged in a battle where citizens say to officials 'how can you rezone this property given the cost to citizens?'"

Rice said that Frederick County's countryside, highly prized for providing the state's easternmost mountain viewsheds, has been substantially compromised by sprawl. Views from the Catoctin Mountain Park, a National Park Service area, no longer show miles of unbroken farmland, but a far-flung pattern of homes and driveways.

The only hope is to keep this new landscape condition from worsening. "We hope to use [the study] as a springboard for the next election, to help direct growth and begin to focus economic development to the agricultural industry."

Rice said one of the most important trends she sees is that businesses "are beginning to understand the value of quality of life issues."

Rice also pointed out that it is important to have such studies conducted by a well-respected institution or outside organization like the American Farmland Trust.

### Baltimore County study disproved lot size/land value link

John Bernstein, director of the Maryland Environmental Trust and former director of the Valleys Planning Council, said a study the VPC initiated virtually secured passage of a 12,000-acre downzoning in Baltimore County in 1996.

Underlying factors were equally important, he said, such as restrictive zoning and its relationship to easement donations. In many areas, agricultural zoning effectively allows only one development right per 50 acres.

"In Baltimore County there's a leap of faith when it comes to donating an easement because of the zoning ... that if you do an easement, the property next door will not become townhouses."

*please continue to page 4*

## Disproving loss of equity was key to downzoning success

*continued from page 3*

Baltimore County has 8,000 acres preserved through donated easements, more than any other county in the state.

But the Valleys Planning Council saw a need for additional low-density zoning in an area of the county where farming was still predominant, yet zoning allowed 1-5 zoning to reach out "like fingers" from a development corridor into the farming areas. The downzoning was recommended by the county planning commission and backed by the Valleys Planning Council.

The first comments to come from the farming community was that downzoning, by decreasing the number of homes allowed on a parcel, would decrease land values. The argument assumed a correlation between the number of potential lots on a parcel and its development value.

"When the idea was first floated there was a tremendous uproar. We wanted to prove that this so-called loss of equity didn't exist," Bernstein said.

Bernstein and an assistant took on the incredible task of examining land sales over the preceding 10 years for parcels above 10 acres and parcels above 60 acres, comparing 1-5 zoning with 1-50 zoning.

"We found there was no statistical difference between land that could be divided into 50-acre lots or those that could go to five-acre lots," he said.

The study looked at 154 sales transactions on parcels of 10 acres or more in preservation areas. Parcels zoned for the 1-50 density sold for an average of \$7,097 per acre, whereas parcels zoned for the 1-5 density sold for an average of \$6,282 per acre.

Looking then at parcels of 60 or more acres, the difference in per-acre averages between the 1-5 zoning and the 1-50 zoning "was a wash," Bernstein said. The average parcel size sold during the period with the 1-5 density allowance was 120 acres, and had an average cost of \$6,255 per acre.

The average parcel size sold from the 1-50 density areas was 113 acres, and had an average cost of \$6,335 per acre, a difference of just \$80.

The study results provided the kind of support to the effort that no other strategy could have: a political safe zone.

"The county council achieved sufficient political

## etcetera ...

### **Pennsylvania celebrates 100,000 acres; Gov. Ridge signs executive order**

*Nazareth, Pa.* — Pennsylvania agriculture officials gathered at a farm in Northampton County in October to celebrate the state's preservation of 100,000 acres of farmland since the start of its purchase of development rights program in 1989. The celebration was held on the 273-acre crop farm that pushed the state preserved acreage total to the 100,000-acre mark.

The Pennsylvania program was inaugurated with passage of Act 149, with overwhelming voter support for a \$100 million bond referendum to fund the program. Eight years later, the program has now preserved 103,340 acres on 809 farms in 37 counties. About 1,000 farmers across the state have applications pending. Three additional counties joined the program last month by creating local agricultural advisory boards.

Having the celebration take place in Northampton County prompted that county's executive to boost local funding for its program for the upcoming year.

Gov. Thomas J. Ridge addressed about 350 attendees, talking up the success of the program and indicating that he is actively exploring ways to replenish program funding. Ridge suggested that revenues from selling off the state-owned liquor stores, something he has said he wants to do, could produce an endowment for farmland preservation.

During the ceremony Ridge signed an executive order directing all agencies to mitigate and protect against the conversion of primary agricultural land and adopt policies that encourage farmland protection. The order affects the use of state and state-administered federal funds, and places the highest priority for protection on preserved farmland, whether easements are held by the state or a land trust.

Farmland protected under the Agricultural Security Areas, the Clean and Green preferential tax assessments, farmland planned for agricultural use through master plans or zoning and lands classified by USDA as classes I, II, III and IV will receive priority in that order.

Agencies are ordered to amend guidance documents within six months. The order also sets up an interagency committee.

coverage from the study that the bill passed," Bernstein said.

As a further inspiration, Bernstein said the cost of the study was about \$5000 and could be performed "in a couple of weeks."

The one and a half day conference was sponsored by the Maryland Environmental Trust and the Maryland Land Trust Alliance and included a morning tour of five protected properties.

Contact: Marty Rice, (301) 371-4814; John Bernstein, (410) 514-7900.

## Illinois

# Airport would destroy 25 square miles of farmland

*continued from page 1*

While Lugar was challenging the nations of the world to increase production "on current arable land," 25 square miles of the world's finest soils in his neighboring state are planned for destruction to accommodate an airport many civic leaders say is unneeded.

The Illinois Department of Transportation report predicts a 94 percent increase in population in the 14 townships surrounding the proposed airport by 2020. Without the airport, a 25 percent population growth was predicted.

At a hearing on the environmental assessment, the Chicagoland Transportation and Air Quality Commission presented testimony regarding its Citizen Transportation Plan for Northeastern Illinois, which is endorsed by more than 130 public interest groups and local governments.

Unlike the Illinois Department of Transportation plan, the Citizen Plan is "a blueprint for growth that aims to save taxpayers billions of dollars of unneeded public services and infrastructure," said Bob Heuer of the Commission.

"A main goal is to encourage smart growth strategies for expanding suburbs and a greater share of resources to making existing communities places you wouldn't want to move away from," he said. "We think there must be a better way to revitalize south Cook County than by building a regional airport on the farm fields of east Will County."

Heuer said there is no proof that the airport, to be built near the town of Peotone, would attract the

air traffic it predicts, "which calls into question the likelihood of it creating 236,000 jobs."

According to the Commission, the Peotone airport proposal was "more about promoting real estate development than facing genuine transportation need."

The Commission points out that the airport proposal will continue an irreversible drain of taxpayer dollars away from the metropolitan core that suffers from lack of public and private investment. Billions of dollars would be spent on the terminal itself, and billions more for roadways, sewer and water, and transit to move people from south Cook County to all the new jobs at the airport, Heuer said.

The airport proposal's no-build alternative does not include a true alternative to the economic development supposedly pushing the airport project. Heuer suggested exploring the region's intermodal freight facilities along the southwest shores of Lake Michigan where "the convergence of rail and trucking routes create the basis for an intermodal freight sector that represents about five percent of the region's economy."

Heuer said transport firms are buying lands adjacent to their plants and building warehousing and distribution facilities on the city's South Side and other places. Yet, "no agency is tracking this apparent growth trend ... none is asking the freight industry what it needs to grow," Heuer said.

The Chicagoland Transportation and Air Quality Commission has called upon Illinois Agriculture Secretary Becky Doyle to "conduct a full economic assessment — past, present and future— of the area's farm economy. Heuer said an economic impact report should be prepared that will determine what will be lost from agricultural output over a 50-year period from the loss of 23,000 acres "of the world's finest farmland."

The state so far has spent \$22 million planning for the airport while the Chicagoland Transportation and Air Quality Commission has called on the state to redefine progress "as making better use of what we have. In fact, abandoned spaces are so abundant that the six-county area's projected population increase over the next 20 years — 1.8 million people — could be accommodated within walking or shuttle distance of existing transit lines," Heuer said.

Contact: Bob Heuer, (773) 274-1989; Scott Burkhardt, Ill. Dept of Transportation, (312) 793-6160.

Urban growth boundaries**California greenbelts setting new pace for growth control efforts**

**NOVATO CA** — Urban growth boundaries are catching on in communities of the greater San Francisco area, with Novato, Marin County, voters being the latest to approve a long-term greenbelt for their community. The measure succeeded by a 70 percent margin.

The passage of Measure G establishes a 20-year urban growth boundary that protects Novato's hillsides and bayshore areas and directs all new development to occur within the town's current limits.

The ballot box provides voters with additional punch: No major subdivision outside the line can occur without voter approval.

Environmental protection and growth management, not farmland preservation, were the motivating factors behind the measure, according to Bob Berner, executive director of the Marin Agricultural Land Trust. While the new city boundary "makes it impossible for the city to expand westward into farmland, it isn't terribly meaningful in terms of contemporary threats," Berner said, referring to an absence of expansion plans.

The Marin Agricultural Land Trust has protected 25,500 acres through easement, but with funds diminished and a recent tax measure defeated, it has been unable to purchase easements since 1994.

Another urban growth boundary measure failed in nearby Fairfield, in Solano County, where intense campaigning by developers and real estate interests outspent UGB proponents 10 to one. The defeat was agonizingly narrow: 6,257 to 6,209.

According to Greenbelt Alliance, a Bay Area land conservation group, developers spent an estimated half million dollars to defeat the proposal and protect millions of dollars worth of development projects that would have been halted under the Fairfield greenbelt law.

"The developers spent approximately \$80 per vote," said Christa Shaw of Greenbelt Alliance, despite the measure's creating a 50 percent increase in housing density inside the line.

"The fact that urban growth boundaries enable us to curb sprawl and accommodate new development at the same time demonstrates that UGBs are not about no growth, they're about smart growth," said Jim Sayer, executive director of Greenbelt Alliance.

Even with their Fairfield victory, developers in the Bay Area have a lot to worry about.

Over the last year, eight urban growth boundaries have been enacted in Bay Area communities such as Cupertino and San Jose. Last January, four greenbelts were passed in Sonoma County alone, protecting farmlands outside Santa Rosa and three other towns (see FPR Jan. 1997). The Sonoma County greenbelts were the first to be adopted at the ballot box.

And these won't be the last, according to the Alliance. As many as 11 other communities are soon expected to consider UGB measures.

The use of UGBs in the United States began in Oregon in 1973 when the state's newly enacted state plan required 32 counties and

**legislative  
and program  
briefs ...**

**In California ...** Auditing of Williamson Act contracts continues to find violations, according to program administrator Ken Trott. One city annexed Williamson Act land and development occurred on the small parcel despite the city being informed of the property's status. A penalty was imposed. Penalties are assessed at 12 1/2 percent of property value unrestricted. The auditing function of the program was recently funded after 30 years of dormancy. Recent passage of a provision that will allow donation of conservation easements in lieu of contract cancellation fees looks promising, Trott said.

**In Pennsylvania ...** Lancaster County will exceed the 25,000-acre mark for preserved farmland acreage next month. Gov. Tom Ridge signed an executive order directing state agencies to avoid conversion of farmland, especially preserved farmland, when planning projects.

**In Connecticut ...** The legislature allocated \$1 million for each of the next two fiscal years and adopted language that requires the use of conservation plans for farms entering the program. "This brings our program into line with the federal program. I would say that 80 to 90 percent of our applicants have plans," said Jay Dippel, program manager. Also, for the first time since 1993, the state will provide cost-share for the agricultural waste management program, at \$400,000 for the coming year. The program now has 170 farms and 25,500 acres preserved.

**In Maryland ...** The state will benefit enormously from \$200 million in redirected Conservation Reserve Program dollars, that will fund voluntary conservation measures, including easements, along the state's sensitive

bay shorelines. The deal was announced by Vice President **Al Gore** in late October at an Eastern Shore farm. Still up for discussion are proposed changes to the state program's lot exclusion rules

The **Maryland Farm Bureau** has succeeded in scheduling a hearing before a joint legislative committee to address aspects of the **Rural Legacy Program** it regards as not benefitting fulltime farm operations. Natural resource protections emphasized in the program are a particular target, sources say. However, Rural Legacy regulations are past their 45-day comment period, and the Department of Natural Resources, the lead agency for Rural Legacy, will not be compelled to alter its guidelines, according to the Department of Legislative Services.

Meanwhile nonprofit and local government sponsored Rural Legacy proposals are underway in each of the state's metro-area counties. Public meetings held thus far have shown strong public support and attracted scores of landowners who want to participate.

**In New York ...** The new state program closed its second application period Oct. 20, receiving 16 applications from local farmland preservation efforts. The total cost of all the proposed projects is \$38.4 million. The state match would be \$26.3 million. Among the applicants are Orange, Washington, and Suffolk Counties, and the towns of Pittsford, Amherst and Riverhead. Pittsford, which had decided to fund easements in two bond issues over 10 years, now is seeking \$5 million in state grant funds to pay all of its applicants at once, according to town supervisor Bill Carpenter. Suffolk County, the state's most experienced in PDR, has requested \$9 million.

### *UGBs, from preceding page*

242 cities to create boundaries. It took 13 years to get them in place, and now their success in containing sprawl is debatable. In four case studies performed in 1990, it was found that only one of them — around Portland — had contained growth. The three others saw between 24 and 57 percent of new homes built outside UGB lines.

However, the California UGB style of requiring voter approval for any major subdivision outside the line may go a long way in assuring a greater success in containing growth.

Other localities that are using UGBs are Lancaster County, Pa., Virginia Beach, Va., and Thurston County, Wa. Maryland's new Smart Growth law could help to spur UGB-like containment by withholding state funds for infrastructure outside of designated growth areas.

The UGB trend in California is not confined to the Bay Area. "We're getting inquiries about UGBs from all over California, from Arcata to Ventura, from the Central Valley to the Sierra Nevada," Sayer said.

*To learn more about urban growth boundaries, contact the Greenbelt Alliance to receive their new 75-page guide, "Bound for Success," for \$10, at (415) 543-4291, or send check to 116 New Montgomery, Suite 640, San Francisco CA 94105.*

### **Pa. administrators gather for semi-annual meet**

**CHAMBERSBURG PA** — About 26 Pennsylvania program administrators and other officials met in Franklin County Oct. 15.

The gathering was a semi-annual meeting of the Pennsylvania Farmland Preservation Association, formed last year by county program administrators from the southeastern region of the state.

Peter Hausmann, chairman of the Chester County Planning Commission and veteran land preservation advocate in the county, told of his experiences educating residents about land use.

Hausmann led the campaign in 1989 to pass a \$50 million bond referendum for open space and farmland preservation, winning an unprecedented 82 percent of voter approval through public education. Ultimately, 12,000 acres were preserved at an average per-acre cost of \$3800.

"Everybody thought we got good value for our dollars," he said. Currently, the planning commission is trying to encourage growth boundaries within townships, with \$70,000-dollar planning grants as incentive. Hausmann said 55 of 73 municipalities had signed onto the challenge.

"Quality of life creates jobs," Hausmann said. If growth isn't well managed and open space preserved, "we not only lose environmentally but economically." Hausmann, who owns a commercial development and management business, said progressive companies want to locate in communities that are liveable and well-managed.

"I suggest to you that open space is infrastructure in this new economy," he said.

*For information on the Pennsylvania Farmland Preservation Association, contact Betty Reefer, secretary, (412) 837-5271.*

## resources ...

### JOB ANNOUNCEMENTS

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The Institute for Conservation Leadership is a private, non-profit environmental service organization that works throughout the U.S. to strengthen organizations and their leaders working on behalf of the environment. We develop and conduct training programs and provide consulting and technical assistance. Position will manage projects, assist with delivery of programs, marketing and fundraising. Minimum qualifications: three years experience working with nonprofit organizations, strong organizational, writing and research skills, work well with people, work independently; some fundraising experience preferred; knowledge of environmental issues; B.A. or equivalent training. Position reports to the executive director. Benefits included. Send resume or request job announcement to ICL, 6930 Carroll Ave., Suite 420, Takoma Park, MD 20912.

### BOOKS

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Written for professionals as well as the layperson, *Holding Our Ground* provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture — why farmland preservation has come about and why localities need to act to prevent fiscal drift. Serves as a how-to for the newly initiated, as well as a reference for the well-versed — it contains dozens of figures and tables, and a wide variety of appendixes serve as additional models and tools. **DISCOUNT TO FPR SUBSCRIBERS — ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.**

**Saving America's Countryside — A Guide to Rural Conservation, 2nd Edition**  
**Samuel N. Stokes, A. Elizabeth Watson and Shelley S. Mastran**  
**Johns Hopkins University Press, 480 pp., 1997, \$25.95**

Reviewed in our last issue. This is the best book available for inspiration and guidance on how to conserve open space and protect natural resources in America. Comprehensive in its scope, chapters cover everything from visual preference surveys and case studies to the how-tos of organizing a rural conservation program and understanding how economic development policies can help a project. Order by calling 1-800-537-5487. See JHU Press website at [www.press.jhu.edu/books/stokes.html](http://www.press.jhu.edu/books/stokes.html)

### CONFERENCES, EVENTS

**Dec. 2 - 4, Baltimore, MD:** Partners for Smart Growth Conference, sponsored by the Urban Land Institute and the U.S. Environmental Protection Agency. Focus on profitable development, livable communities and environmental quality. To register call 1-800-321-5011. See the ULI web page at <http://www.uli.org> for more details.

**May 10 - 13, 1998, Annapolis, MD:** A Conference on the Conservation of Biological Diversity ~ A key to the restoration of the Chesapeake Bay ecosystem and beyond. Workshops on conservation biology, social ecology and public policy. For registration materials or information on presenting a poster or paper call (410) 260-8540; email: [biodiversity@dnr.state.md.us](mailto:biodiversity@dnr.state.md.us); Internet: <http://www.gacc.com/dnr/biodiversity>.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Newest state programs struggle with uncertain funding

Statewide programs created within the last five years in Michigan, Kentucky, California and New York have seen varying levels of progress, but all share one thing in common: uncertain levels of funding, and often, uncertain sources of funds as well. Compared to programs in the mid-Atlantic and New England, where funding is more adequate to the task and often dedicated, programs in these four states are fighting for survival.

### Michigan

In Michigan, appraisals are underway for 37 farms comprising about 6,000 acres — Michigan's first farms ready for the purchase of development

rights (PDR) in an application cycle completed last spring.

Funding for the program arose from accumulated penalties for withdrawal from the state's Farmland and Open Space Preservation Act of 1974. Under that law, landowners receive credits on state income tax in exchange for 10 years of forgoing development. Between 1974 and 1994, the penalties accumulated \$10 million but now annually generate about \$2.5 million. Current funds stand at about \$14 million.

Rich Harlow, program manager of the Farmlands and Open Space Unit of the Department of Natural Resources, said the first round of ease-

*please turn to page 4*

### Maryland

## Applicants work feverishly to meet Rural Legacy deadline

Local governments and land trust organizations across Maryland are working feverishly to meet a Jan. 30 deadline to complete grant proposals for the state's new Rural Legacy Program, which is offering \$23.4 million to its successful first year applicants.

Created by the General Assembly last spring, the program's mission is to protect large contiguous tracts of land in areas with agricultural, natural, scenic and cultural resources.

As grant applications are developed, new regulations and guidelines continue to stream through the Department of Natural Resources, the lead agency for implementing the program that

promises to protect more than 200,000 acres by the year 2011.

Even after the 45-day regulatory review

*please turn to page 4*

**Volume 8, Number 3    January 1998**

### inside this issue ...

Preliminary Rural Legacy applicants listed .....	p. 3
Ocean County NJ voters approve program .....	p. 4
New Central Valley study .....	p. 4
Census of agriculture underway .....	p. 5
Legislative briefs .....	p. 6,7

## Key Rural Legacy details are unresolved as deadline nears

*continued from page 1*

period, the Maryland Farm Bureau, a lukewarm supporter of the program, insisted on changes in how Rural Legacy Areas are defined and documented. The Rural Legacy Board, eager to move on to other pressing matters, acquiesced and added several more details that applicants must provide as they develop their proposals.

Some key administrative details remain unresolved. Grant applicants that would like to offer installment purchases of conservation easements don't yet know how the installment payment method would be administered. The program will allow up to \$2 million of its funds to be used for the purchase of zero-coupon U.S. treasury obligations, known as zero-coupon bonds or "zeros." The use of zeros would allow substantial leverage of funds. At mid-1997 rates, \$2 million in transfer tax could be boosted to about \$16 million in zero bond revenues. A key question is whether the state will pick up the interest payments to landowners.

A preliminary determination by the state is that purchasing general obligation bonds will be cheaper than buying zeros, but the bottom line will likely not be the only line that will matter when landowners and farmers see the financial benefits installment payments offer, including tax-free interest and deferral of capital gains.

Other administrative matters await answers as the program's first year works out its own kinks.

The complexity of the Rural Legacy Program is its greatest challenge, according to Jeremy Criss of Montgomery County, who is coordinating with multiple jurisdictions to propose Rural Legacy Areas in two parts of the county.

"We have taken on a challenging initiative with partners on all sides. The central theme is the Potomac watershed," he said.

In addition to a 42,000-acre region in Montgomery's west side, the Potomac proposal includes a 35,000-acre swath of southeast Washington County and 70,000 acres in Frederick County between Washington and Montgomery, making the proposed area total 147,000 acres.

"It's a big area with a lot of divergent interests," said Tim Blaser, Frederick County farmland

preservation administrator. "We're getting a lot of information from the land trusts involved."

A number of nonprofit organizations in the region recently formed the Mid-Maryland Rural Legacy Land Trust Inc. to sponsor the proposal, including the Monocacy Watershed Conservancy, the South Mountain Heritage Society and the Potomac Conservancy.

In the Montgomery County portion, four municipalities are within one mile of the proposed area and under program rules must endorse the application.

Another joint proposal between Montgomery and Howard County is underway that includes 31,000 acres on Montgomery's east side that will cross over into Howard's watershed-reservoir study area in the upper Patuxent River and Cattail Creek. That region of Howard encompasses 44,000 acres, but the entire region may not be included in a proposed Rural Legacy area, according to Bill Pickins of the Howard County farmland preservation program. The prospective area "is not formally defined yet," Pickins said, but much of it is already preserved.

In Baltimore County, four Rural Legacy proposals are underway, three by nonprofit organizations, all vying for endorsements from County Executive C. A. Dutch Ruppersberger.

The Valleys Planning Council, a Baltimore County land protection advocacy group and land trust, will submit a proposal for protection of the Piney Run and McGill Run watersheds in the central west section of the county. "It's mostly working farms, with some horse farms," said Council director Jack Dillon.

Nearby, the Long Green Valley Conservancy will seek to designate its area and to add 500 acres to its preservation log.

The Baltimore County Department of Environmental Protection and Resource Management (DEPRM) will write a proposal to designate a "Coastal Rural Legacy Plan" that would seek to

*please continue to next page*

**Rural Legacy applicants, preliminary listing**

County	Project area	Contact
Mont/ Washington/ Frederick	Sugarloaf Mtn, Barnesville	John Zawitowski, 301 590-2831
Montgomery & Howard	Upper Patuxent, Cattail Creek	Bill Pickens, 410 313-5407
Calvert	Parkers Creek, St. Leonards, Battle creeks	Greg Bowen, 410 535-2348
Carroll	Little Pipe Creek (Monocacy tributary)	Bill Powel, 410 857-2132
Charles	Zekiah Swamp Watershed	Pat Haddon, 301 645-0540
Harford & Baltimore	Ag region, Gunpowder/ Deer Creek watersheds	Deborah Bowers, 410 692-2708
Baltimore	Coastal - Gunpowder mouth to Fort Howard	Wally Lippincott, 410 887-4488 x241
Baltimore	Piney Run, McGill Run watersheds	Donna Mennito, 410 337-6877
Baltimore	Long Green Valley, Long Green Creek	Catherine Ebert, 410 592-2381
St. Mary's	Patuxent River, waterfront properties	Donna Sasscer, 301 475-4404
Wicomico	west of Salisbury, Wicomico River	Kristen Hughes, 410 548-4860
Anne Arundel	information not released	Barbara Polito, 410 222-7441
Prince George's	Patuxent River area	Kim Finch, 301 952-3506
Eastern Shore	Agricultural Security Corridor, 6 counties	Rob Etgen, 410 827-9756

**Rural Legacy, from page 2**

protect lands along the numerous creeks and rivers that lead out to the Chesapeake Bay, from the Gunpowder River to Fort Howard on North Point. The plan seeks to combine easements and fee simple purchases to create a contiguous band of protected lands along the Bay.

A joint proposal between Baltimore and Harford county nonprofits encompasses an area roughly the size of Baltimore City that holds three major Chesapeake Bay tributaries, many state and county parks and historic districts, and the historic My Lady's Manor, known for thoroughbred raising, racing, and foxhunting. Named by a coordinating committee as the Piedmont Rural Legacy Area, it has garnered a high level of commitment from more than 100 landowners, many in key focus areas. The region already has thousands of acres preserved through farmland preservation programs and the Maryland Environmental Trust, a tradition its sponsors hope to build heavily upon. The proposal will be co-sponsored by

Harford Land Trust and The Manor Conservancy. Three other organizations are working on the joint effort, which has staff support from both Baltimore and Harford counties.

In Calvert County, a Rural Legacy area of 40,000 to 50,000 acres and encompassing pristine Parkers Creek will be submitted by a joint committee of four nonprofit groups, the county Agricultural Preservation Board and the Historic District Commission as well as the county government.

Carroll County will submit an application for the Little Pipe Creek Watershed, a tributary to the Monocacy River. The plan will build on the 45 farms in the 30,800-acre watershed already under easement, according to ag preservation director Bill Powel.

Charles County will seek to protect its Zekiah Swamp Watershed, covering about 66,280 acres, a full 22 percent of the county's land mass. The swamp itself forms the headwaters of the Wicomico River, a Potomac tributary, and is a hardwood

*continue to page 7*

## New state programs unsure of political support, funding

*continued from page 1*

ment purchases will use up a good portion of current funds, and that no future source of funds has yet been recommended by the Purchase of Development Rights Review Committee.

Just as worrisome, according to Scott Everett of the Michigan Farm Bureau, is that farmland loss in Michigan and what to do about it has not been fully explored and is far from being resolved.

"We're going to appoint a special policy committee of about a dozen people to explore the issue and see what needs to be done," Everett said. The farm bureau will lead a fact-finding mission "out east" to farmland preservation territories in Pennsylvania and Maryland this spring, particularly to Lancaster and Maryland counties, Everett said, where the committee can see first-hand how farmland preservation is done at the local level.

The exercise should help Michigan farmers and officials decide whether the state program as it is now operated is the best way to continue, or, whether a more bottom-up approach could be more productive, according to Everett.

And, testing the local waters for political support will be a pivotal role for the farm bureau. One local farm bureau has already expressed opposition to state involvement in private land.

When the field trip is done and the committee develops its recommendations, Everett hopes to build a consensus among farm bureau membership that farmland preservation through the purchase of development rights needs to be a solid program with solid funding — possibly through the use of development impact fees.

"This will be a huge issue at our annual meeting next year," Everett said.

Meanwhile, the new state program will survive, but not thrive, on the \$2.5 million annual revenue from cancelled protection agreements.

### New York

Last spring New York entered the farmland

## etcetera ...

### Ocean County NJ votes for open space tax

*Toms River, NJ* — Voters in Ocean County, New Jersey passed a property tax increase of 1.2 cents to dedicate to open space and farmland preservation. The increase is expected to generate \$3.8 million annually and will become available next August.

Natural lands in the Barnegat Bay region and farmlands in the county's northwest corner in Plumstead Township are targeted for protection according to David McKeon, farmland preservation administrator. All 1,367 acres of farmland preserved in the county so far is in that area, McKeon said.

"We are looking to establish a farm belt around the town of New Egypt. With the new county money we hope to preserve the remaining parcels. Our biggest problem has been meeting the demand."

Until the county completes its open space plan, it will not be determined how the monies will be split between natural lands and farmland.

Crop fields and vegetable operations predominate in Plumstead Township, where zoning allows one to five-acre lots. Clustering is used and developers are required to provide 50-foot buffers between subdivisions and farm operations. The township created a farmland preservation zone "to increase awareness" of agriculture. New homeowner notification and a right-to-farm law are in effect.

Ocean County joins 12 other counties in New Jersey that have established open space trust funds. Thirty-two municipalities also have dedicated taxes for open space and farmland preservation.

*Contact: David McKeon, (908) 929-2054.*

### New fiscal policies could help Central Valley, study says

*Berkeley, Ca.* — Reform of local government fiscal systems to curb the unending pursuit of new revenues through development — at the expense of farmland — is the major recommendation of a new study of farmland loss in California's Central Valley.

Conducted by the California Policy Seminar, a joint program of the University of California and state government, the study recommends that localities protecting farmland at the risk of losing growth-

*please continue to next page*

related revenues "should not be punished fiscally. State action, possibly requiring constitutional revision, is needed to decouple the revenue from the land use aspects of development" and to allow more discretion over revenue sources.

The Central Valley is California's top agricultural region, containing 69 percent of its cropland and generating about 58 percent of its total farm market value. It is also one of the state's most rapidly growing regions, adding 1.8 million residents from 1980 to 1995, a gain of almost 50 percent.

Considerable local prerogative in how state farmland protection policy is carried out has long been the underlying cause of farmland loss in the region, the study says. But greater state involvement in land use is unlikely in the foreseeable future.

"Most of the local leaders we interviewed in the seven sample counties argued for continued local control," the study says.

The study suggests several options for greater farmland protection, including higher densities in new urban development, incentives to landowners for land preservation and greater city-county cooperation in fiscal and land use matters.

*For a copy of the 12-page brief, "Farmland Policy in California's Central Valley: State, County, and City Roles," contact the CPS at (510) 642-5514 or write 2020 Milvia St, Suite 412, Berkeley CA 94704.*

#### **USDA launches 1997 Census of Agriculture**

The 1997 U.S. Census of Agriculture was launched in late December, with questionnaires sent to more than two million farmers and ranchers who must, by law, complete the forms and return them by Feb. 2. The census is taken every five years.

Among the questions farmers are asked are what they grow, how much they harvest, and how much land is idle or in the Conservation Reserve and Wetlands Reserve programs.

Some states, such as Pennsylvania and Michigan, will coordinate the census through their own statistics services.

"The census of agriculture is the only source of uniform, comprehensive agricultural data at the county, state, and national level," said Pennsylvania state statistician Wally Evans. The census will serve "as the agriculture industry's database for the next five years."

#### **Minnesota, from preceding page**

preservation arena by opening a competitive grants program for localities implementing farmland protection plans, many looking to purchase development rights. Thirteen applications from six counties and seven towns competed for \$3.7 million and eight received awards in that first round.

This month 16 proposals are vying for their share of a \$3.4 million appropriation from the state's Environmental Protection Fund, and nearly all the requests are for PDR.

Other funding may be available from the Clean Air/Clean Water Bond Act, but not nearly enough to cover the \$26.3 million that seven counties and fourteen towns, some in joint proposals, are requesting. The program has not yet gotten word as to how much it will receive from this second source of funds.

"We have targeted parcels we'd like to see funded from [the bond act]. It's now up to the Administration to decide," said program manager Bob Somers.

Four of the counties and seven of the towns indicate they are ready to purchase development rights on about 48 farms comprising 8,277 acres, at a total estimated cost of \$258.6 million in state and local matching funds. In addition, Suffolk County, an independently operating program since 1974, is requesting \$9 million to help it purchase development rights on some of its backlogged 39 farms.

A listing of applicants and the scope of their projects reveals the state's wide variations in land values from populous Suffolk County, on Long Island, to rural localities in the Adirondacks.

In Suffolk County, farm parcels as small as 10 acres are prized for their value to local agriculture and can have an easement value as high as \$20,000 per acre.

By comparison, in rural Washington County, next to southern Vermont, six dairy farms and a vegetable farm totaling over 1,000 acres are proposed for preservation for an estimated \$618,000. Neighboring Essex County, within the Adirondack Forest Preserve, is seeking to purchase easements on four dairy farms and one orchard operation

## New state programs scramble for funds

*continued from page 5*

totaling 1,767 acres, for an estimated \$945,760.

Although funding sources seem stable, the New York farmland protection program doesn't have the luxury of programs in the mid-Atlantic that have dedicated streams of revenue from taxes and bonds. Instead, it must compete each year for funding shared by other programs with similar land protection missions.

### California

California's Agricultural Land Stewardship Program has received in its second year a mere \$2 million to preserve farmland in the nation's largest and most important agricultural state — and it is not permanent funding. The program retains its pilot status in providing, like New York, grants to localities and nonprofits.

"We got second-year funding, but it's not permanent. We are still a demonstration program," said assistant Chuck Tyson.

While details are not yet available, the application cycle completed in mid-December was "reasonably active," Tyson said.

The program was inaugurated in October 1995 with an appropriation of \$1 million in the 1996-97 budget with an authorized 14 percent administrative overhead. The program also received \$1.9 million from the federal Farmland Protection Program, and targeted projects in four counties for the protection of 940 acres. Another \$400,000 came from the Farmland Protection Program in its second, much smaller distribution in FY 97.

### Kentucky

In 1992, then-Governor Brereton Jones announced the creation of a task force to study the status and needs of Kentucky agriculture and recommend how the state should protect or enhance the industry. Two years later the Kentucky legislature created new sections of Chapter 262 "to declare the General Assembly's intent to enhance agriculture and preserve farmland through the purchase of agricultural conservation easements," and created the Purchase of Agricultural Conservation Easements (PACE) program, with a PACE Corporation and Board.

The law, however, did not create a funding source, so the PACE Board must depend on biennial budget appropriations. Two budget cycles have left the program without funding.

The state Department of Agriculture, which serves as staff to the PACE Board, submitted a budget request of \$1 million for each of the upcoming biennial budget years. The request is under consideration and will be determined by Jan. 20.

*Contacts: Michigan, Rich Harlow, (517) 373-3328; New York, Bob Somers, (518) 457-2715; California, Chuck Tyson, (916) 324-0859; Kentucky, Bill Burnette, (502) 564-4696.*

## legislative and program briefs ...

**In Maryland...** The Harford County installment purchase program recently approved the purchase of development rights on 12 farms, comprising 2,672 acres for about \$6 million. *Bill Amoss, (410) 638-3103.*

The Rural Legacy Advisory Committee, the body appointed by the governor to review Rural Legacy proposals, will meet for the first time Jan. 26. For more Rural Legacy news, see story this issue.

**In Delaware...** The governor has targeted \$28 million of the state's \$100 million surplus revenue to the farmland preservation program, which has preserved 66 farms comprising 16,000 acres at a cost of \$19 million. Currently being appraised are 15,000 acres of which half is expected to be taken in this spring and summer. Now being ranked are 230 applications comprising 46,500 acres that have applied for the program's fourth round. "We're in the good graces of the current administration," said Stewart McKenzie *(302) 739-4811.*

**In Washington...** Skagit County, which one year ago passed a property tax increase to fund a PDR program, is soliciting for a program director (see job announcement, page 8). The tax increase is expected to generate about \$400,000 annually. *Contact Nancy Fox, Cedar River Associates, (206) 223-0490.*

**In West Virginia...** A public forum on farmland loss held in the eastern panhandle region in November was provoking and well-received according to organizer Marian Buckner. Among the questions: *Would nearby county models of farming and farmland protection work for us? Many elected officials and farmers attended. There are currently no farmland protection initiatives in the state.*

**In Virginia...** Virginia Beach, the only locality in the state purchasing development rights, has closed on 3,050 acres using installment purchase, has another

945 acres approved and "more in the pipeline," according to program director Louis Cullipher. The city may also complete a partnership with The Nature Conservancy on the purchase of a 1,200-acre wetland portion of a farm. *Cullipher: (757) 426-5775.*

Loudoun County officials are "in the exploratory stages" of a land protection initiative following an unprecedented rejection of a rezoning request with 4,000 units at stake. While the Board of Supervisors are now the target of a lawsuit, they appointed a special task force to study the economic implications of continued farmland loss. It's been 16 years since the Virginia legislature denied Loudoun the authority to enact a transfer of development rights (TDR) program. *Contact: Louis Nichols, (703) 777-0426.*

**In New Jersey...** Burlington County has jumped headlong into installment purchase of development rights that will bring the county's preserved acreage total to well over the 10,000-acre mark within the next year. The program extended 19 installment purchase offers "and only two were turned down," said program assistant Cindy Gilman. Since county voters passed a 2-cent property tax increase to fund a local program last year, preservation activity has doubled. In 1997 the Land Use Office handled nine PDR settlements. In 1998, 20 are already scheduled. "We're gearing up for our next application drive in mid-February. We've hired two people exclusively for farmland preservation," Gilman said. *Gilman: (609) 265-5787.*

**In Florida...** Palm Beach County may consider a \$100 million bond initiative to protect its 20,000-acre ag reserve. Protection techniques are still in the discussion stages, according to Meg Smith in the planning division, *(561) 233-5358.*

**In Kentucky...** The Department of Agriculture has requested \$2 million for its Purchase of Agricultural Conservation Easement (PACE) program over the next two budget years. The request is in the hands of the governor. Funds for administration, \$803,000 in the budget from previous years, has been reauthorized.

**Rural Legacy, from preceding page**

swamp encompassing nearly 18,000 acres, 20 miles long and 3/4 mile wide. According to Pat Haddon, the swamp is considered "one of the most important ecological areas on the East Coast by the Smithsonian Institution." The swamp's dense vegetation is an undisturbed "wilderness-like" area with a "tremendous diversity of plant and animal life."

In Prince George's County, planner Kim Finch said the county's 1-5 rural zoning shouldn't jeopardize its plan to designate the "Patuxent Rural Legacy Area," a region cited in its most recent master plan as a "rural living" zone. Finch said one of the objectives of the Rural Legacy program is to "buy down" zoning. The 57,000-acre region lies south of U.S. Rt. 50 and east of U.S. 301 and contains three major stream valley parks, a national estuary preserve and "a lot of cultural and historic resources," Finch said.

Anne Arundel, St. Mary's and Wicomico counties are also preparing Rural Legacy applications. Five other counties — Cecil, Kent, Queen Anne's, Caroline, Talbot and Dorchester — are involved in the Eastern Shore Land Conservancy's "Agricultural Security Corridor" project. The project, initiated in 1994, seeks to protect and promote "one of the largest contiguous masses of highly productive farmland in the rapidly developing middle Atlantic coast," according to project director Rob Etgen. The plan not only involves six counties, but 20 - 25 municipalities that must endorse the plan. Three focus areas within the corridor are proposed for Rural Legacy funds.

Initially uncertain about its role in the Rural Legacy program, the quasi-governmental Maryland Environmental Trust (MET) has said it will, on request, co-hold Rural Legacy easements and thus provide assistance and legal back-up for enforcement of easement restrictions.

At a workshop held at MET offices in December, a number of Rural Legacy applicants were schooled in how to work with MET and provided with model documents. Apprehensive about the additional workload from Rural Legacy and the absence of funding for additional staff, MET director John Bernstein said they will ask sponsors for a portion of their three percent of Rural Legacy grants authorized for administrative costs to cover its additional burden.

MET provided detailed guidelines on the process they expect to unfold when grant periods begin.

"We are getting a lot of calls with questions from both local governments and land trusts," said Pam Bush of MET, who said training and good communication with applicants should assure efficient administration of Rural Legacy easements.

## resources ...

### JOB ANNOUNCEMENTS

**Program Director**  
**Skagit County (Wa.) Farmland Legacy Program**  
 Mount Vernon, Wa.  
**Salary: \$35,000 to \$50,000**

The Skagit County Conservation Futures Program Advisory Committee is seeking an energetic, experienced professional to serve as Program Director for the Farmland Legacy Program. This new program, funded by the County's Conservation Futures Tax (CFT), will enable the county to purchase development rights to prime farmland. Skagit County is a predominantly rural community which supports one of the last fully functioning agricultural economies in western Washington State. It is located about 60 miles north of Seattle.

The program director will set up the PDR program and acquire conservation easements, conduct community outreach, property negotiations, the site selection process, and provide staff support to the advisory committee. Bachelor's degree and five years experience in real estate and land preservation or related fields required. Excellent communication skills and ability to work with elected officials and diverse constituents. Benefits included. Call Stephanie Wood, personnel director, at (360) 336-9300 for application materials. Deadline: Jan. 16.

### BOOKS

**20% DISCOUNT FOR FPR SUBSCRIBERS**  
**Holding Our Ground - Saving America's Farms and Farmland**  
 By Tom Daniels and Deborah Bowers  
 Island Press, April 1997, 334 pp. \$34.95+ s&h  
**WITH SUBSCRIBER DISCOUNT: \$30 postpaid**

Written for professionals as well as the layperson, *Holding Our Ground* provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture — why farmland preservation has come about and why localities need to act to prevent fiscal drift. Serves as a how-to for the newly initiated, as well as a reference for the well-versed — it contains dozens of figures and tables, and a wide variety of appendixes serve as additional models and tools. **DISCOUNT TO FPR SUBSCRIBERS — ALL ORDERS MUST BE PREPAID.** SEND \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.

### CONFERENCES, EVENTS

**Jan. 30, Santa Monica, CA:** 12th Annual Land Use Law and Planning Conference: Updates, Trends and Assessments, a USLA Extension program in cooperation with State and Local Government Law Section of the ABA, Ca. Chapter APA, and others. California specific overall. Workshops include Endangered Species Act Reform, and Recent Developments in Takings Law. Fee, \$225. Call (310) 825-9971.

**Feb. 6 - 7, State College, PA:** 7th Annual Farming for the Future Conference, sponsored by the Pennsylvania Association for Sustainable Agriculture. Call (814) 349-9856.

**March 18, Carlisle, PA:** Meeting of the Pennsylvania Farmland Preservation Association. Call Betty Reefer at (412) 837-5271.

**April 25 - 28, Chicago:** Rally III for America's Real Places - Best Practices in Heritage Development and Cultural Tourism. Call (202) 885-8910.

**May 10 - 13, 1998, Annapolis, MD:** A Conference on the Conservation of Biological Diversity ~ A key to the restoration of the Chesapeake Bay ecosystem and beyond. Workshops on conservation biology, social ecology and public policy. For registration materials or information on presenting a poster or paper call (410) 260-8540; email: [biodiversity@dnr.state.md.us](mailto:biodiversity@dnr.state.md.us); Internet: <http://www.gacc.com/dnr/biodiversity>.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Illinois

### Farmland targeted for airport; opponents call for ag study

CHICAGO, IL – Illinois gubernatorial candidate George Ryan, backed by Gov. Jim Edgar, says the state should move ahead and buy 2,600 acres of farmland at a proposed airport site in Peotone in southern Will County.

But the proposed site, which would eventually affect 25 square miles of prime farmland, has become a storm center for a growing debate on exactly what is at stake when a development project promises such permanent, regional implications.

Ryan and Edgar say the state should buy some of the land now to show airlines and investors that

the state means business.

But, as a *Chicago Tribune* editorial asked Feb. 8, "What airlines and what investors?"

Indeed, American Trans Air (ATA) founder and president George Mikelsons said a third airport would be "bad business" and that the entire airline industry opposes the airport at Peotone. At the same time, Mikelsons announced ATA would be expanding its operations at Midway, which, along with O'Hare International, are the two major airports serving the Chicago region.

Last year Gov. Edgar warned that the state's

*please turn to page 2*

## National PDR survey

### State programs progressing, some with optimistic outlook

A survey conducted in early February shows that state purchase of development rights programs more than five years old are progressing, and some, such as those in New Jersey, Delaware and Maryland, have good reason to be optimistic in their funding outlook.

This survey includes only those programs established prior to 1994, and does not include California, New York, Michigan or Kentucky, which were reviewed in our January issue.

## **Massachusetts**

In Massachusetts, "the big issue is money," said Assistant Commissioner of Agriculture Rich

Hubbard. Several years ago a \$19.5 million bond act was passed by the legislature for farmland preservation, but "every year we have to ask for

*please turn to page 3*

**Volume 8, Number 4 February 1998**

### inside this issue ...

Md. Rural Legacy nets plans costing \$124 million ..... p. 4  
Farmland Protection Program RFP due ..... p. 8

Legislative and program briefs ..... p. 6,7

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## Airport opponents ask for full agricultural economic study

*continued from page 1*

highway program was going broke and that the state gasoline tax needed to be raised by 3.75 cents per gallon.

"Now there's \$20 million to buy land for an airport the industry doesn't want?" screamed the *Tribune* editorial.

Chicago Mayor Daley said the ATA deal shows how Midway can grow and why a third airport in Will County is not needed. Daley's city is landlord for both Midway and O'Hare.

"[Peotone] would be a negative," ATA's Mikelsons told a reporter. "Let's face it, it's the entire airline industry. No one sees any wisdom in it. If I was in the business of selling real estate or concrete, I would support [building the Peotone airport]."

And so it is, that a well-heeled organization of airport backers talks more about the economic development the airport would create than about any actual transportation need it would fill. That may be because a major airport in Milwaukee already bills itself as the region's third airport, and because Gary (IN) Regional Airport is underutilized, as is Milwaukee.

Supporters promote the airport project almost exclusively in terms of the jobs and money it would generate as concrete and asphalt are poured, buildings erected, roads constructed, utilities placed and ground transport provided. Neither the Gary or Milwaukee airports can answer this craving for more money and jobs because both are across state lines.

Bob Macari, executive director of Keep Chicago and Illinois Flying calls the Ryan-Edgar proposed land deal "a tremendous boost," not for airline customers but for the members of the 400 organizations put together as a coalition by the Chicago Southland Chamber of Commerce and the South Suburban Mayors and Managers Association, all suited up to change miles of "vacant" farmland to a new landscape of big money, endless jobs, and more political power.

A group called the Chicagoland Transportation and Air Quality Commission has taken on the

awesome task of questioning this ironclad economic development war machine. It has called upon the Illinois Department of Transportation (IDOT) to study the full consequences of converting a 25-square mile region from agricultural use to a fully urbanized transportation mecca.

IDOT completed the required environmental assessment, including requirements under the federal Farmland Protection Policy Act (FPPA), and concluded last fall that the 25-square-mile loss of farmland would have a "negligible impact on the environment." (*See FPR, Nov.-Dec. 1997*).

Ironically, that report was released the same day U.S. Sen. Richard Lugar of Indiana urged international attention to the need for tripling worldwide food production in light of worldwide loss of arable lands.

It seemed to Robert Heuer of the Chicagoland Transportation and Air Quality Commission that IDOT's study was profoundly short on perspective, and that the FPPA was in dire need of strengthening.

"Peotone International would put 170 farmers out of business," Heuer said at a public hearing when the IDOT study was released. "Does [IDOT's environmental assessment] put a dollar value on their agricultural output? On an annual basis? What about over the next 50 years as expanding human demand collides with the Earth's natural limits?"

IDOT public affairs director Richard Adorjan says he doesn't think such a study is warranted.

"[Heuer] is not talking about any kind of a true balanced study. And it's nothing that's required by state or federal law." Adorjan said he disagrees with critics who say there's no need for the proposed airport.

"The federal government is working on an open sky agreement with Japan. The demand is going to increase for air travel. There's general agreement we're nearing capacity easily within the next decade."

Adorjan said he knows of no "input-output model" that would measure the economic value of

*please continue to next page*

**Airport, from previous page**

the agricultural industry in the Peotone area.

But Heuer cited a study performed in Hillsborough County, Florida in 1996 to measure the value of agriculture against its loss to urbanization.

The study conducted in Hillsborough County by Farming for the Future Inc. consisted of four analyses: 1) the total economic output of Hillsborough County by industry; 2) the economic impacts of agriculture and agribusiness; 3) the community revenues and expenses generated by agriculture and agribusiness compared with other land uses; and, 4) the cost, in terms of lost opportunity, of converting an acre of farmland to other uses.

"This is the kind of study that needs to be done so we understand what is really at stake in giving up 25 square miles of the world's best farmland," Heuer said.

"The pro-airport forces have spent millions to obstruct honest debate and to convince politicians that paving over rural counties is good for Chicago."

As of press time, the Will County Farm Bureau was set to consider urging its state leaders to urge the legislature to pursue a full economic assessment of regional farmland loss in Will County.

"We're concerned not only with the displacement of farmers but also the agricultural businesses that cater to farmers," Mark Schneidewind, manager of the Will County Farm Bureau told the *Chicago Sun-Times* Feb. 3.

"Agricultural land is just not open space to be paved over," said farm bureau president Jerry Davidson. Contact: Bob Heuer, (773) 274-1989; Farming for the Future, Inc., (407) 995-1474.

## State programs progressing

*continued from page 1*

an appropriation. This year it looks like we'll get \$4 million."

When the legislature passes an authorization to sell bonds, some of those bonds "are specifically for our program. When an investor buys the bond,

he knows it's for farmland preservation," Hubbard said.

The state has a spending cap of \$900 million in bonds. The Secretary of Environmental Affairs decides how much of the agency's budget goes to open space. This year, it was decided to target \$40 million for land acquisition and conservation needs. Within that \$40 million budget is the farmland preservation program's \$4 million appropriation — another installment of its designated \$19.5 million. "This [\$19.5 million] represents sufficient funds for a five-year period," Hubbard said.

But sufficient doesn't mean complete — Hubbard has \$12 million in projects "ready to go" and hopes that federal money from the Farmland Preservation Program will relieve some of the pressure.

Meanwhile Hubbard has found ISTEA transportation dollars helpful in securing prime farmland along the scenic Connecticut River as part of the Connecticut River Scenic Roads Initiative that won \$500,000 to preserve farmland along the river. Another grant of the same amount has been requested for the project's second phase.

"We're looking to stretch our dollars," Hubbard said.

### Rhode Island

In neighboring Rhode Island, things seem to be looking up in terms of funding, something the program went without from 1990 to the fall of 1996 when a bond referendum was passed with \$2 million designated for farmland preservation. Now, the Department of Environmental Management, which includes the Division of Agriculture, has a new director who says he will propose to the legislature that a bond referendum for farmland and open space be put before the voters this fall. While no proposed amount has yet been stated, it will likely be more than \$2 million, according to program director Ken Ayers.

Of the \$2 million from 1996, just \$400,000 has been spent, but more easement purchases are

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## State PDR programs are healthy, some have bright funding outlook

*continued from page 1*

underway.

"We've narrowed the list to the top 12 farms, and the top eight are being appraised," Ayers said. "We've had significant interest in the program."

A new development in the Rhode Island program is that land trusts and local governments have become more involved in farmland preservation and have contributed money to projects, Ayers said. That has allowed the program to stretch its limited funds.

Prior to 1990, \$14 million was invested in the program, preserving 2,529 acres with per-acre easement cost ranging from \$6000 to \$7000. Applicant farms range in size from 15 acres to 600 acres. Agriculture in the state reflects a developing urban market, with turf and nursery operations and fresh produce farms. About 30 dairies remain.

### Maryland

Maryland's farmland preservation program is known for leading the nation in number of acres preserved — now at 139,828 acres — and for its effective structure that concentrates administration at the county level. Many county governments in Maryland, particularly in regions where development pressure is strongest, have taken the lead in innovations, such as the use of installment purchase and policies for allowing immediate action to save threatened farms. Also, many metropolitan-area counties have put substantial funding into their own local programs that in some cases, such as in Harford and Carroll Counties, put the state program in piggyback status.

This year, the start of the Rural Legacy Program, which operates through competitive grants, put even more opportunities at the local level. Many local farmland preservation administrators

## etcetera ...

### Maryland Rural Legacy projects ask for \$124.8 million to protect 53,000 acres

*Annapolis, Md.* — Twenty-two requests for Rural Legacy Area designations, with easement purchase plans amounting to \$124.8 million, were submitted to the Department of Natural Resources Jan. 30. About 53,000 acres are proposed for easement purchase. The program allocated \$24.3 million for this first application cycle.

Nearly all of the grant proposals were hand-delivered to DNR on the day of the deadline. Many were delivered within the last hours before closing, with grant writers having kept a dizzying pace for their work since a draft manual was released in late August.

The requirements for proposals included delineating area boundaries, assessing economic value of the areas, public participation, landowner participation and commitment to considering easement offers, development of ranking and prioritizing plans, mapping, an estimate of easement cost and other technical assessments.

Proposals were submitted by local governments and land trusts, and include parts of nearly every county.

A joint proposal from Baltimore and Harford Counties, called the Piedmont Rural Legacy Area, requested the largest amount of money: \$23.3 million, almost twice as much as the second highest request from a competing Baltimore County plan that requested \$12.5 million. But the Piedmont plan calls for protecting 7,819 acres, almost three times the number of acres proposed in the competing plan, which has 2,311 acres proposed for protection along Baltimore County's waterfront.

Other plans with high acreage numbers are an Eastern Shore proposal that affects six counties, with a proposed acreage total of 8,500, and a Worcester County plan with 4,900 acres, a Cecil County proposal for 4,200 acres, and a Carroll County plan with 4,000 acres. Half of all the proposed plans comprised fewer than 1,000 acres.

Contact: Grant Dehart, (410) 260-8403.

*please continue to next page*

*continued from page 4*

were involved in writing proposals for land protection projects in their localities that were initiated either by their local governments or by local land trusts.

The Rural Legacy Program concentrates on protecting ecologically important lands as well as farmland. It will provide a boost to strategic farmland protection by encouraging the creation of large contiguous blocks of preserved lands, and most Rural Legacy proposals involve farmland.

The Rural Legacy Program will award \$24.3 million this year, and in terms of funding, is thought by many to be the best thing to happen to the state's farmland preservation effort in its 21 years of operation.

Last year the Maryland Agricultural Land Preservation Foundation had \$13 million for easement purchases. For FY 1998 it will have \$14.8 million. The program typically has an applicant pool of about 200, equalling a need of about \$50 million.

### **Pennsylvania**

In Pennsylvania, funding from a 1989 \$100 million bond referendum is running out and the program will begin to depend on revenues from the state's cigarette tax, which generates about \$22 million for the program annually. Along with unencumbered state funds returned by counties and expected awards under the federal Farmland Protection Program, the Pennsylvania program expects to have between \$25 million and \$30 million for 1998, according to director Ray Pickering.

In October, the program commemorated its 100,000-acre mark, and has since added 7,626 acres under easement. The number of farms preserved is 845.

The Pennsylvania program has grown to include more participating counties in far-flung corners of the state — a worry for administrators in counties where development pressure creates a high demand for available dollars.

In the early 1990's, when other state programs

were experiencing severe funding shortages due to state budget cuts, the Pennsylvania program had secure footing from its bond appropriations and gained substantial preserved acreage. But then, only about one-third of 66 counties were vying for the funds. Now, 44 counties are participating, with more coming on board steadily.

"There are a lot of discussions about options," for additional funding sources, said Pickering. "We hope something can happen to address the growth issue."

About 1000 farmers across the state have applications pending.

### **Delaware**

For such a small state, Delaware has come into farmland preservation in a big way. It started off with no funds at all, and its first five years were spent on strategic planning. Then, in 1995, Gov. Thomas Carper proposed that \$40 million from the state's award of \$220 million in a suit over abandoned securities and escheat monies be dedicated to the program. The legislature agreed, and the program set out to work on the 15,000 acres it had enrolled in ag districts. While that money is now being depleted, Gov. Carper has again come through for the program, proposing that \$28 million of the state's new \$100 million surplus go to the program, which has now preserved 66 farms comprising 16,000 acres.

The targeted funds would help the program through its current cycle, appraising 15,000 acres, half of which it expects to provide offers to this spring. And, there's more to come: 230 applications are being ranked for the program's fourth round, comprising 46,500 acres.

"We're in the good graces of the current administration," Stewart McKenzie told FPR in January.

### **Connecticut**

In 18 years of operation, the Connecticut program, which is operated only from the state level, has preserved about 10 farms per year. Its funding has been steady but modest, between \$1 million and \$5 million annually.

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## Survey: most state programs healthy

*continued from page 5*

million and \$5 million annually.

Last fall the legislature allocated \$1 million for each of the next two fiscal years and adopted language that requires the use of conservation plans for farms enrolled. The program now has about 25,500 acres preserved, on about 170 farms, 70 percent of which are dairy farms or farms that support dairies.

Over the years, program director Jay Dippel has stretched dollars by negotiating some bargain sales, paying about 75 percent of the appraised development rights value. In a bargain sale, landowners gain tax benefits.

Dippel has said that although funding is modest, it has been steady, and has gained the faith of farmers who need a reliable alternative to development. The program generally has a 100-applicant backlog.

### Vermont

The Vermont Housing and Conservation Board continues to be an anomaly in the public-dollar land conservation field, a structure that has not been adopted by other states where stronger commercial agriculture makes farmland preservation a program that holds plenty of political weight. The pairing of affordable, community-based and often rehabilitative housing with the preservation of land brings together the seemingly opposing activities of creating new places for people to live, and, protecting land from residential development.

The program was created by the Vermont legislature in 1987 and has had the prerogative of shifting funds to either emphasize housing or land conservation or, to equalize them in terms of funding. Over the years the board has shifted back and forth to suit actual or perceived needs. In recent years the two missions have had fairly equal status.

For this fiscal year, which ends June 30, the farmland preservation program budget is \$3.2 million, which includes the state appropriation and federal money from two sources — the Farmland Protection Program and remaining proceeds from investment of funds from the obsolete Farms for the Future Act (FFA). The FFA funds are now under \$1 million, according to Ethan Parke.

The governor's proposed budget "gives us a small raise," Parke said, but the legislature will be in session until late spring, "so we won't know what we'll get until then."

Parke said the legislature may take a good look at private funds

## legislative and program briefs ...

**In Virginia ...** Prince William County officials are considering reducing a density allowance in their agricultural areas that has resulted in 1-5 "rural residential" in a 1-10 zone. The planning staff has recommended creation of a "Rural Crescent" outside developed areas that would take in nearly half of the county's land mass, and would effectively reduce potential residential units from 19,000 to 4,800 without a downzoning. Landowners are claiming the move would devalue their land. Terry Rixse: (703) 792-6830.

In Loudoun County, the Rural Economic Development Task Force was given a presentation by Louis Cullipher of Virginia Beach regarding the city's purchase of development rights program. The committee also heard from The Nature Conservancy and the Virginia Outdoors Foundation. The committee will advise on a rural plan by spring. Lou Nichols, (703) 777-0426.

**In North Carolina ...** Wake County will once again try to address the loss of farmland and open space. The county recently formed another Open Space Task Force, this time with a more positive attitude and scaled-back ideas about the possible. "Our plan is no longer to try to protect tens of thousands of acres. With a black cloud hanging over tobacco we don't think we'd get that level of participation," said Rick Bailey of the Wake Soil and Water Conservation District. Instead, the group might focus on protecting key farms. Bailey: (919) 250-1056.

**In Washington...** Clallam County is exploring transfer of development rights for a rural protection policy. Andy Meyer, (360) 417-2321.

**In Kentucky...** While the governor's budget does not include funding for the

*please continue to next page*

Purchase of Agricultural Conservation Easements (PACE) program, the PACE board is set to use its federal Farmland Protection Program funds from 1996 and state matching funds, totaling \$800,000, to purchase easements on six farms, according to PACE board chairman William Dohn. The six farms are spread throughout the state and are "all family farms," Dohn said. The projects are expected to be complete by September. Dohn: (502) 935-1742.

**In West Virginia...** Putnam County, in the western part of the state, is influenced by I-64 and nearby Charleston and "is becoming a suburban hub," according to planner Kenneth Kidd. Planners will explore protecting farmland, with a focus on the Kanawha River Valley. Kidd: (304) 586-0231.

**In Pennsylvania...** A draft plan for The Endless Mountains Heritage Region, comprising Bradford, Sullivan, Susquehanna and Wyoming counties in the northeastern part of the state, is being finalized and is out for public review. While the plan calls for farmland preservation, agricultural economic development is more likely to be a key plan for the region, according to heritage development consultant A. Elizabeth Watson, (301) 403-1380.

**In Idaho...** Blaine County has hired Clarion Associates to develop a "density transfer program." A citizens advisory board was appointed last fall and a 120-day moratorium on agricultural land subdivision was enacted to protect the county from a rush while the program is developed. Lee Nellis, (208) 232-1277.

**In Indiana...** An interim report of the Hoosier Farmland Preservation Taskforce reports on the "trends, causes and consequences" of farmland conversion. Lt. Gov. Joe Kernan, Indiana's Commissioner of Agriculture, said that although a crisis did not yet exist, "it may be just around the corner. Our report shows that the worldwide demand for food and fiber will be two to three times greater by the year 2050." Contact: Julia Wickard, (317) 232-8778.

### **State program survey, from preceding page**

the Board has had available for land conservation projects from local foundations. Parke fears the perception may be that land conservation is something that can be accomplished solely through the private sector.

In its farmland preservation program, the Board has acquired easements on 202 farms, comprising 69,693 acres.

### **New Jersey**

Gov. Christine Todd Whitman announced last month that she plans to preserve 300,000 acres of farmland and open space during her second term, with an ultimate goal of preserving one million acres in the next 10 years. She announced she is seeking a permanent source of funding for farmland preservation, which has been funded through successive bond referendums since 1989.

"The governor is very supportive," said program assistant director Rob Baumley. "She has had a council studying funding mechanisms."

One possible funding source mentioned so far is the state's real estate transfer tax. Other sources of "stable funding" will be recommended by the Governor's Council on New Jersey Outdoors by the end of this month.

For now, the program is working with \$21 million earmarked from bond funds for its 1998 round. This month 87 farms, comprising 11,428 acres, are being ranked. Offers will be made on some of these farms in May, Baumley said.

The program recently acquired three farms in fee simple to be preserved and sold at auction this spring. One of these, in the northern part of the state, comprises 561 acres at a cost of \$3.25 million. The farm was assembled from several parcels in the late 1980s as a development project at a cost of \$12,000 per acre, more than twice what the state has now paid, Baumley said.

The New Jersey program has preserved, to date, 279 farms comprising 43,351 acres. This figure does not include acres preserved by localities without state funds, most notably in Burlington County, where a voter-approved tax increase is at work in a preservation initiative so ambitious that two additional people have been hired to help implement it. The program uses installment purchase and has made 19 offers so far, with 20 more scheduled for 1998. The project will bring the county's preserved acreage mark to over 10,000 acres by the end of the year, according to Cindy Gilman.

*Contacts: MA: Rich Hubbard, (617) 727-3000 x150; RI: Ken Ayers, (401) 222-2781 x4508; MD: Iva Frantz, (410) 841-5860; PA: Ray Pickering, (717) 783-3167; DE: Stewart McKenzie, (302) 739-4811; CT: Jay Dippel, (860) 566-3227; VT: Ethan Parke, (802) 828-5066; NJ: Rob Baumley, (609)984-2504.*

## professional resources ...

### JOB ANNOUNCEMENTS

**Executive Director**  
**North Dakota Wetlands Trust**  
 Bismarck, N.D.  
**Salary: Based on Experience**

The North Dakota Wetlands Trust has a legislative mandate to preserve, restore, manage, and enhance wetlands and associated upland habitat in North Dakota. The executive director will report to the 6-member Board of Directors appointed by the governor and three major conservation organizations. The Trust operates off the income from a \$13.2 million trust fund. The director will be responsible for developing and managing projects, properties and property interests, administering Trust grants to individuals or other organizations and managing the Trust's operating budgets. For job description and requirements, call Pam Dryer at (701) 223-8501. Applications accepted through Feb. 20.

**Agriculture Program Director**  
**Chester County (Pa.) Planning Commission**  
**Starting Salary: \$36,600**

Minimum requirements: degree in agricultural sciences, four years of applied experience. Master's degree preferred. Responsible for coordinating programs and activities of the Chester County Agricultural Development Council and the Agricultural Land Preservation Board.

Includes developing and implementing the annual work programs; developing and initiating farm retention strategies; providing assistance to municipalities on the Agricultural Security Areas Program; producing educational materials; coordinating with local land trusts and implementing and administering the Agricultural Conservation Easement Program, which involves distributing program information, coordinating the application and settlement processes, meeting with landowners, maintaining complete and accurate program files, completing required reports and monitoring existing easements.

Strong communication, presentation and organizational skills required; knowledge of conservation practices; ability to work with the farm community; knowledge of Pennsylvania agricultural-related legislation; knowledge of appraisals, as well as legal processes related to land transactions; computer skills.

Submit resume to: William Fulton, AICP, Executive Director, Chester Co. Planning Comsn, Suite 270, 601 Westtown Rd, West Chester, Pa 19382-4537.

### Farmland Protection Program RFP

The latest appropriation of the Farmland Protection Program — \$17.3 million — will bring a request for proposals by the end of February, according to Fen Hunt of the Natural Resources Conservation Service. This will be the third round of the matching funds program established in the 1996 farm bill.

The current appropriation makes up the remainder of \$35 million allocated for the program in the farm bill. For information, call Fen Hunt, (202) 720-7671.

### BOOKS

**20% DISCOUNT FOR FPR  
 SUBSCRIBERS**

**Holding Our Ground - Saving America's Farms and Farmland**  
 By Tom Daniels and Deborah Bowers  
 Island Press, April 1997, 334 pp.  
 \$34.95+ s&h  
**WITH SUBSCRIBER DISCOUNT:  
 \$30 postpaid**

Serves as a how-to for the newly initiated, as well as a reference for the well-versed — it contains dozens of figures and tables, and a wide variety of appendixes serve as additional models and tools. ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.

### CONFERENCES, EVENTS

**March 18, Carlisle, PA:** Meeting of the Pennsylvania Farmland Preservation Association. Call (412) 837-5271.

**March 29-31, Boiling Springs, PA:** Purchase of Agricultural Conservation Easements: What Works, sponsored by American Farmland Trust. The AFT skipped last year's annual PDR conference usually held at Eddy Farm Resort in NY. For the first time, AFT will have a 3-day conference limited to 120 participants. Cost: \$125 for full registration, one day is \$75. Does not include meals or lodging. Call (413) 586-9330 or email at pmccabe@farmland.org

**April 25 - 28, Chicago:** Rally III for America's Real Places - Best Practices in Heritage Development and Cultural Tourism. Call (202) 885-8910.

**May 10 - 13, 1998, Annapolis, MD:** A Conference on the Conservation of Biological Diversity ~ A key to the restoration of the Chesapeake Bay ecosystem and beyond. Call (410) 260-8540; biodiversity@dnr.state.md.us



# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## FOCUS ON CHICAGO REGION

### AFT study explores costs and safety risks of urban sprawl

DEKALB, IL — The American Farmland Trust and researchers from Northern Illinois University announced March 4 the results of a study documenting the costs and dangers of scattered development in the Chicago region.

AFT joined forces with other conservation groups, developers and public officials to study the costs and risks of sprawl in certain northeastern Illinois communities. The study, called "Living on the Edge: the Costs and Risks of Scatter Development," found that scattered subdivisions and shopping centers lead to higher taxes for residents in surrounding municipalities.

In addition, the report showed that people living in areas of sprawling growth face dangerously long emergency response times for ambulance, fire fighting and police services.

"The scatter development we see in the Chicago region, and across many areas of the country, pose what we think are unacceptable costs - both to the taxpayers and to the safety of residents who think they are living the American dream," said Ann Sorensen, director of AFT's Center for Agriculture in the Environment.

"The big picture view that the AFT study

*please turn to page 2*

### Pennsylvania localities kicking up booster funds for PDR

HARRISBURG, PA — Pennsylvania localities have put up a total of \$9.2 million in matching funds for farmland preservation to bolster the state's 1998 allocation of \$28 million for easement purchases, according to program director Ray Pickering. It is the largest contribution from localities in the program's history, up from \$7.4 million in fiscal year 1997.

County contributions are playing an important part in the state's farmland preservation efforts, particularly this year, "a transitional year" said Pickering, as the program misses its depleted bond funds.

The Pennsylvania program was begun with a

\$100 million bond referendum in 1987. This year, it will make do with \$22 million from its portion of the state cigarette tax revenue, federal grants

*please turn to page 2*

Volume 8, Number 5    March 1998

#### inside this issue ...

Dane County, Wis. looks for answers .....	p. 4
Michiganans take farmland preservation tour.....	p. 4
Calvert County explores tighter land use control .....	p. 4
Professional resources, job announcements .....	p. 6
Legislative briefs .....	p. 6,7

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## Study: Sprawl is fiscal drain as well as health and safety risk

*continued from page 1*

drives home is that urbanized and suburbanized areas should focus on how they can continue to grow successfully," said Ed Havlik, president and CEO of United Homes, and president of the Home Builders Association of Greater Chicago.

"If the municipal and governmental units that ultimately control land use would work together with builders, developers and organizations like AFT, we might actually discover that we share a mutuality of interest," he added.

AFT commissioned the year-long study by Northern Illinois University researchers to examine the impacts of scatter development in the region's outlying suburbs.

AFT found that despite the high assessed values of houses in scatter developments, the cost of providing services to those homes is often subsidized by residents in more modest homes in the adjacent towns. The study showed that scattered homes:

- Do not generate enough taxes to educate their children and to cover the added cost of extended school bus routes;
- Fall woefully short of paying to maintain the roads leading to and through their subdivisions;
- Cost adjoining residents more tax dollars to build infrastructure for sewer and water lines.

In addition, the study found that people living in far-flung houses and subdivisions often face increased risks to their personal safety. In the areas studied:

- Police response times are as much as 600 percent longer than in the adjoining municipality;
- Ambulance response times are as much as 50 percent longer;
- Fire response times are as much as 33 percent longer;
- Children spend the equivalent of up to 24 school days riding the school bus. Long trips mean increased risks on rural roads prone to snow drifts and heavy fog.

AFT will be working with Chicago Environment Commissioner Henry L. Henderson, the Homebuilders Association of Chicago, the Environmental Protection Agency Region Five and federal and local officials to recommend a regional strategy for sustainable growth that accommodates housing while protecting farmland, including brownfields initiatives and transfer of development rights demonstration projects.

Last year, AFT called the Chicago region the nation's third most threatened agricultural area.

*For a copy of the AFT study call Matt Snyder, (202) 659-5170 x 3025.*

### Pennsylvania

## Localities pumping up the local funding

*continued from page 1*

and monies returned unused from counties.

A large portion of the increase in local contributions is due to new funds from Bucks County where a \$59 million bond referendum boosted the county's farmland preservation program by \$13.5 million to be spread over 10 years. Over the last three years, Bucks appropriated \$500,000 annually to farmland preservation as matching funds in the state program. This year, that amount quadrupled to \$1.95 million.

"It's more than I expected to come out of the bond money for one year," said Bucks program director Rich Harvey.

Harvey expected \$1.35 million each year, so this first allocation was a surprise. It was the largest county allocation in the state, and, while counties aren't competing, it was the first time any has outspent Lancaster County, whose agricultural output is the highest in the northeast.

Lancaster appropriated \$1.5 million, \$450,000 less than Bucks. Other notable appropriations were in Berks County, with \$1.3 million, and

*please continue to next page*

*Pennsylvania, from previous page*

Chester County, with \$1 million. York and Lehigh earmarked \$600,000 and \$500,000 respectively.

Counties may find that local appropriations to farmland preservation efforts are increasingly important as the state program searches for increased funding.

Last month, Pickering told the state farmland preservation board that the growing program has a current need of \$35 million annually to keep up with easement opportunities.

"I was trying to plant the seeds for further ideas on what to do," Pickering said. "We have remaining bond funds to be sold, but those funds are committed. The key is, with 44 counties involved, we've got to find a way to make the picture larger."

With 4,400 acres approved for easement purchase at last month's meeting alone, the program is quickly gaining in preserved acreage, now at 111,994 acres on 875 farms. In 1997, flush with a \$35 million easement purchase threshold from cigarette tax revenue and \$9 million in remaining bond funds, 21,000 acres were approved for preservation. This level of activity makes the Pennsylvania program the most active and fastest growing PDR program in the nation.

And, counties have a lot of preservation activity in the pipeline: with two calendar years to encumber each year's state allocation, they currently have a combined \$18 million unencumbered. They also have a habit of making good on their state grants. From the 1996 allocation of \$31 million, only \$1.4 million was returned as unencumbered funds this year.

But the program won't see this level of activity sustained unless new funding sources are found, Pickering said.

"In order to sustain the current rate of preservation, I think allocations would need to be kept up in the \$35 million range," Pickering said. "With more counties coming in, it's splitting up the pie into smaller pieces."

This year's allocation of \$28 million is a combination of \$22 million in cigarette tax revenue,

### **Pennsylvania program funding history**

**1987:** Voters approve by 2 to 1 margin \$100 million bond to fund program

**1993:** Act 22 dedicates two cents per pack of the state cigarette tax to the program, generating about \$22 million annually

**Recent state allocations:** 1996- \$31 million;  
1997- \$35 million— bond funds all committed;  
1998- \$28 million, non-bond funds.

returned unencumbered funds from localities, and federal funds from the Farmland Protection Program.

"We were fortunate in 96 and 97 that remaining bond funds supplemented the cigarette tax revenue, but this year is transitional ... my concern is that next year we'll slip back."

Even if new state dollars were in the works, many localities under intense development pressure must boost their efforts with local funds.

Bucks County is a hotbed of local government initiatives to fight off the costs of development and preserve farmland. No fewer than seven townships, in addition to the county bond issues, have floated their own bonds to boost farmland preservation within their borders.

Adding to the county's \$59 million for protecting open space and farmland, seven townships have put up a combined \$24 million for the purchase of development rights. Among them is Buckingham Township, which put up \$4 million two years ago, and officials "are going through that pretty quickly," said Rich Harvey.

The Bucks County program pays a maximum of \$10,000 per acre, and with this year's allocation "we'll probably do five farms, all at the most expensive per-acre cost," Harvey said. "They're all relatively good farms."

By the end of this year, the county will have preserved about 3,700 acres on 40 farms.

Harvey believes that \$35 million annually in the state program "could really help a lot." Other administrators agreed the sum would be adequate. *Contact: Rich Harvey, (215) 345-3409; Ray Pickering, (717) 783-3167.*

## Midwest county looks to boost state farmland efforts

MADISON WI — Dane County, which includes the city of Madison in the heart of southern Wisconsin, has place names that speak of the special qualities of the land — Black Earth, Cross Plains, Sun Prairie, Blue Mounds. But the agricultural heritage that belies such names is under threat from an expanding metropolitan area.

While Dane County has exclusive agricultural zoning under the state farmland protection program, "we're looking at new ways of controlling growth in the face of urban development," said senior planner Brian Standing.

The county planning department is preparing an assessment of farmland protection options. "We're in the early stages and looking at lots of things."

Wisconsin's Farmland Preservation and Farmland Tax Credit programs pay out each year \$35 million in tax relief to farmers, with farmland preservation tax credits averaging \$1000 per claimant, or 29 percent of a claimant's property tax bill. About 38 percent of farm owners with 35 acres or more claimed the credits in 1997.

To qualify for the Farmland Preservation Credit program, farmland must be zoned exclusively for agricultural use, or, if a county is without exclusive ag zoning, the land must be subject to an agreement between the owner and the state.

Despite advancing sprawl, Dane farmers weigh in heavily with farmland preservation tax credit claims. In 1997, they received \$1.7 million in credits, the highest amount in the state.

That ranking is a function of the number of towns that have exclusive ag zoning and the number of farms, according to Keith Foye of the state department of agriculture. And it also shows, according to Brian Standing, that Dane County has "the best farmland in the state by and large."

Dane has 3,080 farms, according to 1997 ag statistics gathered by the state, with an average size farm of 189 acres. The statewide average size is 213 acres.

*please continue to next page*

## etcetera ...

### Michigan officials book "Ultimate Farmland Preservation Tour"

*Lansing, Mich.* — Signing up for a five-day bus excursion billed as The Ultimate Farmland Preservation Tour, about 100 local and state officials, legislators, farmers and community leaders from all over Michigan will visit six Maryland and Pennsylvania counties to get a first-hand look at how the nation's top farmland preservation programs work. The tour is organized by the Rural Development Council of Michigan and the Michigan Farm Bureau.

"Land use and farmland preservation are hot issues in Michigan with the loss of over 10 acres of farmland every hour of every day," said David Skaerlund, executive director of the Rural Development Council.

"People want to see how PDR, TDR, ag districts and security areas, ag zoning and alternative development designs work. These participants are interested in learning if they work, if they benefit the community, if the landowners like the program, and if we should do anything in Michigan."

The tour group will visit Montgomery, Carroll, Baltimore and Harford Counties in Maryland, and in Pennsylvania will visit Lancaster, York, Adams and Cumberland Counties. The group will join the American Farmland Trust for its tour of preserved farms on the first day of its three-day conference at Boiling Springs, near Carlisle, Pennsylvania.

*Contact: Dave Skaerlund, (517) 373-4550.*

### Calvert County build-out scenario has officials thinking

*Prince Frederick, Md.* — Calvert County, which uses a mix of TDR and PDR to protect farmland, has completed a comprehensive plan update that estimates the county could ultimately have 52,000 dwelling units under existing zoning, more than twice the county's current 20,000 to 24,000 units.

The plan update has made officials see they either must accept the oncoming surge in population and farmland loss, or, change existing density allowances.

While warning of impending growth, the plan update also doubled the county's farmland preservation goals, from 20,000 to 40,000 acres.

"The comprehensive plan says to look at what extent we might reduce build-out, so we've been meeting to look at options," said planner Greg Bowen. "We're doing a fiscal impact study at various ranges. Alternatives are due in May."

Bowen said options include downzoning rural areas but allowing retained density if rights are transferred, downzoning development areas and requiring TDRs to regain former density, county purchase of TDRs, and increasing the number of TDRs required for additional units.

Calvert officials have been struggling to find ways to curb growth over the last five years, at one point attempting a six-month moratorium on new home construction, a move struck down in circuit court. *Contact: Greg Bowen, (410) 535-2348.*

#### Rural Legacy Update

### **Applicants called on to present plans to board**

*Annapolis, Md.* — Applicants for the Rural Legacy Program, with their plans completed and submitted, have all been asked to appear before the Rural Legacy Advisory Committee and Rural Legacy Board to present their cases in person and answer questions. All 23 applications for designation of Rural Legacy Areas, with accompanying preservation plans, will be presented before the reviewers, in 40-minute sessions, with half of that time reserved for questions from the board.

"It's generally going very well, but it's such an enormous amount of work and a logistical challenge," said program director Grant Dehart.

In addition to the applicant presentations, the 11-member advisory committee has scheduled visits to the proposed Rural Legacy Areas which are spread throughout the state. The committee will make its recommendations for grant awards to the three-member Rural Legacy Board by the end of April and awards are scheduled to be announced in June, Dehart said.

*Grant Dehart: (410) 260-8403; Pam Bush, (410) 260-8428.*

## **The Wisconsin approach**

Wisconsin addresses farmland protection through two tax break programs that distributed a total of \$35 million to farmers in 1997.

Under the *Farmland Preservation Credit Program* farmland must be zoned exclusively for agricultural use or be subject to a preservation agreement between the owner and the state.

The *Farmland Tax Relief credit program* establishes tax burden based on household income. About 59,000 farm owners received these credits in 1997, totaling \$12.8 million. The credits ease the property tax burden and are paid through the state income tax or as a cash refund if the credit exceeds income tax due.

While officially these ag zoning/tax break programs preserve farmland and encourage land use planning, critics say it is not working in metropolitan areas where development pressure reigns.

A study performed in Waukesha County, just west of Milwaukee, showed rapid farmland conversion and little participation in the two programs.

"We found that while the policies in Wisconsin were very impressive, in practice they weren't working," said Lawrence Libby of Ohio State University, Department of Agricultural Economics last year in *American Farmland* magazine.

"Wisconsin has made a substantial investment in agricultural zoning," Standing said. "But the Madison metro area is growing rapidly. The population is likely to increase by 100,000 in the next 20 years. From a base of 450,000, that's pretty substantial."

Most of that growth, about 85 percent, is occurring in the urban service area administered through a regional planning commission.

"That's a solid B, but we could probably do better than that."

The county could pursue purchase or transfer of development rights, Standing said. "We're working on finding an appropriate place to do a pilot TDR project, scouting possible locations. The county executive announced recently that she will bring forward her recommendations May 20.

*Contact: Brian Standing, (608) 267-4115; Keith Foye, (608) 224-5012.*

## professional resources ...

### JOB ANNOUNCEMENTS

#### **Agriculture Program Director Chester County (Pa.) Planning Commission Starting Salary: \$36,600**

Minimum requirements: degree in agricultural sciences, four years of applied experience. Master's degree preferred. Responsible for coordinating programs and activities of the Chester County Agricultural Development Council and the Agricultural Land Preservation Board.

Includes developing and implementing the annual work programs; developing and initiating farm retention strategies; providing assistance to municipalities on the Agricultural Security Areas Program; producing educational materials; coordinating with local land trusts and implementing and administering the Agricultural Conservation Easement Program, which involves distributing program information, coordinating the application and settlement processes, meeting with landowners, maintaining complete and accurate program files, completing required reports and monitoring existing easements.

Strong communication, presentation and organizational skills required; knowledge of conservation practices; ability to work with the farm community; knowledge of Pennsylvania agricultural-related legislation; knowledge of appraisals, as well as legal processes related to land transactions; word processing and spreadsheet skills.

Submit resume to: William Fulton, AICP, Executive Director, Chester Co. Planning Comsn, Suite 270, 601 Westtown Rd, West Chester, Pa 19382-4537.

#### **Land Protection/Project Assistant The Catawba Lands Conservancy, Charlotte, NC (Salary: \$24,000-\$28,000 depending on experience)**

The Catawba Lands Conservancy, a regional land trust based in Charlotte, NC seeks a land protection and project assistant to direct operations and landowner/public outreach, research and write grants, maintain database and work on special projects.

Qualifications: 1. An outgoing and friendly personality with the ability to meet new people easily and quickly earn the confidence of the landowners.

2. A bachelor's degree with general background of land protection strategies in such fields as law, natural resource management, land use planning and real estate, preferably experience in working for a land trust.

3. Genuine interest in land conservation and a sincere willingness to work with people to help them meet their land management and financial needs as well as the conservation needs of the Conservancy.

4. Good verbal, writing and interpersonal skills are essential. Computer skills needed, working knowledge of GIS would be preferable. Should demonstrate initiative and leadership skills.

Send resume together with cover letter to: Ron M. Altmann, Executive Director, Catawba Lands Conservancy, 1617 East Blvd., Suite 200, Charlotte, NC 28203. Deadline: 4/15/98.

*please continue to next page*

## legislative and program briefs ...

**In Maryland ...** The Maryland legislature is working out details of legislation designed to improve water quality in the state's streams following last summer's toxic outbreak of Pfiesteria, which caused massive fish kills and health problems in people who were exposed to the water. Gov. Parris Glendening proposed mandatory curbs on nutrient runoff from Maryland farms, aimed at Eastern Shore chicken producers, whose manure, used widely as fertilizer, is blamed for turning Maryland streams into toxic brew. Both mandatory and voluntary provisions are expected. Meanwhile, the EPA has proposed curbs on farm runoff that would set minimum pollution control standards for feedlot operations.

A Senate committee voted to kill proposed legislation that would have allowed Maryland to join the Northeast Interstate Dairy Compact, which began last summer to set the farm price for Class 1 milk. The Northeast compact includes all the New England states, with New York and Pennsylvania seeking to join. New Jersey recently enacted a compact law. Maryland has fewer than 900 dairy farms, and 82 have gone out of business in the last year.

**In California ...** A Santa Barbara County superior court has ruled the county Board of Supervisors was justified in denying approval of a plan to put dozens of homes on a 3,800-acre ranch enrolled under the Williamson Act, the state's farmland preservation law. "Land protected from development by the Williamson Act must be shielded from abuses like this. Developers can't wish these contracts away so they can plant homes," said David Guy of the California Farm Bureau Federation. Guy said the decision signals that "abuses to

the Williamson Act will not be tolerated." Farms enrolled under the Act are restricted from development in 10-year renewable contracts.

The state Senate passed SB 1182, a Farm Bureau-sponsored bill carried by Sen. Jim Costa. The bill would create an intermediate-term land conservation program by expanding the terms of a Williamson Act contract from 10 to 20 years and offer landowners additional tax incentives. Contact: John Gamper at CFBF (916) 446-4647.

An effort is underway to place an environmental protection bond measure on the ballot in either June or November — the measure would be placed by the Legislature and would fund high-profile land conservation efforts (Headwaters old-growth redwood forest, Lake Tahoe, habitat conservation in southern California) as well as other land conservation, including farmland protection (Agricultural Land Stewardship Program). Both the Governor and the legislative proposals suggested \$10 million for ALSP funding — the AFT is trying to boost that, according to Erik Vink, AFT Davis office.

**In Illinois...** Following on the heels of American Trans Air's opposition to the proposal for a third major airport in the Chicago region (see last issue), a United Airlines official also went on the attack at a public meeting about the airport. Herbert Gardner, midwest director of government and public affairs said that the airline industry "can't believe our politicians can be this dumb." Gardner must have been referring to Gov. Jim Edgar and U.S. Representatives Jesse Jackson Jr. and Henry Hyde, the most vocal advocates of the South Suburban Airport targeted for Will County.

**In Congress ...** Sen. Rick Santorum is drafting legislation to reauthorize the Farmland Protection Program. This year's allocation will otherwise be the last until reauthorization of the farm bill in 2002. "We are drafting the bill now and hoping to introduce it in some form this year," a staff person said. □

## BOOKS

### **Atlas of Agricultural Land Preservation in Maryland: Location, Protection, Threat and Opportunities for the Future Maryland Office of Planning \$40 + \$5 s&h**

Measuring 11 x 17, this complete set of color maps provides one of the first comprehensive looks at the accomplishments of land preservation efforts in Maryland. It contains statewide maps and regional maps depicting agricultural zoning, farmland protected by easement, development pressure on land zoned for agriculture, and the status of agricultural land in terms of what land is under current farm use regardless of zoning. County maps show protected agricultural lands and agricultural zoning. Most maps were created with data current as of 1994, but for program-active counties, including Carroll, Cecil, Harford, Howard, Kent and Queen Anne's Counties, data was obtained through Dec. 1997. The Atlas is meant to provide perspective for preservation planning and will be particularly useful for seeing what nearby counties are up to. The Atlas is available through the Maryland Office of Planning, 301 W. Preston St., Baltimore, MD 21201. For information, call (410) 767-4500. CD-Roms, available for \$15, may be used only for plotting maps.

### **20% DISCOUNT FOR FPR SUBSCRIBERS Holding Our Ground - Saving America's Farms and Farmland By Tom Daniels and Deborah Bowers Island Press, April 1997, 334 pp. \$34.95+ s&h WITH SUBSCRIBER DISCOUNT: \$30 postpaid**

Written for professionals as well as the layperson, *Holding Our Ground* provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture — why farmland preservation has come about and why localities need to act to prevent fiscal drift. Serves as a how-to for the newly initiated, as well as a reference for the well-versed — it contains dozens of figures and tables, and a wide variety of appendixes serve as additional models and tools. DISCOUNT TO SUBSCRIBERS — ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.

## WEB SITES

### **The Patuxent Tidewater Land Trust <http://www.patuxent-tidewater.org/>**

This web site provides summaries of farmland preservation techniques and rural land protection issues as well as the land trust's activities and news affecting land protection in southern Maryland. This site was partly written by FPR editor Deborah Bowers, and contains sections on PDR, TDR and agricultural zoning. Target audience is landowners as well as professionals.

**The Sustainable Agriculture Network**[www.ces.ncsu.edu/san/](http://www.ces.ncsu.edu/san/)**North Carolina State University**

This web site features quick access to the SAN's publications, press releases and information about the four regions of the Sustainable Agriculture Research and Education (SARE) program, a USDA-funded initiative, as well as information from the national SARE office, grant funding schedules, descriptions of current funded projects, etc.

**Center for Rural Pennsylvania**[www.ruralpa.org](http://www.ruralpa.org)

The Center deals with rural and small town planning and revitalization, economic, social and land resource issues.

**CONFERENCES, EVENTS**

**March 18, Carlisle, PA:** Meeting of the Pennsylvania Farmland Preservation Association. Workshop topics: GIS for LESA, presented by Penn State; How TDR works in Manheim Twp, Lancaster County. Fee: \$10. To register, call Patty McCandless, (717) 840-7400.

**March 27, College Park, MD:** Managing Growth in Maryland ~ 2000 and Beyond, sponsored by the Homebuilders Association of Maryland. Program includes keynote address by Fred Siegel, senior fellow Progressive Policy Institute and author of *The Future Once Happened Here*. Sessions on Population Growth and Relocation in Maryland - Who's Moving Where and Why. Others sessions on neo-trad, TDR, infill development, flexible development standards. Fee: \$95. Call (410) 265-7400 x 104.

**March 29-31, Boiling Springs, PA:** Purchase of Agricultural Conservation Easements: What Works, sponsored by American Farmland Trust. The AFT skipped last year's annual PDR conference usually held at Eddy Farm Resort in NY. For the first time, AFT will have a 3-day "technical" conference limited to 120 participants. Cost: \$125 for full registration, one day is \$75. Does not include meals or lodging. Call (413) 586-9330 for information, or email at pmccabe@farmland.org

**April 20-22, Tampa, FL:** Land Use in a Growth State: Issues at Florida's Rural-Urban Interface, sponsored by Florida Farm Bureau, NRCS, The Farm Foundation and University of Florida. Focus: land use issues at the urban fringe, including farmland retention and the pattern and pace of growth. Fee: \$200. For registration info, call (352) 392-5930. Email: bam1@gnv.ifas.ufl.edu. Fax: (352) 392-9734.

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**Oct. 17 - 20, Madison, WI:** Rally 98, the Land Trust Alliance.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Newcomers pack farmland preservation conference in Pa.

**BOILING SPRINGS PA** — In late March 125 people from 25 states attended a three-day conference on the purchase of development rights at a resort near the rural village of Boiling Springs, Pennsylvania.

Sponsored by the American Farmland Trust, the conference was held during the last days of March in balmy weather at the historic Allenberry Resort on a river called the Yellow Britches, where dozens of sportsmen fished for trout and conference-goers on break looked on from a grassy hillside.

Early warm weather had apple trees in nearby Adams County orchards already in bloom, according to Ellen Dayhoff, program administrator

for Adams, with orchardists for the first time in memory lopping off fully blossomed branches.

### Newcomers dominate

Inside conference rooms, farmland preservation veterans were well outnumbered by newcomers from states with new programs or from states where programs do not yet exist. From such states

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*\$175 million gift to save Ca. lands ~ see page 5*

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as South Carolina, Ohio, Wisconsin and Minnesota, enthusiasts were seeking ways to convince

*please turn to page 2*

### MARYLAND'S RURAL LEGACY PROGRAM

## Under proposal, awards would be linked to use of TDR

**LAUREL, MD** — Grants awarded under Maryland's Rural Legacy Program would become linked to a locality's ability to enact a transfer of development rights program under recommendations submitted to the Rural Legacy Advisory Committee April 6.

Under the scheme, led by developer John Colvin of Questar Properties, a member of the Rural Legacy Advisory Committee, development rights purchased using Rural Legacy funds could be resold to developers with landowners' consent.

In addition, the plan recommends that funding for Rural Legacy areas after the initial year could be based on the host county's progress in adopt-

ing a TDR program.

Calling the concept the "Son of Legacy," Colvin said half of the proceeds from the sales

*please turn to page 4*

**Volume 8, Number 6    APRIL 1998**

### inside this issue ...

\$175 million Packard Fdn gift for Ca. lands ..... p. 5  
Legislative and program briefs ..... p. 7  
Professional resources lists upcoming conferences ..... p. 8

## Veterans school newcomers; newcomers inspire veterans

*continued from page 1*

legislators of the need for purchase of development rights (PDR) programs, promoted at the conference by AFT as the Purchase of Agricultural Conservation Easements, or PACE programs.

Donna Mennitto, former administrator of the Howard County, Md. program who now works for AFT, led a session on how to design a conservation easement program, a session sought out by newcomers.

"In my session there must have been 40 people and I recognized two faces. That's very exciting," Mennitto said.

Delaware program assistant Stewart McKenzie said the presence of so many newcomers to the field gave him "a renewed sense of purpose ... it's almost like a populist movement now. It puts things in a different light, that's for sure."

The program McKenzie administers recently garnered a \$28 million commitment from state surplus revenues from Gov. Thomas R. Carper.

Two busloads of public officials and farmers from Michigan, traveling through Maryland and Pennsylvania on the "Ultimate Farmland Preservation Tour, 98" sponsored by the Michigan Farm Bureau, completed their fact-finding mission by joining the conference on its first day for field trips to preserved farms in the area.

A seven-member contingent from Ohio sought to reconcile differing opinions on the use of rural cluster development with farmland preservation plans.

John Walpole, a tomato grower and farmland protection advocate from Charleston County, South Carolina, said rural cluster, also called conservation development, was at best a misguided way of having your farm and developing it too.

"Real estate brokers now call themselves conservation brokers. They find a way to get the highest and best use and save your farm, too," Walpole told a group gathered for a session he co-lead on marketing PACE to farmers.

Walpole, who said he is part of an effort to

pursue state legislation for a farmland preservation program in South Carolina, said a state requirement that coastal counties update their zoning ordinances is the impetus for new interest in land protection. Walpole said he is interested in creating a comprehensive program that will support an agriculture-friendly environment in both the law and the economy.

"Exactly right," commented Delaware program director Michael McGrath from the group. "Get your right-to-farm language in the statute right away. That sells the program to farmers — that the statute protects them."

Other discussion in the group focused on after-easement land values, the issue of downzoning and development costs compared with profits from lot sales.

George Frantz of Ithica, NY, said in promoting the idea of PACE, "we laid it out for the farm community. We looked at the costs. The cost of developing a \$20,000 lot was \$23,000."

Tom Stouffer, executive director of the non-profit Lancaster Farmland Trust, said the value of farmland in Lancaster County, Pa., was going up "because we've preserved farming." Per acre sale prices of preserved farms in Lancaster County have exceeded non-preserved farms, Stouffer said.

Tom Daniels, executive director of the Lancaster County Agricultural Preserve Board and co-leader of a session on using PACE with other strategies, said that an analysis of farm sales his office conducts each year is showing that, contrary to the assumption that easements reduce farm value, preserved farms retain a good value or increase in value for their owners.

"The bankers know that our preserved farms are going to sell at a good price," Daniels said.

Part of the health of Lancaster's agricultural economy stems from more certain private sector determination of where development can occur, Daniels said.

"We have made peace with the development community in Lancaster County. We will not go inside the urban growth boundaries and they

*please continue to next page*

*AFT conference, from previous page*  
don't come out to the ag areas."

### Campaigning for preservation funds

How localities and states have funded farmland preservation was the theme of two sessions.

Susan Craft, of the Burlington County (NJ) Land Use Office, told a group of listeners about her county's new local purchase of development rights program funded with a property tax increase endorsed by voters. The increase nets \$4 million per year — a sum that officials are already recognizing as inadequate for Burlington's ambitious goal of preserving 50,000 acres. Average per-acre easement cost in Burlington, a Philadelphia suburb influenced by two interstates, is \$4,495.

Craft lauded New Jersey State Sen. Bill Haines, a cranberry farmer, for pursuing a dedicated tax for land preservation, but said the proposal proved to be too popular.

"Voters jumped into open space preservation ... people came out of the woodwork to get a piece of [the funding]."

With so many interest groups claiming their own preservation agendas should qualify for the future revenues, "we had to make policy decisions on what we were not going to spend the money on," Craft said.

The ensuing campaign concentrated on three themes: that there was only a five, to 10-year window of opportunity before the effects of a major new highway took its toll on lands in its wake; that preservation was prudent fiscal policy — "it comes down to schools and schoolchildren — it's powerful information" — and the quality of life issue.

In addition to the necessity of building new schools, Craft looked at the cost of upgrading overburdened intersections, and compared it to the amount of revenue from the new tax. The intersections often cost more than the \$4 million generated by the tax, she said.

A vital factor in the county's successful drive

for farmland preservation was dedicated and well-informed leaders.

"Leadership cannot be overestimated. It's absolutely necessary." Craft said she had been fortunate to have leaders who went on to positions including state senator and director of the state's Department of Environment.

### Be ready to spend the money

Lastly, Craft warned, "be ready to spend the money that you get from a new tax. Some counties don't have the staff to get the paperwork out the door." A failure to earmark a percentage for administration would have been a mistake for Burlington, she said, which recently hired two people to handle the additional load of legal and technical requirements for easement purchase.

Part of being ready to spend the money was spending it in a way that got the most land by leveraging every dollar — a goal that led to adoption of the installment purchase method created by investment consultant Pat O'Connell, president of Evergreen Capital Advisors, Inc., a New Jersey-based advisement firm specializing in innovative finance for public environmental projects.

An overview of local funding types presented by AFT showed five localities using a real estate transfer tax that was characterized as a tax closely connected to its purpose but almost certain to stoke opposition from a formidable foe: the development and real estate industry.

But Deborah Bowers, publisher of *Farmland Preservation Report* and chair of a land preservation commission in Harford County, Md., told session participants that wasn't the case in the campaign she led in Harford five years ago to establish a local program complete with a 1% transfer tax.

"The real estate industry knew we were going to win and decided not to put much effort into opposing us, although some renegade members did steal all our highway signs," Bowers said. "Don't assume the real estate lobby is going to

## Proposal would have awards favor use of TDR in Rural Legacy plans

*continued from page 1*

could go to funding infrastructure improvements in the TDR receiving areas, a plan he said would strengthen the Rural Legacy Program's link to the state's Smart Growth law, passed last year, which will channel all infrastructure funding to designated growth areas.

But some Rural Legacy applicants say this amounts to preservation funds being recycled to subsidize development — not what the public had in mind when it supported the use of funds for a major land preservation effort. Opponents of the plan also say that for the committee to adopt such far-reaching policies without input from localities is inappropriate and a danger to the program's public support.

Some counties, in particular Harford and Baltimore, have convened TDR commissions that after months of study could not devise workable TDR plans acceptable to elected officials. Creating a market for TDRs where development rights have been routinely increased through comprehensive rezoning was a key obstacle.

Deborah Bowers, publisher of *Farmland Preservation Report* and writer of a Rural Legacy proposal that includes parts of both Harford and Baltimore Counties, told the Advisory Committee that the current recommendations, if adopted, would penalize applicants from these counties for the actions or inactions of their elected officials.

"How can we be responsible for there being no market for TDR? No one will buy development rights if they are being given away," she said.

Bowers said she had served on a Harford County TDR task force recently that forwarded a proposal elected officials rejected. The proposal was simple: create a TDR market by requiring developers to purchase development rights from farmland in order to use increased density granted during comprehensive rezoning. The

Harford County Council granted a number of upzonings on farmland tracts last year.

Bowers indicated TDR depends more on political fortitude than on mechanics.

Jeremy Criss, a Rural Legacy applicant for Montgomery County, where the nation's most renown TDR program was enacted in 1981, spoke in favor of adopting a TDR link for Rural Legacy.

"Mr. Colvin's proposal is a very good one regarding trying to keep our options open for the future. The only concern I have is that we do it right."

Criss said he was concerned that the proposal "might be stretching the language" that created the program.

In a lengthy discussion that quickly turned into a series of questions on the mechanics of TDR, committee members expressed both enthusiasm and discomfort with the recommendations.

Natural Resources Secretary John Griffin, one of three members of the board that will make final decisions on policy and on grant awards, indicated he felt the Rural Legacy Program was designed to retire development rights.

"I think the intention is that we do that," he said.

Colvin answered that the law stated that transferrability was an option.

"The idea was to collect these [development rights] and keep account of them, and to parcel them out over time," for development purposes, Colvin stated.

Allen Cohey, a committee member who is an Eastern Shore farmer and member of the state's agricultural land preservation board, asked why a farmer or landowner would sell development rights knowing they may later be sold again, perhaps at a higher price.

Colvin said each easement transaction would have the option of assigning resale potential.

Cohey was not satisfied with the arrangement. "I really think it will hurt the program for farmers," he said.

Peter Brown, chairman of the committee, said the TDR focus was just "one more way" that localities could boost the appeal of their applica-

*please continue to next page*

**Rural Legacy, from preceding page**

tions.

But the TDR recommendations place too much emphasis on providing priority status to localities with TDR, according to Theresa Pierno, director of Education, Bay Policy and Growth Management in the Department of Natural Resources.

"You're talking about giving Rural Legacy grants based just on TDR. When you start taking out the points in here, you should bring the public into this," Pierno told the committee.

Kristin Pauley of the Chesapeake Bay Foundation shared Pierno's concern.

"There's the impression we're creating criteria post-facto," she said.

Chairman Brown indicated the committee will again consider the recommendations on April 20.

*Contacts: Grant Dehart, (410) 260-8403; Theresa Pierno, (410) 260-8710; John Colvin, (410) 486-1234.*

**Largest since gifts of Rockefellers****Packard Foundation gives \$175 million to save land in California**

LOS ALTOS, CA — The David and Lucille Packard Foundation, the third largest charitable foundation in the United States, has committed \$175 million for a massive land preservation effort in California, to include both natural and agricultural lands.

The Foundation will grant, over five years, \$35 million annually — four times the amount spent by the state parks department last year on land acquisition.

The initiative is the largest private land conservation gift ever made in California, and is believed to be the largest gift of its kind since the Rockefeller family donated money to create national parks including Acadia in Maine.

"In the face of unprecedented pressures posed by a rapidly expanding population, heightened economic activity, and sprawling residential and commercial development, the Packard Founda-

tion, under the auspices of its Conservation Program, has decided to launch an integrated grantmaking program designed to conserve key elements of California's natural heritage," stated a release from the Foundation.

The initiative will use both fee purchases and conservation easements, according to Foundation staff, and will be allocated to nonprofit organizations for proposed projects in the state's Central Valley — among the nation's most highly valued agricultural production region —, the Sierra Nevada, and the state's central coast from San Francisco to Santa Barbara.

"The Foundation's initiative is intended to catalyze and direct support toward innovative transactions from willing sellers that result in multiple conservation benefits," stated a press release from the Foundation, which has assets estimated at \$8.9 billion.

"These three regions of California — the Central Coast, the Central Valley, and the Sierra Nevada — contain some of the most globally valuable and threatened resources."

"This is an extraordinary gesture of philanthropy," said Douglas Wheeler, California's secretary of resources. "While this has been typically a public responsibility, it is also clear that the challenge is so large, it cannot be accomplished by the public sector itself."

"This won't be just environmental groups. We expect to work with local farm bureaus and cattlemen's associations," said Michael Mantell, a consultant for the California Environmental Trust and to the Packard initiative.

While officials and nonprofit organizations applaud the generous gift, they acknowledge increased public funding for land protection is vital. The California legislature has been debating a new bond initiative of \$850 million for parks to be placed on the November ballot. The state has not passed a parks bond since 1988. However, most of the funds would be used for park maintenance, not land acquisition.

*Contact: Erica Nelson, (650) 917-7157. Parts of this story were gathered from reports in the San José Mercury News.*

## Conference focuses on PDR details

*continued from page 5*

oppose you. Transfer taxes are a good funding source. Make the case that farmland and open space protection enhances property values."

In a continued session on funding PACE programs, Daniel P. "Pat" O'Connell explained the workings of installment purchase, now used by about six local governments seeking to stretch preservation dollars. These include Burlington County, NJ, Harford County, Md., Virginia Beach, Va., and Howard County, Md.

In installment purchase, the local government agrees to pay to the landowner the principal amount of the purchase after a period of from 15 to 30 years, and meanwhile, to make annual or semi-annual interest payments that are tax free. Not only do landowners reap the interest, but they put off payment of capital gains tax on the principal.

### AFT study on Massachusetts program

During a plenary address, Bob Wagner, who manages land protection programs for the American Farmland Trust, outlined the findings of a study just completed on the status of the Massachusetts Agricultural Preservation Restriction Program. AFT said it is the first study to document the agricultural and economic benefits of a farmland preservation program.

To date, the Massachusetts program, now 20 years old, has protected 40,000 acres — about one-third of the acres preserved by Maryland, now also in its 20th year. While the difference in acres preserved has been affected by a number of factors including land values and the number and quality of farms in Massachusetts, the AFT is calling for greater funding for the Massachusetts program.

The study surveyed 75 farms protected by the program and located in the Connecticut River Valley — the state's most valuable farming region. Results showed that the program not only protects land from development but promotes investment in the land, facilitates transfer of farms to the next generation and enjoys broad support from farmers.

Many of the farmers interviewed said that without the program, they would no longer be farming or would have been forced to sell some of their land for development to stay in business.

"Most of the results of this study far exceeded our expectations," Wagner told the plenary session audience.

### Ask the experts

*please continue to next page*

## legislative and program briefs ...

**In Maryland ...** HB 453, passed by the House appropriations committee, would for the first time allow counties to opt out of the farmland preservation program's competitive bidding and allow county agricultural advisory boards to create their own method of prioritizing easement applications. Contact Iva Frantz, (410) 841-5860.

**In Ohio ...** SB 233 will allow creation of local PDR programs and the levying of a sales tax for funding. Several counties are exploring how to create local programs. Contact Joe Daubinmire, (330) 725-4911.

**In Indiana ...** The Hoosier Farmland Preservation Task Force met April 7 for a panel presentation on comprehensive planning, ag zoning and ag districts.

**In Pennsylvania ...** On March 30, the Agricultural Land Preservation Board approved easement purchases on 24 farms including the first easement purchase in Beaver County. The program has now protected 903 farms encompassing 115,604 acres.

**In Delaware ...** The governor has signed SB 372, which creates a dwelling provision change that will limit new dwelling sites in agricultural districts to three for use of family or farm labor. A hardship variance can be allowed. Stewart McKenzie, (302) 739-4811.

**In Iowa ...** A bill that would require a simple majority approval of municipal annexations by those residing in the area proposed for annexation is under consideration (HF 2005). Contact Cindy Golding, (319) 393-7180.

**In Congress ...** The Senate adopted an amendment to the FY 99 Budget Resolution from Pennsylvania Sen. Rick Santorum that opens the way for Congress to reauthorize funding for the Farmland Protection Program.

In a plenary session that featured a panel of practitioners from state and local programs, questions submitted the previous evening were posed by AFT's Julia Freedgood.

The first question, ~ What would you have done differently? ~ revealed what each felt was a shortcoming of their respective programs.

Rich Hubbard, assistant agriculture commissioner for Massachusetts, said he would have gotten a dedicated source of funding — the state program must garner appropriations each year from a pool of bond funds. Also, Hubbard said he would have established some kind of procedure for dealing with sales of preserved farms, which in Massachusetts are being sold at high prices to estate buyers.

Donna Mennitto, speaking of her tenure in the Howard County, Md., program, said economic development for agriculture was needed from the start in a highly urbanizing county. "I would have involved ag economic development [with land preservation] earlier. Those two should go hand in hand."

Ethan Parke of the Vermont Housing and Conservation Board said buying development rights in rapidly growing areas created the problem of preserved farms becoming surrounded with development.

Jeremy Criss said Montgomery County, Md., in devising a transfer of development rights program, planners protected important farming regions but fell short in designating the receiving areas for the transferred rights. "We should have identified sufficient capacity," he said.

The second question ~ What are localities doing to keep farming viable? ~ allowed respondents to reveal whether their programs recognized a need for including agriculture in their economic development programs, or, whether they felt it should be an issue.

While Donna Mennitto, again speaking from her Howard County experience, made a case for the involvement of preservation programs with economic development, Massachusetts program administrator Rich Hubbard held that protecting the resource (the land) first, was paramount.

"I never apologize for that because without

the land there is no farming," Hubbard said.

Jeremy Criss of Montgomery County, Md., agreed with Mennitto that urban area agriculture in transition from traditional to niche markets needs help if preservation is to succeed with its ultimate goal of preserving farming as well as farmable land.

"That's why our office is located in the economic development department," Criss said. "We've always looked at agriculture as a viable industry... traditional ag still represents 80 percent of the land mass."

Tom Daniels of Lancaster County, Pa., said working with the business of farming in mind is important to the county's preservation efforts.

"In Lancaster County we have a lot of faith in the ability of our farmers to make a good living. The important thing is large blocks (of preserved lands), plus it's important to have the trust of the farmers."

Daniels said that Lancaster County helped to fund a position with the local chamber of commerce for agricultural services.

Karen Fedosh of Monmouth County, NJ, agreed that economic development was the logical next step for her program, but that for now "the transition that is occurring that's most important is the transition happening to the land."

Before posing the next topic, a question was taken from the audience that brought both smirks and curious glares from participants who filled the broad and airy room: a newcomer asked how PDR programs "justify society giving up the right to determine what happens to the land?" The questioner said the result of PDR may not be democratic.

Several of the panelists pointed out that farmland preservation programs are created by voters and that preserved land is therefore "in the public domain."

Al Sokolow, a public policy specialist at the University of California Cooperative Extension, put the issue in perspective.

"I don't think we have a democratic process in land use today — it is market driven."

The AFT plans another conference next year.

## professional resources ...

### CONFERENCES, EVENTS

**April 20-22, Tampa, FL:** Land Use in a Growth State: Issues at Florida's Rural-Urban Interface, sponsored by Florida Farm Bureau, NRCS, The Farm Foundation and University of Florida. Focus: land use issues at the urban fringe, including farmland retention and the pattern and pace of growth. Fee: \$200. For registration info, call (352) 392-5930. Email: [bamt@gnv.ifas.ufl.edu](mailto:bamt@gnv.ifas.ufl.edu). Fax: (352) 392-9734.

**April 25 - 28, Chicago:** Rally III for America's Real Places - Best Practices in Heritage Development and Cultural Tourism. Call (202) 885-8910.

**April 29, Towson, MD:** Choosing Community~ Purpose and Possibilities for the Baltimore Region, sponsored by the Citizens Planning and Housing Association. Keynote speaker: Bruce Katz of The Brookings Institution Center on Urban and Metropolitan Policy. Fee \$20. Register by April 17. Call (410) 539-1369.

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**June 1 - 12, Burlington, VT:** University of Vermont Summer Land Conservation Program. The Natural Areas Center at UVM is sponsoring the 4th annual Land Conservation Program during the summer of 1998, consisting of a series of short courses, workshops and field experiences for students and professionals. Titles include Land Conservation: Aims and Methods, Forest Ecosystem Inventory Skills, Community Sense of Place, Real Estate Law in Land Conservation. Course fees are \$50 or \$100. Register by May 25. Call (802) 656-4055 for information.

**June 3 - 6, Madison, WI:** Who Owns America? II: How Land and Natural Resources are Owned and Controlled, co-hosted by the North American program of the Land Tenure Center at the University of Wisconsin-Madison and the Lincoln Institute of Land Policy. More than 200 concurrent sessions in a wide range of topics including: Property Rights; Culture, Ethics and the Land; Urban Growth; Taxation Land Trusts;

Land Use and Planning; Public Trust Doctrine; Land Loss, Prevention and Recovery. For info: (608) 262-3658; email: [lrc-nap@facstaff.wisc.edu](mailto:lrc-nap@facstaff.wisc.edu). Web: <http://lrcweb.lrc.wisc.edu/nap>.

**Sept. 10 & 11, Columbus OH:** The Performance of State Programs for Farmland Retention: A National Research Conference, sponsored by The Ohio State University and The C. William Swank Chair in Rural- Urban Policy, and others. Conference objectives are: review the evidence on how well farmland retention programs work, review approaches to program evaluation, develop a research agenda for future program analyses, and to foster interaction among analysts and program managers. For info. contact Terri Cory, Department of Agricultural, Environmental, and Development Economics, The Ohio State University, 2120 Fyffe Road, Columbus, Ohio 43210-1067; Phone: 614/688-4890; Fax: 614/292-4749; E-Mail: [cory.1@osu.edu](mailto:cory.1@osu.edu).

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

\$18 million possible

## Ohio counties scramble to show they're ready for PDR pilot

MEDINA, OH — Counties in Ohio are scrambling this month to garner interest in the purchase of development rights in response to an announcement from the state Department of Agriculture that up to \$18 million might be made available this year for a pilot PDR program.

Counties interested in pursuing PDR programs were informed on April 28 and instructed to indicate preliminary landowner interest by May 8. The announcement set off an inter-county rivalry to compete for the potential funds, as it was obvious the state wanted to see which counties would be good to go if money were available.

The news was well received in Medina County, where more than 160 farmers signified interest for preserving about 16,000 acres, according to Joe Daubinmire of the Ohio State University Extension office. According to the 1992 USDA census, there are 900 farms in the county.

Medina formed a PDR action committee in May 1996 to generate interest and support for farmland preservation. A year later the committee had grown to include 75 members, half of whom are farmers, with a goal of establishing techniques for farmland protection, including PDR.

With news of possible state funds, Medina County auditor Michael Kovack, an elected official, notified the county's 3,330 enrollees under the state's current agricultural use valuation that Medina's eligibility for the funds rested on receiving ample response before May 8. The response

was more than ample, according to Daubinmire.

"My jaw just dropped," Daubinmire said. "There was certainly strong interest in pursuing a program."

And yet creation of a state program depends on two things: passage of state enabling legislation, likely still weeks away, and, an actual appropriation of money, by no means certain.

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*New job postings, page 7*

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Kevin Schmidt, Ohio field office representative for the American Farmland Trust, said the availability of federal funds unquestionably is driving the move to establish a state program in Ohio. But time is running out... only about five more sessions of the legislature are scheduled.

"It's getting a little squeaky ... it couldn't be any tighter," Schmidt said.

So far, about 20 counties are responding to the

*please turn to page 2*

**Volume 8, Number 7**

**May 1998**

### inside this issue ...

Maryland legislative surprises .....	p. 3
Fresno County alliance calls for curbs on sprawl .....	p. 5
Lawsuit will test conservation easement .....	p. 6
Legislative briefs .....	p. 6,7

## Local action spurred by new state initiative, federal dollars

*continued from page 1*

call to show landowner interest. About eight of those counties are among the top contenders, counties that have already been at work studying farmland loss and exploring techniques to curb it. Some counties, such as Medina and Portage, have taken steps to establish local programs even without state involvement in farmland preservation.

In Portage County, east of Akron, a farmland preservation committee has been meeting for two years, said Steve Hudkins of OSU Extension.

"Our county is very much in the forefront in this," Hudkins said. "Our commissioners are committed to a pilot program."

In Wayne County, more than 30 letters from farm owners were received, making up 4,500 acres to be protected, according to Mary Ann Baggio, who agreed counties were competing, but felt that statewide response was essential.

"The more counties respond, the better. The legislators and candidates for governor will realize this is, again, an issue the people are concerned with."

But other parts of the state may not measure up to the northeast on the issue of farmland loss or how to address it, said Peggy Schear of OSU Extension in southwest Ohio. Schear represents 19 counties with "the best agriculture in the state" and has coordinated three awareness meetings. "We have a couple of counties interested," she said.

One of those is Delaware County, just north of Columbus and the state's fastest growing, but when it comes to the issue of farmland loss, "they don't have a system to work on it," Schear said.

"Clearly, that's right," said Allen Prindle, a farmland preservation activist in the Columbus region. "And yet this is really the issue. We're trying to tell them that they don't have 20 years to decide... and doing nothing is a choice," Prindle said.

The message seems to have gotten through. In early May, Delaware County Commissioners resolved to appoint a farmland preservation task

force in order to put the county in the running for state farmland preservation dollars if they are appropriated.

"It was urgent that we appoint the task force," Prindle, a Delaware County resident, said.

Last spring, Prindle, an economics professor at Otterbein College in Columbus, organized a delegation of 51 county and township elected officials from the region and booked a farmland preservation tour east to see for themselves how Carroll County, Maryland and Lancaster County, Pennsylvania preserve farmland. Not long after, a statewide conference on land use and farmland loss sponsored by the Ohio State University Extension, generated more interest in pursuing farmland preservation strategies.

But in June of last year hopes for a state program were dashed when the state attorney general ruled Ohio law didn't allow the state or its localities to buy development rights, and that enabling legislation would be required.

Sen. Grace Drake, who served on a statewide farmland preservation task force created by Gov. George Voinovich, drafted an amendment to the state's budget bill authorizing the director of agriculture to acquire and hold easements, but the state's real estate lobby saw it as an anti-growth measure and lobbied successfully to defeat it.

The action numbed Medina County officials, who were set to go to referendum last fall and fund a local program with a sales tax increase.

"The Realtors were acting from blind fear, that it was an anti-growth measure rather than a pro-growth measure," said Joe Daubinmire last summer.

Daubinmire and his associates in northeastern Ohio are looking to convince the real estate industry that farmland preservation will be a good thing for the economy, and not a threat in the land market.

The Ohio Farm Bureau Federation backs voluntary purchase of development rights "as long as private property rights are not infringed upon," said Joel Hastings, director of local affairs. The organization also promotes adoption of

*please continue to next page*

*Ohio, from previous page*

county comprehensive plans. Most counties in Ohio don't have zoning, and Hastings sees a "blank slate" as an advantage as agriculture competes for the use of land.

Planning and zoning in the state could receive a big boost if legislation now under consideration is passed. House Bill 645 would encourage land use planning in the state's 88 counties. The County Commissioners' Association of Ohio objects to the idea of the bill's regulatory approach.

"It should not be a regulatory document — it should be a vision," said Association executive director Larry Long in an article in *The Columbus Dispatch*. Long was objecting to a process that would require plan amendment before rezonings could occur. But the bill's sponsor, Rep. Gene Krebs, said he feels strongly that planning needed to be linked to zoning regulations. Both Long and Krebs agree that planning and farmland preservation are needed. Hearings on the bill began in April and continue this month.

Contacts: Joe Daubinnire, (330) 725-4911; Steve Hudkins, (330) 296-6432; Kevin Schmidt, (614) 469-

MARYLAND LEGISLATURE

## Milk compact gets thumbs up, local prioritizing zonked

ANNAPOLIS, MD — Farmland preservation administrators in Maryland saw a topsy-turvy legislative session in which the outcomes of two bills affecting preservation efforts were the opposite of what was expected.

A bill that would have given counties more prerogative in prioritizing farms to be considered for the state program, was expected to pass, but at the last minute failed. And, even more of a surprise, an attempt to allow Maryland to join the northeast milk pricing compact, opposed so

heavily by supermarket lobbyists that it faced almost certain defeat, was in the end successful.

*Price floor could slow loss of dairies*

An unlikely coalition of urban and rural legislators made possible a last minute maneuver that put Maryland in the running to join the Northeast Interstate Dairy Compact, which determines minimum prices that farmers receive for Class 1 milk. It is looked on as a move that could stem the loss of dairy farms in the state.

But price-setting arrangements are prohibited by federal law, and the success of the partnership may be inconsequential when Congress is asked to approve the continuation of the two-year old Northeast compact. Maryland proponents of the compact face an uphill battle with the House Judiciary Committee, which is, according to staff, "hostile to compacts."

The Northeast compact authorization was part of the 1996 farm bill and was limited to a three-year pilot. Unless Congress extends it, it will be dissolved.

The compact now includes all the New England states, and is believed to be helping to stem the loss of small dairies. In Massachusetts it is "helping dairy farmers," said Jim Hines, director of dairy services for the Mass. Department of Food and Agriculture.

"On average, the compact has helped dramatically, especially between July 1997 and December 1997, when prices dropped so low the compact provided a floor ... a number of farmers say if it wasn't for the compact they wouldn't be in business," Hines said.

The average dairy herd size in Massachusetts is 67, and many smaller dairies are the ones that are most helped by the price floor, Hines said.

"It hasn't stopped the bleeding totally, but attrition is at a much slower rate ... the commitment to a continuation of that protection gives them the ability to plan," Hines said.

The department hired a financial specialist to work with small dairy farmers to help them deal

## Milk compact slows loss of dairies in Massachusetts; same results hoped for Md.

*continued from page 3*

with debt and financial planning, and that has helped some operations.

Hines said the region will work on Congress to extend the compact. "Right now, we're busy fending off the opposition."

Maryland is joined by New Jersey in a bid to join the cartel, while Pennsylvania and New York have not yet committed to joining. The Maryland effort was very much a surprise for the Maryland Department of Agriculture, after an initial bill had been soundly defeated.

"I went into it feeling despondent," said legislative liaison Pat McMillan, "but the people who I'd least expect to support it came along. By the time it was over, I was standing up cheering."

Nearly 40 percent of Maryland dairy farms have gone out of business since 1988 and the number of processing plants has dropped from 35 to five in the past 20 years. Dairy products, however, are still among Maryland's leading agricultural commodities in terms of cash receipts.

### *Local ranking bill zonked*

SB 453, a bill that would have given county advisory boards the ability to prioritize farms according to local criteria and opt out of the state's competitive bidding, was developed by the Maryland Agricultural Lands Preservation Foundation after many rounds of discussion. The bill would have given local boards "far more flexibility to rank and order easement offers as they think most appropriate," said Pat McMillan.

But Harford County Senator Donald Fry was concerned that the bill opened the way for some counties to skew results unfairly, and added an amendment late in the process that effectively killed the bill.

"He wanted to make it clear the Foundation would be in the driver's seat, that any local prior-

ity would meet state criteria," said liaison Pat McMillan. "If [the amendment] had happened earlier I think it would have been worked out."

Yet some local administrators were ambivalent about the outcome. Donna Sasscer of St. Mary's County, which has been slow in easement participation, said that for now, new local ranking criteria would be of little use in a county where so few acres are coming in for consideration.

"For us, I can see the benefits, but right now we have so few acres, it's best for us to go with the farm that discounts the most. Right now we're interested in getting the most acres we can. I didn't want to see it fail, but I didn't see an advantage in it for us," Sasscer said. The county has about 2,177 acres under easement.

In Frederick County, which has consistently ranked near the number 10 spot nationally for number of acres preserved, now at about 11,219, program director Tim Blaser shared Sasscer's sentiment regarding the failed bill.

"We had kind of felt like the power was in our hands anyway. A bid ratio had to be kept in the process. It had given us leeway in the past," Blaser said. "It just doesn't seem there would be any incentive for people to keep their asking price down."

*Contact: Pat McMillan, (410) 841-5882.*

### COMPETITIVE GRANTS

## New York enters third year, awards reach \$10 million

ALBANY, N.Y.— June 3 is the deadline for the latest round of applications for state assistance payments for the implementation of agricultural and farmland protection plans. A request for proposals was released just six days after announcement of results in the prior round, which awarded 11 projects with \$4.5 million.

Over the past two years the state has awarded nearly \$10 million for farmland preservation projects and planning grants. So far, just one farm

## etcetera ...

### Maryland Rural Legacy panel wraps up review

*Annapolis, Md.* — The Rural Legacy Advisory Committee is “generally on schedule” and will wrap up its review of 23 land preservation proposals by June 8, according to Grant Dehart, director of Maryland Program Open Space. On that date, the committee is due to report to the Rural Legacy Board its recommendations on which Rural Legacy plans should receive the greatest consideration in this first application year.

“The applications are being grouped into categories,” Dehart said. Those categories are: 1) generally approvable; 2) those in need of additional focus; and 3) those that don’t meet the purpose or intent of the program criteria.

The competing projects requested a total of \$124.8 million to preserve 53,000 acres throughout the state. The last program allocation was announced at \$29 million.

Asked if whether it seemed funds would be widely spread to many applications or divided among the top ranking, Dehart indicated no direction was apparent.

“It’s up to the governor and the Board of Public Works,” he said.

*Dehart: (410) 260-8403.*

### Builders join in call to curb sprawl in Fresno County

*Fresno, Ca.* — An alliance of business, conservation, agriculture and development interests last month called upon Fresno County officials to adopt strategies to foster more efficient growth patterns in the nation’s most productive agricultural county.

The Growth Alternatives Alliance, which includes Fresno County Farm Bureau and the area’s building industry association, proposes guiding principles for sustainable development and outlines specific strategies to achieve the goal.

Among the strategies named are the use of urban growth boundaries, mixed-use zoning and design standards for more pedestrian-friendly streets.

For a copy of the report, *A Landscape of Choice*, call (202) 659-5170.

### NEW YORK, from preceding page

has settled — a 108-acre dairy operation in Orange County, purchased by a young farmer using the easement money for 75 percent of the purchase price. The transaction involved some urgency, as the original owner placed a deadline on easement settlement. The deadline was met through direct contact between the county executive and the state comptroller. The deal was the program’s first settlement outside Suffolk County, Long Island, where a local program, the nation’s first, has existed since 1974.

Local media coverage generated 40 calls to the New York Department of Agriculture and Markets where grant applications are reviewed and ranked.

The department, where only part time staff administer the program, was caught off-guard, said Bob Somers, chief of the Agricultural Protection Unit. The grants program typically makes up just five percent of his work duties, and the department will likely put out an RFP for a contractual administrator in the near future, Somers said.

Funding comes through the state’s Clean Water/Clean Air Bond Act and the state Environmental Protection Fund.

The latest awards were given to Suffolk County (\$759,460) and three of its towns (\$1.475 million); Town of Pittsford, Monroe County (\$500,000); Onondaga County (\$461,250); Town of Stuyvesant in Columbia County (\$316,000); Town of Amherst in Erie County (\$300,000); Town of Saratoga, Saratoga County (\$283,000); Essex County, (\$253,000); and Orange County, (\$167,265).

In addition, another \$150,000 was awarded to Sullivan, Montgomery and Chautauqua Counties in fiscal 1997-98 for farmland protection planning grants.

Projects were awarded based on the economic viability of proposed farmland to be protected; the development pressure facing the land and whether the land buffers a significant natural resource.

*Contact: Bob Somers, (518) 457-2713.*

MYRTLE GROVE**Lawsuit demonstrates careless use of conservation easement**

**ANNAPOLIS MD** — The Maryland Attorney General has agreed to enter a case that could test the legal strength of conservation easements.

The easement in question involves Myrtle Grove Plantation, a 160-acre farm with an early 18th-century home in Talbot County, Maryland, held by the National Trust for Historic Preservation.

Myrtle Grove's owner died in 1989 and the farm, with a conservation easement restricting its use to just one additional home, was sold to a Washington D.C. couple. Five years later the couple asked the National Trust for permission to subdivide the property into eight large lots, and National Trust president Richard Moe signed off on the deal — something he would later regret.

The former owner's family contacted Moe and objected to the apparent violation of the easement's terms, and Moe would soon reverse the agreement and state in a deposition that it was "a serious mistake" according to the *Washington Post*. The new owners, seeking to develop, are suing.

The Maryland Environmental Trust (MET), named as alternate holder, but not co-holder, urged the Maryland Attorney General to look into the matter, now pending in Washington, D.C. Superior Court. MET had been advised it does not have standing in the case.

"We're looking into it right now and expect to reach a decision in the next few weeks," said Joe Gill, principal counsel for the Department of Natural Resources in the Maryland Attorney General's office.

"One of the arguments has to do with the concept of a charitable trust, which is designed to benefit the public and cannot be changed except under narrow circumstances," Gill said.

John Bernstein, director of the Maryland Environmental Trust, said the case has caused concern and may be affecting easement donations, particularly in Maryland.

"This has created a lot of heat. Many easement donors have called. These [easements] are designed as a public benefit," Bernstein said.

According to the *Washington Post*, in his deposition, Richard Moe said he never read the letter approving the deal, and in June 1994, notified the owners, Patrice and Herbert Miller, that the deal was off.

"It is beyond dispute," read the letter from Moe, "that the

## legislative and program briefs ...

**In Michigan ...** Appropriations still need to be voted on before the Department of Natural Resources can move ahead with determining which of 34 farms in 17 counties will receive offers for purchase of development rights. Meanwhile, Washtenaw County is moving ahead with placing on its ballot this November a proposal to fund a local PDR program with a 0.4 mills tax increase. Washtenaw had a 1990 population of 283,000. In 1992 it had 1,057 farms.

**In Pennsylvania ...** With its latest round of offers, Pennsylvania has now approved easements on 117,934 acres on 927 farms in 39 counties. Berks County celebrated the 10,000-acre mark, and Lancaster County reached 27,500 acres preserved, and will place in the top three counties nationwide for number of acres preserved through farmland programs.

**In Ohio ...** SB 223, authorizing state and local purchase of development rights, has passed the Senate unanimously May 12. SB 645, a comprehensive bill that encompasses planning and zoning, has seen no action. ... The Ohio State University Extension is hosting a Northeast regional farmland preservation conference May 27 featuring as speakers *Farmland Preservation Report* publisher Deborah Bowers and Baltimore County Realtor Herbert Davis.

**In Kentucky ...** The state program, using \$800,000 in former appropriations and now with new funds of \$400,000 in each of the upcoming biennial budget years, is pursuing six farms for preservation compris-

ing 1,200 acres. A permanent source of funding is being explored. ... Lexington-Fayette Urban County Government is drafting a rural area plan that will likely recommend a PDR and/or TDR program. The state legislature recently authorized the county to increase property taxes through referendum to fund PDR.

**In New York...** June 3 is the deadline for the latest round of applications for state assistance payments for the implementation of agricultural and farmland protection plans (see story this issue.)

**In Virginia ...** In Virginia Beach, which operates the state's only purchase of development rights program, the city has closed on 24 farms, preserving 3,528 acres. Another four farms comprising 779 acres are awaiting settlement in the program, which uses 25-year installment purchase agreements. The program's average per-acre cost is \$2,600.

**In Maine...** Land for Maine's Future has been funded at \$3 million for land protection projects as a result of the governor's \$10 million bond proposal, according to Mark Desmeules, program director. "We have a whole slate of plans for getting the word out, finding matching dollars and applying for federal money," he said.

**In New Jersey ...** Ocean County's property tax increase of 1.2 cents, approved by voters last fall, is expected to generate \$3.8 million annually, with funds becoming available this August. The county has established an open space-natural lands committee to set up a structure and criteria for ranking properties. Program rules will be adopted in July and August, according to David McKeon, program coordinator. "We think the plan will be ready. We've had people contacting us," he said.

#### *Lawsuit, from preceding page*

terms of the easement deed flatly prohibit any subdivision of Myrtle Grove beyond the single subdivided tract which was allowed."

Douglas Worrall, a partner in Wright, Constable & Skeen, L.L.P. who specializes in conservation easement law, said that while the National Trust may not have intended to cause the development of the land, it had no process in place — and no experience — to prevent it. Therefore, the lesson to be learned, he said, is that land-owners need to carefully choose the organization to which they entrust the future of their land.

Jean Hocker, director of the Land Trust Alliance, said the greater responsibility is with the organization.

"Any organization that takes a conservation easement that includes land should be aware of its obligations," she said.

Grant Dehart, director of Maryland's Program Open Space, said he has since assisted the National Trust in setting up an oversight committee to prevent mistakes in the future. "Any easement alterations are now reviewed by a real estate committee," he said.

Contact: John Bernstein, (410) 514-7900; Joe Gill, (410) 528-1840; Grant Dehart, (410) 260-8403; Douglas Worrall, (410) 659-1310; Jean Hocker, (202) 638-4725.

## professional resources ...

### JOB ANNOUNCEMENTS

#### Lands Acquisition Specialist

Vermont Department of Forests, Parks & Recreation  
Waterbury, Vermont

Administrative and technical work for Department of Forests, Parks and Recreation in Waterbury, VT. Facilitates land acquisitions and other transactions. Requires bachelor's degree in a natural resources field and three years in natural resource administration, management, real estate, land use planning, or land acquisition or planning. Prefer strong background in land conservation. Familiarity with Vermont State Lands desirable. For more information or application, call (802) 828-3464. Email to: [recruit@state.vt.us](mailto:recruit@state.vt.us); or online at: <http://www.state.vt.us/pers>. Standard State of Vermont application must be received by May 26, 1998. Job Code: 324200

#### Executive Director

The Potomac Conservancy  
Washington, D.C.

Salary range: Up to \$55,000

Executive Director sought by The Potomac Conservancy (TPC), a Washington, DC-based land trust dedicated to conserving and enhancing the scenic, recreational,

*please continue to page 8*

natural and historic qualities of the Potomac River and its landscape. TPC's primary focus is to permanently protect (through the acquisition of conservation easements and fee interests) the 15-mile Potomac River Gorge from the Great Falls of the Potomac to the city of Washington, called "one of America's premier river landscapes" by American Rivers.

The Executive Director is responsible to the Board of Directors, reporting to the Board Chairman, for fundraising, land protection, and finance and administration activities of TPC. In carrying out these responsibilities, the Executive Director works closely with an active Board of Directors, an experienced staff, landowners, foundations, corporations, major donors, government entities, other nonprofits, and volunteers.

*Summary of Duties:* Plan and execute fundraising activities for foundation and corporate grants, major donors, and membership development. Supervise existing 2 person staff - Directors of Land Protection and Administration - and be responsible for results in those areas. Work closely with Board of Directors to set direction and establish governing policies for TPC. Serve as primary spokesperson for the Conservancy.

*Qualifications:* Demonstrated ability to raise funds through foundation and corporate grants, major donors, and membership development. Strong background in non-profit development, management, & land conservation methods. A Bachelor's degree and at least 5 years successful experience in one or more of the following areas: fundraising, conservation, nonprofit or small business management, or land planning. Graduate degree preferred. Strong writing and oral communications skills, and computer proficiency. Proven ability to work with broad range of individuals and organizations with diverse interests, motivations, and characteristics. Ability to work independently with limited supervision.

Competitive salary (up to \$55,000) and benefits commensurate with qualifications and experience. Send (1) cover letter, (2) resume, and (3) writing sample to: Search Committee, The Potomac Conservancy, P.O. Box 2288, Merrifield, VA 22116-2288. Apply as soon as possible. No phone calls or faxes, please.

**Farmland Preservation Education Coordinator**  
Medina County, Ohio  
Salary: Up to \$55,000

This is a prospective position that is expected to be funded by a foundation grant in the near future. Work with nine-county region to coordinate activities necessary for establishing an effective regional farmland preservation program. Build local capacity to address related issues. Spearhead regional response to farmland loss. For additional information as it becomes available, contact FPR editor Deborah Bowers, (410) 692-2708, or, Ohio State University Extension specialist Joe Daubinmire, (330) 725-4911.

#### CONFERENCES, EVENTS

**May 20, Albany, NY:** Promoting Partnerships for Ag Industry Growth and Farmland Protection in New York State, sponsored by American Farmland Trust, NYS Comsn on Rural Resources, NY Farm Bureau, NYS Dept of Ag & Markets,

Cornell, and Scenic Hudson, Inc. For info., call (518) 581-0078. Fee: \$20.

**June 1 - 12, Burlington, VT:** University of Vermont Summer Land Conservation Program. The Natural Areas Center at UVM is sponsoring the 4th annual Land Conservation Program during the summer of 1998, consisting of a series of short courses, workshops and field experiences for students and professionals. Course fees are \$50 or \$100. Register by May 25. Call (802) 656-4055 for information.

**June 3, Baltimore County, MD:** Estate Planning for Family Lands, sponsored by the Maryland Environmental Trust. Speaker: Jeremiah Cosgrove of the American Farmland Trust. 8:30 - Noon, includes continental breakfas. Fee \$30. Call (410) 514-7907.

**June 3 - 6, Madison, WI:** Who Owns America? II: How Land and Natural Resources are Owned and Controlled. For info: (608) 262-3658; email: ltc-nap@facstaff.wisc.edu. Web: <http://ltcweb.ltc.wisc.edu/nap>.

#### SUBSCRIBER SERVICES

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## NATIONAL SURVEY

### Carroll, Lancaster lead in purchased development rights

Carroll County, Md., leads the nation in number of acres preserved through the purchase of development rights, logging 28,886 acres under easement through county, state and federal funds. This total includes 723 farmland acres preserved through land trusts, all of which met eligibility criteria for farmland programs, according to program administrator Bill Powel.

This ranking shows a gain of 2,620 acres purchased with state and local dollars in Carroll

- *Daniels leaving Lancaster, p. 5*
- *Rural Legacy awards announced, p. 3*

County over last year's annual survey conducted by *Farmland Preservation Report* in June 1997.

Carroll's strong position results from county commissioners providing substantial boosts in recent years for state program activity. Fifteen easements, comprising 1,777 acres, have been purchased solely through county funds, at a cost of \$3.5 million since 1996.

Lancaster County, Pa., a strong contender for top spot, has logged 27,900 acres, including 5,040 acres preserved by the Lancaster Farmland Trust and also eligible for the county and state programs, a gain of 3,668 acres since last June, when Lancaster placed fourth in the national ranking. Lancaster County doubled its funding to \$1.5 million annually for the last two years.

Harford County, Md., a big gainer each year

### Nation's Top 10 Local Programs

1) Montgomery (MD) (TDR)	48,457
2) Carroll (MD)	28,886
3) Lancaster (PA)	27,900
4) Harford (MD)	26,790
5) Marin (CA)	25,504
6) Sonoma (CA)	25,000
7) Caroline (MD)	19,676
8) Howard	17,521
9) York (PA)	13,680
10) Baltimore (MD)	12,628

### Other top counties

King (Wa.)	12,600
Calvert (MD)	12,506
Frederick (MD)	12,286
Burlington (NJ)	11,796

Volume 8, Number 8 June 1998

### inside this issue ...

Rural Legacy awards announced .....	p. 3
Regional planning in Indiana .....	p. 4
Md. administrators do joint FPP quest .....	p. 4
Legislative briefs .....	p. 6,7
Summer reading list! .....	p. 8

please turn to page 2

## Nation's most active local PDR programs shuffle rankings

*continued from page 1*

since its local program was inaugurated in 1993, has logged an additional 4,390 acres since last June, more than any other county, bringing its total to 26,790. Harford was funded over the last year through a local appropriation of \$750,000 to boost its use of installment purchases.

The popular Harford program, which has a consistent backlog of 60 - 80 applicants, is carried by a dedicated \$2 million in revenue from a local real estate transfer tax passed by voters in 1992, and bolstered by a 100 percent property tax abatement for preserved properties. Harford's program will need additional funds to maintain its pace, according to administrator Bill Amoss.

In Montgomery County, where totals for preserved acres have fluctuated due to how the county has counted acres protected through the transfer of development rights, the total is now counted at 48,457 acres for both the transfer and purchase of development rights. This total does not include acres donated to the Maryland Environmental Trust — approximately 2,000. Most of Montgomery's acreage is protected through the transfer of development rights.

Gov. Parris Glendening announced June 9 that Montgomery will receive \$3.7 million from Maryland's new Rural Legacy Program, which will be used to purchase an easement on an 834-acre farm.

In Baltimore County, a local program created several years ago achieved its first purchases amounting to 302 acres in April, the county's only gain since last year's survey, bringing total PDR acres to 12,628.

But the coming year could be much brighter with \$5 million in Rural Legacy grants as well as matching funds from the county.

County Executive C.A. Dutch Ruppertsberger told state officials in March that he would commit \$3.2 million as a contribution to Rural Legacy plan implementation if the state awarded grants to any of the four proposals from Baltimore County groups. In addition, he committed \$750,000 in his FY '99 budget for the local PDR program, the

same amount allocated in recent years in neighboring Harford County for its local program. Other sources of funds in Baltimore County were a federal Farmland Protection Program grant of \$100,000 and \$41,000 from private nonprofit community organizations.

Baltimore County's preservation efforts are further boosted by easement donations unequalled in the state — 8,600 acres protected through donations to the Maryland Environmental Trust.

Marin County, Ca., with no funds for easement purchases, remains at 25,504 acres, the same as last year's total, although preservation of one farm was initiated with an appraisal in April. Marin hopes to land some funding through a bond initiative in the coming year.

In nearby Sonoma County, strong funding through a dedicated sales tax continues to build up preserved acres, now exceeding 25,000, with exact figures unavailable at press time.

Howard County, Md. terminated its program in February 1996, but administrator Bill Pickens said the county's density exchange option continues to preserve acres, with 800 acres under review for dedication. One farm in Howard may be preserved with federal funds, he said. As for the future of farmland preservation in a county that pioneered the use of installment purchase to preserve lands with rapidly escalating values in the 1980s, Pickens said there is strong support among elected officials to commit more funds to take the county above its current 17,521 acres.

Appearing in the survey for the first time is King County, Wa., where a program begun in 1979 with a \$50 million bond fund was inactive for years but has recently revived, with \$3.5 million to support expensive preservation in the Seattle region. With preserved land standing at 12,600 acres, the county hopes to add at least 400 more acres in the coming months and to fund additional purchases, though no funding source has been identified.

Burlington County, N.J., with 11,796 acres preserved or pending, is sure to move up in the

*please continue to next page*

**Top counties, from previous page**

ranking since voters approved a property tax increase that brings in an estimated \$4 million in revenue beginning last August. The county is using installment purchase in most of its transactions, according to Cindy Gilman, program assistant. The staff of four is currently closing on 20 applications, and 22 more offers will be made in October.

York County, Pa., has made a substantial gain of 2,541 acres over last year, to 13,680 acres.

In Frederick County, Md., 12,286 acres have been preserved with state and local dollars, according to program administrator and planner

Tim Blaser. Last year the county appropriated \$525,000 to boost state program spending in the county. The county also has 2,259 acres preserved through Maryland Environmental Trust.

In Calvert County, 12,506 acres have been preserved, 7,000 of those acres through the county's transfer of development rights program, 2,000 acres through the county's local program and the remainder through state easement purchases.

A fiscal impact study was just completed for Calvert County that included an analysis showing that a downzoning would have a positive fiscal effect on the local economy.

**MARYLAND RURAL LEGACY AWARDS****Baltimore County gets \$5 million, Montgomery \$3.7**

Serving up only tidbits of information prior to announcing \$29 million in land preservation grants, the Maryland governor's office began June 3 to inform successful applicants of awards under the state's Rural Legacy Program, established last year to preserve large contiguous tracts of farm and forest lands.

State officials said 14 of the 23 proposals submitted would get grants, but amounts were not made available except those that had been announced during press conferences in Montgomery and Baltimore Counties. On June 9, half of the \$29 million was awarded to four plans spread through five counties.

In Montgomery County, at a rural site near Barnesville, Gov. Parris Glendening announced that a proposal submitted jointly by Montgomery, Frederick and Washington Counties, would receive \$9.35 million to protect 3,300 acres with easements, a cost of \$2,818 per acre.

"We originally asked for \$9.5 million, and we got \$9.3," said an elated Jeremy Criss, who led the joint effort. Criss said he was not told how much the project would receive until the announcement event took place.

Montgomery's portion of what is called the Mid-Maryland Rural Legacy Area, will receive

\$3.7 million and includes farmland within the county's 90,000-acre agricultural preserve created when the county established its nationally renowned transfer of development rights program in 1980. It includes land that will provide scenic views of Sugarloaf, Maryland's easternmost mountain, as well as portions of the Potomac and Monocacy River Greenways.

Civil War sites, historic villages and natural resource lands in the area of historic Sharpsburg in Washington County and the area of South Mountain and Monocacy National Battlefield in Frederick County will also receive protection through grants of \$2.3 million and \$3.5 million respectively, according to Criss.

In Baltimore County, a proposal to protect forested lands on the Chesapeake shoreline submitted by Baltimore County government and the Gunpowder Valley Conservancy will receive \$3.1 million to preserve 438 acres. About \$2 million will be spent for easements, and \$1.1 million will come from Program Open Space for fee simple acquisition, according to Wally Lippincott, farmland preservation administrator for Baltimore County and grant writer for the Coastal project.

## Rural Legacy awards picked

*continued from page 1*

"The Coastal plan gives us the ability to complement the statewide initiative to protect the Chesapeake Bay," Lippincott said. "The area encompasses important coastal plain vegetable farms, about 40 percent of the county's vegetable production." Lippincott said he expects easement value to range from \$4000 to \$5000 per acre.

In addition, \$3 million will be spent in north-west Baltimore County to preserve farm and forestland in the area of Piney Run, a plan sponsored by the Valley's Planning Council Inc. The group had requested \$6 million for a plan area that encompasses 19,720 acres.

Two other plans that encompass parts of Baltimore County, the Piedmont and Long Green Valley plans, will not receive Rural Legacy grants this year. Baltimore County Executive Dutch Ruppersberger pledged several million to help the projects.

"Clearly, we had to make some difficult decisions during this first grant cycle," the governor said at a press conference held at a rural crossroads in Upperco, in Baltimore County.

In Carroll County, a plan requesting \$7.9 million to protect 4,000 acres in the Little Pipe Creek watershed west of Westminster, will receive \$1.5 million to protect 835 acres, a cost of \$1,796 per acre.

"This amount will cover half of those [land-owners] who signed preliminary applications as a sign of interest. We feel our ongoing commitment to the [state farmland preservation] program will help us," Powel said.

Rural Legacy has a goal of protecting up to 200,000 acres in large tracts over 15 years. It is meant to supplement farmland preservation, which has preserved 140,000 acres since 1977.

Many grant applicants said they were dismayed to learn about the status of their requests from reporters or newspaper articles and did not receive the courtesy of a call from state officials.

The governor, who is running for reelection, was scheduled to appear within a week in Prince George's and Worcester Counties where he was expected to announce awards to projects that target the Patuxent River and the Eastern Shore.

## etcetera ...

### Regional planning in southern Indiana

*Madison, In.* — Three local governments in south-eastern Indiana, have teamed up to develop a regional comprehensive plan in which "farmland preservation is a big issue," according to Bryan Stumpf, a consultant under contract.

Jefferson County, the City of Madison and the Town of Hanover are under development pressure from Louisville, Kentucky, Stumpf said.

Madison supplies water to areas in Jefferson County, spurring development along the way, Stumpf said. While the northwestern part of the county is agricultural, the southern portion is "becoming a bedroom community for Louisville."

"A lot of farmers here view themselves as food providers to the world, and they're concerned about losing land to suburbia," Stumpf said.

Stumpf's firm will recommend revisions to subdivision ordinances as well as a broader strategy for retaining farmland.

"We're two months into a year-long process. We'll have eight public meetings and do an analysis of opportunities." *Stumpf: (317) 636-4682.*

### Maryland counties to submit joint FPP request

County farmland preservation administrators in Maryland have agreed to a plan to submit one application for funds under the federal Farmland Protection Program, in an effort to streamline the application process, according to John Zawitowski, farmland preservation administrator for Montgomery County and coordinator of the effort.

"We will ask for \$5 million, \$1 million for the state and the rest for individual counties. Each county will decide how they want the money funneled," he said. Four counties, Montgomery, Howard, Frederick and Harford, prefer funds to be sent directly to them, and the remaining counties want the state to hold the funds, Zawitowski said.

The application will be submitted through the Maryland Agricultural Land Preservation Foundation, the state program, but each county will have individual requests. Seventeen counties are participating. The proposal will be reviewed June 23 at a gathering held in conjunction with the state board meeting. *Zawitowski: (301) 590-2831.*

LED NATIONALLY RENOWNED PROGRAM**Daniels to leave Lancaster, head SUNY planning program**

LANCASTER, PA — After nine years of leading one of the nation's most successful and most strategic farmland preservation programs, Tom Daniels will leave his post with the Lancaster County Agricultural Preserve Board, effective July 2. He will lead the State University of New York's graduate planning program at Albany.

A leading innovator and advisor with national renown, and an author of four books on rural planning and farmland preservation, Daniels, 45, is returning to the world of research and teaching that occupied the first five years of his career.

"I've been here nine years, and I'm looking to do something different... I am leaving the program in very good shape— it has national recognition and is a model for other efforts."

Since 1989, when he was hired, Daniels has presided over 194 conservation easement transactions, preserving 17,782 acres, nearly two-thirds of the 27,900 acres now preserved in the county.

Daniels was an associate professor with tenure at Kansas State University's Department of Regional and Community Planning when he accepted the challenge to lead Lancaster's fledgling effort.

At the time it was "a program in its infancy and had its detractors," said Terry Kauffman, chairman of the Lancaster Board of County Commissioners.

"His planning background came into play, and he saw that farmland preservation was not just about agriculture but about community, urban renewal and growth management. The program was going through some difficult times and he melded ideas together into a program with wide public consensus."

Alan Musselman, who served as the first director of the Lancaster effort, recalls that the farmland preservation program Lancaster established, six years before the state program, caused a lot of political upheaval. Daniels walked into a situation rife with philosophical disagreement

over the use of conservation easements.

"When Tom arrived, seeds had been planted and some weeds had come up," Musselman said. "We had some real difficulty. With his skills and personality, he got those things settled out rather quickly."

Lancaster began a local purchase of development rights program in 1983, that was bolstered in 1989 with the start-up of the Pennsylvania state program. The county commissioners have authorized \$1.5 million annually since 1996.

Under Daniels' leadership, the Lancaster program pioneered some important preservation techniques — the use of easement payments in a like-kind exchange, the use of easements to create urban growth boundaries, and the cooperative agreement between the Lancaster Farmland Trust and the Ag Preserve Board.

Musselman, now a conservation consultant who is also former director of the Lancaster Farmland Trust, said Daniels' negotiating skill and style "helped smooth the way for cooperative efforts for a public-private partnership that really worked."

In 1991, Daniels explored using easement payments in like-kind exchanges, a transaction that would allow farmers to sell their development rights and use the money to purchase more land or other real estate, thereby deferring payment of capital gains tax. Daniels was successful in obtaining an IRS letter ruling confirming that easement payments could be used for a like-kind exchange through an intermediary, and a year later helped a farmer carry out the first such transaction. Since then, many other farmers in Lancaster County and other counties have used the option.

The Lancaster Agricultural Preserve Board not only gave Daniels free rein to pursue innovations, it urged him to aggressively pursue a greater share of state funds for the Lancaster program based on the county's agricultural output — the strongest in the state and in the northeast. Daniels

LEAVING LANCASTER**Daniels led aggressive agenda***continued from page 5*

and his board also felt that the county's average per-acre cost, less than \$2000, compared to about \$6000 in counties closer to Philadelphia, was a better bargain for the state and that more state funds should be concentrated there.

In 1993, Daniels and his board called for an investigation of the state program's funding practices, claiming that funds were being committed to preservation projects in certain counties prior to approval by the state board, a violation of program rules. A report from the auditor general's office 18 months later confirmed Lancaster's allegations and that premature allocations had resulted in fewer funds being slated for reallocation to other counties. Lancaster claimed to have lost as much as \$600,000 because of the practice.

Daniels has served as a consultant to dozens of localities in the east and the midwest states, as well as abroad in Australia, which are now exploring state and local purchase of development rights and other programs. He routinely urges localities to pursue multi-level farmland protection strategies, like Lancaster's, that include low-density agricultural zoning, farm-based business ordinances, a transfer of development rights program if feasible, and urban growth boundaries as well as PDR.

Daniels has never been shy about critiquing land use techniques that he believes threaten farmland preservation efforts. Since 1991, when the technique of rural clustering, or open space development design, was widely promoted by planner Randall Arendt as a farmland preservation technique, Daniels has objected to its use in farming areas.

Claiming cluster only protects open space on a parcel by parcel basis, Daniels said clustering is "just another form of sprawl" that threatens the viability of local agriculture and farmland preservation efforts. While Arendt touted the technique for its visual appeal, Daniels has urged local governments to anticipate its functional result: more homes in the countryside; the prospect of failing septic systems and the need to extend sewer lines that would in turn hasten sprawl; the preempting of urban growth boundaries; and the attractiveness of the technique to farmers who otherwise would not develop their farms. Daniels, with the support of his board, quashed a move to establish a cluster development option in Lancaster County.

Daniels was "encouraged to get out in front, and it certainly

**legislative  
and program  
briefs ...**

**In California ...** A bill introduced last year, SB1182, to extend the term of Williamson Act contracts from 10 to 20 years, will likely find its way to the governor's desk. The Williamson Act provides tax breaks to farms that agree to forego development during the term of the contract.

The state budget could provide a boost to the Ag Lands Stewardship Program, the state's farmland preservation program. While the governor's budget calls for \$4 million for the program, the Senate proposed budget puts in \$15 million for FY 98-99, with fiscal year beginning July 1.

"I think it looks pretty good. I think we'll end up with the higher number," said Erik Vink of the American Farmland Trust field office in Davis.

**In Maryland ...** The Future Harvest Project, an effort begun in 1995 to promote sustainable agriculture and farmland protection, will announce its completion of a model national program for identification and protection of strategic farmland at a press conference in Annapolis June 22. The model, which shows which farmlands should be protected in Maryland based on soils and other criteria, is endorsed by the Maryland Farm Bureau, Maryland homebuilders and conservation groups.

**In Pennsylvania ...** Monroe County voters, by a 52% margin, approved a \$25 million bond May 19 for open space and farmland preservation. An advisory board will determine how the money is spent, according to Christine Laytos, farmland preservation administrator. ... The most recent approvals by the state program

*please continue to next page*

would bring the state's total preserved acreage to 118,873 acres on 938 farms.

**In Michigan ...** Three bills, HB 5868, 5869, and 5870, have been introduced by Rep. Bill Bobier as enabling legislation for establishing TDR. Two other bills, (HB5894 and 5895) strongly supported by the Michigan Farm Bureau and sponsored by Reps. Howard Wetters and Bobier, will create the Michigan Farmland Trust Fund. While no funding source has yet been committed, and the governor does not support funding farmland preservation through his \$550 million bond package, the farm bureau is working to build support and is optimistic about the political landscape, according to legislative counsel Scott Everett. "We need at least \$50 million to have a program operational and within a year we must find a permanent source of funds," Everett said.

**In New Jersey...** With expiration of bond funds for land preservation, Gov. Christine Whitman allocated \$50 million in her FY 99 budget to be split between open space and farmland. In a bold move to provide permanent sources of funds for land preservation, Whitman has also proposed a 7-cent gasoline tax, with two cents dedicated to open space and farmland, and a \$3 surcharge on rental cars. These two sources would generate \$84 million and \$36 million respectively. Also, she is dedicating another \$50 million from the general fund. Beyond the present budget, these three sources, totaling \$170 million, would provide \$52 million annually to the farmland preservation program, according to Rob Baumley of the State Agriculture Development Committee. Designed as a constitutional dedication of funds that could not be diverted even in hard times, the legislature will vote by mid-August on whether to place the proposals on the November ballot.

*Daniels, from preceding page*

made a big difference," said Terry Kauffman.

Daniels, who has completed another book, "When City and Country Collide ~ Managing Growth in the Metropolitan Fringe," to be published by Island Press this fall, said Lancaster County can't rest on its accomplishments, but has a long way to go to secure a critical mass of farmland to sustain agriculture.

"We have 200 applicants who want to preserve their farms. Lancaster should follow the lead of Bucks, Montgomery, Chester and Monroe Counties, and float a bond. We need a minimum of \$15 million over five years."

Daniels said he will not abandon farmland preservation.

"I expect to be involved in farmland protection efforts in New York and nationwide," he said. "I think the area where you're going to see new efforts is in the midwest where the majority of America's good farmland is, and I find that encouraging." *Daniels, (717) 299-8355.*

## New Jersey farmers get training for effectiveness in public arena

TRENTON, NJ — New Jersey's farmland preservation program is bolstered by a project that has been working in the wings since last year to develop a better informed agricultural constituency.

The New Jersey Agricultural Leadership Development Program was initiated by the New Jersey Agricultural Society and the state Department of Agriculture, Rutgers University/Cook College and the state farm bureau joined in the effort to develop the program in 1994. Last year, the program conducted its first leadership seminar and graduated its first group of 25 participants.

This year, 25 more participants will take part in a two-year series of training seminars in leadership and communication skills, policy issues, agricultural economics, land use and preservation, resource management, the environment and other topics.

The program's mission is to help farmers and others be better spokespersons and advocates for agriculture in the public and private sectors, according to executive director Kathleen Mague.

An upcoming seminar on land use and preservation will bring in speakers from around the state and beyond, including Susan Craft of the Burlington County, NJ purchase of development rights program, and Deborah Bowers, publisher of *Farmland Preservation Report* to talk about programs in the mid-Atlantic states and why farmland preservation is needed.

*To learn more about the program, contact Kathleen Mague at (609) 633-1738.*

## professional resources ...

Here's a list of "good reads" for summer. Ordering information, see bottom.

### **Holding Our Ground - Saving America's Farms and Farmland**

By Tom Daniels and Deborah Bowers

Island Press, April 1997, 334 pp. \$34.95+ s&h

WITH SUBSCRIBER DISCOUNT: \$30 postpaid

If you are subscribed to FPR, you should have this book on your shelf for reference. Provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture and more. Dozens of figures, tables, and appendixes. DISCOUNT TO SUBSCRIBERS — ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.

### **Saving American Farmland: What Works**

The American Farmland Trust, 1997 • \$34.95

A hefty 334 pages of information on techniques from general growth management to TDR. A good brush-up for administrators, available from the AFT in paperback. Call (202) 659-5170.

### **Asphalt Nation ~ How the Automobile Took Over America and How We Can Take it Back**

Jane Holtz Kay

Crown Publishers, 418 pages, \$27.50

Must reading for all planners and environmentalists who want a truly good understanding of why things are the way they are in our built environment and in our hinterlands. Kay has solutions that may be radical, but as you are reading, seem not at all impossible, and make you want to be in the forefront of change. Great summer read! Available in book stores everywhere.

### **Saving America's Countryside ~ A Guide to Rural Conservation**

Stokes, Watson, Mastran

Johns Hopkins Press, Second Edition, 446 pages, 1997 • \$25.95

An incredible, step-by-step guide to exploring and setting up a constituency for protection of land and rural character. Comprehensive and eminently readable, this is a must-read for conservationists who want a holistic approach that will really work in their community.

### **Land Use in America**

Henry Diamond and Patrick Noonan

Island Press, 368 pages, 1996 • \$26.95

The authors synthesize and analyze the ideas of leading scholars and practitioners on

land use issues with a particular look at the problems of sprawl in the first part of the book. The second part is a series of papers from notable leaders including Howard Dean, Douglas Wheeler, Jerold Kayden and Jean Hocker. A great backgrounder for understanding the broader issues causing and affecting land preservation efforts.

### **Lost Landscapes and Failed Economies ~ The Search for a Value of Place** Thomas Michael Power

Island Press, 350 pages, \$29.95

Here's some of the thinking behind the effort to make strong economic arguments for preserving land. The author presents well the idea that the quality of the natural landscape is an essential part of a community's permanent economic base and shouldn't be sacrificed for private or public short-term gain.

Order from the numbers below or check your bookstore. Ask for catalogs. These publishers specialize in environmental and planning related books:

Johns Hopkins Press: 1-800-537-5487

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## BEAUFORT COUNTY (SC) CREATES LOCAL PROGRAM

### South Carolina comes close to creating state PDR program

COLUMBIA, SC — Only one senator stood in the way of progress in the passage of a South Carolina purchase of development rights program last month, the first attempt to create a statewide program in the deep south. The nearest state program in the southern region is in Kentucky.

But even as the statewide program looked doomed, one locality ran with the energy generated by the effort and created a local PDR program, complete with dedicated funding.

Beaufort County, lying between Charleston and Savannah on the coast and including the Hilton Head Island resort, unanimously passed a

local purchase of development rights program complete with a two mill dedication on property tax that will generate \$1.5 million annually for the new program.

"It really was spurred by the statewide interest. We have a lot of development pressure on the

*Latest job postings, page 6*

coast, and for the state to address the issue is very exciting," said Michelle Loy of the South Carolina Coastal Conservation League.

The state legislation, according to Loy and others, was initiated by John Walpole, a tomato

*please turn to page 2*

### Sonoma shuffles latest FPR national ranking, places third

SANTA ROSA, CA — Sonoma County, California's most active locality in preserving farmland, has completed conservation easements on 26,177 acres, and has offers accepted covering an additional 2,360 acres, for a total of 28,537 acres, according to David Hansen, general manager of the Sonoma County Agricultural Preservation and Open Space District.

With this accounting, performed after publication of the national survey conducted by *Farmland Preservation Report* last month, the total places Sonoma in third place nationally, displacing Lancaster, Harford and Marin counties, and moving up from sixth place in the survey.

The shuffled rankings place Lancaster, Harford, and Marin in fourth, fifth, and sixth place respectively. In its third place slot, Sonoma

*please turn to page 4*

**Volume 8, Number 9 July - Aug. 1998**

#### inside this issue ...

- Ohio effort falls short again ..... p. 3
- Review: Farms for the Future report flawed..... p. 4
- Legislative briefs ..... p. 6,7

## Local program built strength from enthusiastic state effort

*continued from page 1*

grower on Wadmalaw Island, Charleston County, with assistance from the state Department of Natural Resources. Walpole is also working to create a local program in Charleston County.

The state legislation, sponsored by Sen. Phil Leventis, was a victim of a time crunch, according to Gary Spires of the South Carolina Farm Bureau.

"The biggest problem was we were on a tight time frame. This thing had been hinted about for several years, then in early fall DNR took interest and it got a lot of attention," Spires said. "The bill was drafted quickly but not introduced until mid-February... a few senators had problems with it. Everybody but one released their objections."

The legislation, called the Farm and Forest Lands Protection Act, S. 1050, aimed to create county programs that would designate Priority Agricultural Land (PAL) areas where easements could be purchased "to preserve farm and forest lands, scenic and cultural landscapes, and environmentally sensitive areas such as open spaces for wildlife habitat, and clean air and water."

A 16-member state PAL board would approve county programs and allocate money from a "PAL Trust Fund" but a source of funds was unnamed. County councils would appoint county PAL boards, which would be initiated upon the first request for PAL designation from a landowner.

The legislation lists aspects to consider when creating a PAL area, including development pressure, soil types, size of the parcel, and compatibility with planning and zoning. The bill allowed for either appraisal or point system methods for determining easement value.

Thirty-three percent of state funding would be allocated evenly to eligible counties and the remaining 67 percent would be disbursed on a competitive basis.

"One thing that concerns us is funding," said Spires. "We could have had a couple of counties willing to put money into it. The funding source was not talked about too much."

However, bond bills are put forward every two years, the best source for dedicated funds,

Spires said. "That's one we were looking at, but we didn't want to get into it too much because legislators would see it as competition," for pet projects. Another possible source, said Spires, would be supplemental appropriations.

Spires said the effort will continue next legislative session, and said the farm bureau plans to keep things rolling.

Beaufort County was spurred to create the state's first local PDR program in part because of a state law passed a few years ago that requires all coastal counties to adopt a comprehensive plan by 1999. Beaufort was the first to complete its plan and is now drafting ordinances to implement it, with the preservation of farmland, according to Michelle Loy.

"Beaufort County, since January, has had a committee looking at PDR and TDR, with the farm bureau involved," Loy said. At the same time, the county budget bill was underway, and the program and its need for funds impressed the county council. Not only was a 2 mill increase enacted, but the county council acknowledged there would be a need to borrow funds to increase the \$1.5 million that would be generated annually, according to Loy.

While Beaufort County will now serve as a model for the state in farmland preservation, "the hope is that Charleston County and others will pick it up," Loy said. There is some evidence that the interest will spread: York County, in the state's far north next to Charlotte, N.C., recently allocated \$50,000 to study farmland preservation. But planning and zoning lags in the state. Only about half of the state's 46 counties have zoning. Farmland preservation initiatives could spur comprehensive planning as well as zoning, Loy said.

While Charleston County is working on a comprehensive plan, John Walpole, owner of Sunny Point Farms, a major grower and packer of tomatoes, said he is "disappointed in the attitude in Charleston County," and a lack of support for exploring farmland preservation. "We are planning to have a better organized effort ... I believe

*please continue to next page*

*South Carolina, from previous page*

it will happen," Walpole said.

"I think it can happen," said Spires. "This is a relatively new concept in South Carolina and the comfort level has to be gained even by people you wouldn't think would be interested."

Contact: *Patty Pierce, staff to Sen. Leventis, (803) 212-6232; Gary Spires, (803) 796-6700; John Walpole, (803) 559-9161; Michelle Loy, (843) 723-8035.*

## Ohio legislation falls short again; supporters optimistic

COLUMBUS, OH — Legislation enabling Ohio localities and the Ohio Department of Agriculture to purchase and hold development rights failed to pass through the Ohio legislature before it adjourned last month. But supporters say it is a temporary slowdown, and not a setback, to farmland preservation efforts across the state.

"We're anticipating this fall it will be passed," said an optimistic Karl Gephardt, executive director of the farmland preservation office in the Department of Agriculture. "In the meantime we're working with local legislators."

Gephardt said the votes were there, but with legislators eager for adjournment, progress became haphazard, with some legislators unconvinced that purchasing development rights was appropriate for state government.

"There are times to hold back... I think the program will be better off in the long run."

Gephardt said the state's proposed pilot program received 88 applications from 12 counties and that "we're still going ahead like the program is up and running ... that way we'll know how that process works."

In May, the Department of Agriculture announced that up to \$18 million might be made available for a pilot PDR program if counties could muster interest among farmers in selling their development rights.

But the creation of a state program depended

on passage of enabling legislation. This will be the second year that a bill has failed. In 1997, language attached to the state budget bill was defeated by real estate interests.

Even though passage of the bill has been delayed again, local efforts in Ohio will continue, according to Joe Daubinmire, extension specialist in Medina County. In Medina, the local election has farmland preservation on the platform, with one candidate for commissioner calling for preserving 100,000 acres and placing hefty impact fees on new development.

*Planning grants announced*

On the bright side, those local efforts will be helped by newly announced farmland preservation planning grants from the Ohio Department of Development of up to \$10,000 for counties now receiving community development block grants. Counties must provide matching funds, resulting in \$20,000 for development of plans.

"It's pretty exciting," said Daubinmire. "At the local level it puts the issue on the screen." The state economic development office plans to conduct an inventory of the ag industry and hire a specialist to provide farm support and agricultural planning, according to Daubinmire. "It's a result of the work we've been doing, and I feel good about that," he said.

*May conference built momentum*

In late May, Daubinmire led a roundtable and workshop for about 100 people involved in farmland protection efforts. FPR publisher Deborah Bowers, and Herb Davis, owner of a Baltimore County real estate firm were guest speakers.

Bowers related how she led a 1992 ballot campaign that resulted in \$2 million annually for PDR in Harford County, Maryland and showed how PDR makes a difference at the community level.

Davis, who has headed major historic preservation projects in the Baltimore area and preserved a farm he owned in Baltimore County, explained how preserving farmland benefits everyone, including developers.

Contact: *Joe Daubinmire, (330) 725-4911.*

## Sonoma County counts acres, scrambles rankings

*continued from page 1*

is just 349 acres short of second place, now held by Carroll County, Md.

The program is preserving about 3,000 acres each year and next year promises to be another boom year, similar to 1996 when the District moved to fifth place from below the top 10, logging 11,000 acres in just eight months. In the coming year, Hansen says that level of activity may happen again, with the prospective easement occurring on a 10,000-acre ranch that stretches into Mendocino County.

With about 25,000 acres "in active negotiations," Sonoma County could move to top spot in the national ranking in a few years and become the first local program to bump Montgomery County, Md., out of Number 1 status. Montgomery's current tally is 48,457 acres preserved primarily through the transfer of development rights.

The district's substantial funding of \$11 million annually — the envy of local programs nationally — comes from a measure passed by voters in 1990, creating a quarter-cent sales tax to run for 20 years. Already Hansen is soliciting ideas on what to do when the next 12 years go by.

While the District works to develop citizen support for longer-range funding, it is also looking at how to make preservation more strategic — how to make land preservation serve the needs of growth management around Sonoma's nine cities, six of which have urban growth boundaries. A seventh, Petaluma, will have a greenbelt initiative on the ballot this fall.

"We're looking for closer-in city oriented projects, we need to focus in certain areas," Hansen said.

Sonoma County is north of Marin County, where more than 25,000 acres of farmland have been preserved by the Marin Agricultural Land Trust. Sonoma, which has about 50 miles of coastline beginning about 40 miles north of San Francisco, is an agricultural powerhouse, with

wine grapes pushing the 1997 total agricultural value to a new record of \$507 million. About 40,000 acres in Sonoma are planted to wine grapes, and about 5,500 acres are planted in other fruits and nuts. Market milk in Sonoma produced \$82.5 million in output last year.

Contact: David Hanson, (707) 524-7360.

### Review

## Farms for the Future report flawed by cursory look at cluster, ag zoning

**Farms for the Future: A Strategic Approach to Saving Maryland's Farmland and Rural Resources**  
Chesapeake Farms for the Future Board  
American Farmland Trust, June 98, 116 pp, \$30

This report is the culmination of a four-year effort by the Chesapeake Farms for the Future Board, funded by a \$1.25 million Kellogg Foundation grant, to create an approach to farmland preservation that targets quality soils and takes a hard look at how the nation's foremost state PDR program is doing. The verdict: it could do better, much better.

Solid recommendations to a preservation-minded legislature and administration include: create matching grants to help counties improve their programs; establish a critical farms program for interim financing to important farms when PDR funds are low; direct surplus funds to the state PDR program to make up for past shortfalls; study the use of installment purchase for the state program; help preserved farms develop business plans; establish a legislative committee to explore tax-base revenue sharing.

The report is the first comprehensive, critical look at the Maryland program.

A number of recommendations are targeted at the state's 41 land trusts, urging more attention to public education and promotion of existing state and federal conservation programs.

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*Report, from preceding page*

The report, full of tables and graphs, spells out the problems with the Maryland program, as well as the weaknesses of individual county programs while it puts forward a "model" program that combines techniques and policies.

But the study has its own weaknesses: no discussion of how localities might go about achieving effective ag zoning; and, a cursory and contradictory discussion of clustering that makes you wonder how the technique can be recommended at all, much less urged as mandatory.

Discussion of "agricultural conservation zoning" puts proper blame on counties that have failed to achieve adequate restriction on density in agricultural areas, and provides good discussion on the fallacies of large lot zoning that have yet to be corrected even in counties with good PDR programs. But no discussion is offered on how a locality might go about changing its zoning, even though there are lessons to be taken from places as close as Baltimore County.

These days, downzoning in urbanizing areas requires landowner acceptance and a certain comfort level regarding the matter of equity. This requires two things: studies that can show little difference between properties sold with only a few development rights and similar properties sold that had many more; and, studies on what criteria banks in the area use to determine the borrowing capacity of a farm. These would go a long way in answering the objections to downzonings invariably put forward by farmers, and provide political "cover" for elected officials who know a downzoning is for the public good but are afraid of lawsuits and bad press.

Even more disconcerting than its lack of a proactive stance on ag zoning, the report is seriously flawed by a contradictory and superficial treatment of the cluster equation.

While one part of the report says clustering should not be allowed adjacent to "strategic farmland," eight pages later the report urges mandatory use of cluster in "primary agricultural conservation zone[s]." Is there a difference between these two types of areas?

The use of the cluster technique is still too new to draw any conclusions about its value to preservation efforts, particularly when a number of localities have rejected the idea that it is a farmland preservation technique at all, including Lancaster County, Pa. and Baltimore County, Md. While it preserves open space on the property that is developed, it does everything that conventional development does in farming areas: the same traffic congestion on rural roads needed to move farm equipment, the same addition of suburban residents that don't appreciate agriculture, the same waste of productive soils, and most importantly, the same chipping away of faith in the future of agriculture in the community affected.

Cluster development also does something that conventional development does not do: it gives developers an easy way to convince farmers that development is something they can do, and keep farming, too. These farmers are often those who, without cluster, would not have considered development. A number of program administrators have called the technique insidious, but planners and elected officials continue to buy into the scheme because it is trendy, looks good in pictures and keeps developers happy.

Promoting cluster in places where millions have been invested in preservation is counterproductive. It would have been heartening to see some investigation into the use of cluster on the ground and how it has affected the agricultural outlook of affected communities. Without such research, the CFFB should have recommended strongly that its use be confined to parcels adjacent to already developed areas.

Except for its fear of the "Z" word and its nose-dive into cluster mania, the report does provide valuable insights and objective criticism. Most importantly, it provides a solid starting point for citizens to weigh-in at the local level and spur elected officials to act — but hopefully not to enact a cluster ordinance.

— Deborah Bowers

*The report features a set of maps showing various aspects of the state's farmland, such as protected lands, and soils. Wall maps can be ordered separately for \$4 each. Call AFT to order: (202) 659-5170.*

## professional resources ...

### JOB ANNOUNCEMENTS

#### Director

Lancaster County (Pa.) Agricultural Preserve Board  
Salary: \$35,526 - \$57,678

This position directs and administers the work of the Agricultural Preserve Board including operating budget and agricultural land preservation fund. Duties include but are not limited to: recommending legislation and policy to facilitate and advance the conservation easement program; coordination of agricultural land preservation activities with County Planning Commission and local governments; managing easement purchase funds and compilation of easement applications; representing the Board and the County Commissioners in public and in the media; and supervision of staff support to the Board.

Individuals with a degree (preferably advanced) in planning, resource management, agriculture, public administration or law, with five years related administrative and supervisory experience are encouraged to apply. Send resume, including salary history and references to J. Thomas Myers, Personnel Director, County of Lancaster, 50 N. Duke St, Lancaster, PA 17603. Deadline: Sept. 25. The County of Lancaster is an Equal Opportunity Employer.

#### Farmland Preservation Education Coordinator

Medina County, Ohio  
Salary: Up to \$55,000

This is a position to be funded by a foundation grant in the near future. Work with nine-county region to coordinate activities necessary for establishing an effective regional farmland preservation program. Build local capacity to address related issues. Spearhead regional response to farmland loss. For additional information as it becomes available, contact Ohio State University Extension specialist Joe Daubimire, (330) 725-4911.

#### General Counsel

American Farmland Trust  
Washington, D.C.  
Salary: Comm. w/ experience

Excellent and diversified legal position with an exciting and growing nonprofit organization. Supervise all legal affairs of the organization, reporting directly to the president, and assist all other senior staff with legal issues, including: structuring and closing conservation real estate transactions; planning and executing charitable giving; analysis and drafting of legislation; handling corporate, tax and other matters for a national nonprofit section (501)(c)(3) organization. Requires admission to D.C. bar and at least 3 years experience with national nonprofit organization as employer or client. Expertise in real estate and tax law essential. Good judgment and interest in conservation are very important. Creativity is a plus. Salary commensurate with experience. Full benefit package. Mail resume to:

## legislative and program briefs ...

**In California ...** Major ag groups have established the Agricultural Task Force for Resource Conservation and Economic Growth to address rapid population growth and its impact on the Central Valley. The task force will release a report July 14 in Sacramento.// Kern County has re-established a planning commission, which has been defunct since the local government, renown for its fiscal conservatism, streamlined county operations in the early 1980s. It has been the only county in the state without a planning commission.

**In Maryland ...** In Baltimore County, a coalition of citizen and environmental groups have organized to conduct a project called *Issues 98*, to create legislation that will better implement the county's land protection visions.

**In Illinois ...** While divergent interests oppose the proposed airport in Will County because it will affect 40 square miles of farmland, the most important sector — farmers and ag producers — are not organized against it. One major milling company that depends on the corn that grows where the asphalt is to be rolled, has been practicing a one-man opposition movement. Jeffrey R. Short Jr., president of the J.R. Short Milling Company headquartered in Chicago, said he has printed bumper stickers to put on all the trucks that deliver his corn, and has written letters to newspapers opposing the airport. Short said he thinks that's enough to fight the airport because Will County officials have passed a resolution saying they don't want it.

**In Washington ...** Clallam County will

consider enacting a TDR program, complete with a designated receiving area between the city of Sequim's city limits and its UGB, according to Andy Meyer, director of planning.

**In Michigan ...** Bills to create the Michigan Farmland Trust Fund were passed by the House July 2, but stalled in the Senate where they will be taken up in September. Enabling legislation for TDR did not move out of a House committee. Identical bills have been introduced in the Senate.

**In New Jersey ...** There will be no gasoline tax supporting farmland preservation in New Jersey, as was proposed by Gov. Whitman this spring, even though a poll indicated there would be 64% voter approval for it. Instead, the legislature is working up a ballot initiative for a \$98 million annual commitment in general revenues to leverage bonds for farmland and open space. Meanwhile the farmland program is operating this year with \$24 million, which will preserve about 12,000 acres on 95 farms, as long as counties can come up with 50-50 cost share. The legislature has also passed a stronger right-to-farm law.

**In Kentucky...** Fayette County is considering a PDR program and is hosting a workshop on PDR on July 13, featuring as speakers, Donna Mennitto of the AFT, David Hansen of the Sonoma County (Ca.) Agricultural Land and Open Space District, Wayne McGinnis, chairman of the Maryland Agricultural Land Preservation Foundation, and Mary Heinrich of Virginia Beach.

**In Indiana...** A statewide land use conference, sponsored in part by the Indiana Beef Cattle Association, will be held Aug. 31. Main Street redevelopment, government infrastructure policy, the environment and property rights, are among workshop topics. Tony Nelesen of A. Nelesen Associates of New Jersey is a featured presenter.

Ralph Grossi, American Farmland Trust, 1920 N St. NW Suite 400, Washington, DC 20036.

### **Riparian Corridor Protection Specialist**

The North Carolina Coastal Land Trust

Temp. Salary: \$1,600 per month

Temporary position to begin Sept. 1 and end March 1, 2000 (18 months). Focus on land protection efforts on the South and Waccamaw Rivers in the southeastern Coastal Plain of North Carolina. The position will be based at the NCCLT's Office in historic downtown Wilmington, NC. Please contact Janice Allen, Director of Land Protection, at 910-763-0332 or 720 Market St., Wilmington, NC 28401 (e-mail is [jjallen@wilmington.net](mailto:jjallen@wilmington.net)) for more information. Closing date for applications: Aug. 10.

### **Executive Director**

Colorado Coalition of Land Trusts

Durango, CO

Salary range: \$40-\$50K

CCLT is an education and service provider for Colorado's land conservation movement seeks its first Executive Director to plan, budget, organize, direct and carry out programs, projects and procedures to meet organizational goals. Fundraising is important component of position. , commensurate with experience plus benefits. For full position description, write CCLT, PO Box 1651, Durango, CO 81302 or e-mail [ccltupos@frontier.net](mailto:ccltupos@frontier.net). No telephone inquiries please. Cover letter, resume to CCLT postmarked by July 25.

### **Director of Public Programs**

Peconic Land Trust (NY)

Southampton, NY

Responsible for managing public/private land protection programs. Must have 5 to 10 years experience successfully working with government, regulatory agencies and private landowners. Negotiation/mediation skills and experience in real estate development desired. Needs considerable experience in creating, implementing public/private partnerships. Demonstrated ability to manage financial aspects of a project and raise funds when required. Supervisory experience is required. Full benefits. Equal Employment Employer. Non-smoking office. Resume to Tim Caufield, PLT, PO Box 2088, Southampton, NY 11969.

*For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org)*

### **READINGS**

#### **Smart Growth and Neighborhood Conservation ~ A Legacy for Our Children Maryland Office of Planning, June 1998**

This 16-page colorful and attractive publication is a resource that will keep you mindful and in touch with all the programs and initiatives that now come under the umbrella of Maryland's Smart Growth law, enacted last year. Each program is described and agency contacts provided. Get your free copy of MOP by calling (410) 767-4500.

*please continue to page 8*

**Green Streets (47 pp)**  
**Five Years of Progress [of ISTE] (134 pp)**  
**A Blueprint for ISTE Reauthorization (78 pp)**  
 Surface Transportation Policy Project, \$42 for all three

Catch up on the ISTE program and see if any historic preservation or scenic protection project in your locale could benefit from the Enhancements provision. These three publications are sold as a set. Send check to STPP Publications, 1100 17th St, NW, Washington D.C. 20036 or call (202) 974-5156 and ask also to get on the mailing list for their newsletter. For those who prefer quicker but less productive electronic updates, try [www.iste.org](http://www.iste.org).

**20% DISCOUNT FOR FPR SUBSCRIBERS**  
**Holding Our Ground - Saving America's Farms and Farmland**  
**By Tom Daniels and Deborah Bowers**  
 Island Press, April 1997, 334 pp. \$34.95+ s&h  
**WITH SUBSCRIBER DISCOUNT: \$30 postpaid**

Written for professionals as well as the layperson, *Holding Our Ground* provides full discussion of PDR, TDR, urban growth boundaries, ag zoning, preservation strategy, land trusts, estate planning and the big picture — why farmland preservation has come about and why localities need to act to prevent fiscal drift. Serves as a how-to for the newly initiated, as well as a reference for the well-versed — it contains dozens of figures and tables, and a wide variety of appendixes serve as additional models and tools. **DISCOUNT TO FPR SUBSCRIBERS — ALL ORDERS MUST BE PREPAID. SEND CHECK FOR \$30 to: Bowers Publishing Inc., 900 La Grange Rd., Street, MD 21154.**

### CONFERENCES, EVENTS

**August 21-22, Westerville OH:** Agricultural & Natural Resource Conservation Easements, sponsored by Ohio State University Extension, Central Ohio Managing Change, Ohio Farmland Preservation Office, The Nature Conservancy Ohio Chapter and the Swank Chair in Rural-Urban Policy at The Ohio State University. To be held at Otterbein College. For more information visit the OSU web site at: <http://www.ag.ohio-state.edu/~landuse/ce>

**Sept 9 - 11, Washington, D.C.:** America's Town Meeting, the annual conference of the National Association of Towns and Townships and the National Center for Small Communities. For information call (202) 624-3550.

**Sept. 10 & 11, Columbus OH:** The Performance of State Programs for Farmland Retention: A National Research Conference, sponsored by The Ohio State University and The C. William Swank Chair in Rural- Urban Policy, and others. Conference objectives are: review the evidence on how well farmland retention programs work, review approaches to program evaluation, develop a research agenda for future program analyses, and to foster interaction among analysts and program managers. For info. contact Terri Cory, Department of Agricultural, Environmental, and Development Economics, The Ohio State University, 2120 Fyffe Road, Columbus, Ohio 43210-1067; Phone: 614/688-4890; Fax: 614/292-4749; E-Mail: [cory.1@osu.edu](mailto:cory.1@osu.edu).

**Sept. 12 - 16, Portland, OR:** Rail-Volution '98 ~ Building Livable Communities, sponsored by transit entities, City of Portland and others. Features plenaries, symposiums, 40 workshops with three topic tracts, plus 16 field explorations in and around Portland featuring livable community sites and rail features. Registration fee \$295. For catalog call 1-800-788-7077

**Oct. 17 - 20, Madison, WI:** National Land Trust Rally 98. This year co-hosted by the American Farmland Trust, The Nature Conservancy, National Park Service, and others. A number of workshops focus on various aspects of farmland protection. Call Land Trust Alliance for a Rally brochure (202 638-4725) or check their website at: [www.lta.org](http://www.lta.org)

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# farmland preservation report

*Covering the policies, practices and initiatives  
that save farmland and open space*

*Since 1990 • Deborah Bowers, Editor*

## Last of federal funds awarded; future funding blocked

WASHINGTON, D.C. — The good news is that \$17.28 million in federal funds has been allocated to 19 states from the Farmland Protection Program, and was announced by Vice President Al Gore in an address at the Brookings Institution Sept. 2.

The bad news is that no one knows when it will happen again.

In July, the Senate passed by a vote of 97-2 the \$57.3 billion fiscal 1999 spending bill (S.2159) for the Agriculture Department. But despite strong efforts by senators from Pennsylvania, Vermont and New Jersey, the powerful Senate Appropriations Committee Chairman Thad Cochran, a Mississippi Republican, "blocked funding for the Farmland Protection Program," according to Chuck Beretz of the American Farmland Trust.

"Not only did Cochran deny \$3 million in new funding for the FPP, he also blocked language that would have allowed the Secretary of Agriculture to transfer funds from existing conservation programs to the FPP. This latter option would have been a costless change in the law."

Beretz said that 32 senators from both parties wrote to the chairman asking that the FPP be given extra funding.

"We are angered and disappointed at this assault on conservation," Beretz said after the vote.

The Farmland Protection Program, established in the 1996 farm bill, was funded at \$35 million. All of it has now been used.

Not only are there disappointed advocates on Capitol Hill, some state and local administrators

say they are disappointed and frustrated with how money was "spread too thin." Other administrators, mostly those in states with newer or budding programs, say even small amounts help generate interest in farmland preservation.

Proposals were received from 20 states with widely disparate activity in and commitment to, farmland preservation. Only one proposal, from Utah, was not approved for any amount.

Four states, Maryland, New York, Pennsylvania and New Jersey, received \$1.4 million, the largest sum allotted.

Even applicants receiving the largest sums say they are disappointed and now have the task of dividing the funds into negligible amounts, or, choosing which projects will not be funded. Many grant amounts were about 25 percent of the sum requested.

In Maryland, John Zawitoski of Montgomery County, who organized a joint effort of 18 counties into one \$5 million request, said he believes some of the counties may forgo the approximately

*please turn to page 2*

**Volume 8, Number 10**

**Sept. 1998**

### inside this issue ...

Vermonters hold ag summit .....	p. 4
Harford officials delay purchase approvals .....	p. 5
Md. governor stops developments .....	p. 4
New York localities ask for \$42 million for PDR .....	p. 4
Legislative briefs .....	p. 6,7

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## Some happy, some not, with federal grant amounts

*continued from page 1*

\$77,000 they would each receive if the \$1.4 million is dispersed evenly. The Maryland application showed \$24.1 in matching funds.

Zawitoski and others said they feel the federal program was meant to boost established local programs where development pressure is heavy. They say the federal program is ignoring studies showing where funds are needed most and using the limited appropriations like seed money.

"I was really disappointed in the process. They're trying to make everybody happy, but you can't ignore the data ... this is a hot area," he said.

Zawitoski said he would organize a meeting of the applicants to determine how the money should be divided.

In New York, a newer program where the idea of seed money gets a more positive review, Bob Somers of the Department of Agriculture and Markets said his office put together a package using a combination of state and local matching funds, with localities providing up to 25 percent, and with some landowners agreeing to bargain sales, forgoing about 15 percent of value. But, like other states, "we have to decide how to divide the money," between the four counties and five towns that applied. New York asked for \$13.6 million, with \$21.7 in matching funds.

Florida, an unexpected applicant that raised eyebrows two years ago, asked for \$2.66 million and received \$600,000 that will likely be allocated to one of three applicants, according to Ken Murray of the state NRCS. The likely grantees will be either a state water management district or a local utility, both of which preserve land for natural resource protection.

So far in the state, one parcel has been preserved with the help of the FPP: a 12,000-acre parcel in Osceola County, that provides habitat for whooping and sandhill cranes as well as space for agriculture, he said.

Murray said he believes Congress intended the FPP to be a seed money program.

"We're happy to get [the money]. It makes us a player in the farmland preservation business."

In California, seven counties put in for part of a \$2.22 million request. Receiving less than half, "we will have to decide which to fund," said Ken Trott of the Department of Conservation. While he is happy to be receiving \$1 million for his program, Trott feels the amount is way out of scale for his state.

"I think given the value of agriculture here, and new programs happening, we're disappointed. I just hope Congress sees fit to continue the program."

Better news for Trott is the new state budget signed by the governor that provides \$13.7 million to the Agricultural Stewardship Program, up from \$2 million last year, and just \$1 million the year before.

In Vermont, where farmland preservation grants are funneled to the Vermont Land Trust through the Vermont Housing and Conservation Board, Ethan Parke, of the VHCB, regards the \$1.2 million federal grant as just one more of the many grants, both public and private, that feed the Board's programs.

"We were excited about it. Getting \$1.2 million was real good because it's a vote of confidence in what we're doing."

Steve Hundley of the New Hampshire NRCS office, said the seed money treatment of the program has helped spur interest again in farmland preservation in a state that has lacked a program since 1990. He is serving as facilitator for a committee of agricultural representatives from around the state that will meet to discuss distribution of the \$225,000 grant received. Without the federal program as an incentive, he said, the committee would not have been created.

"It was established six months ago when we heard about the prospects of receiving federal money. There's certainly a lot of interest."

*For more information about the Farmland Protection Program, call the NRCS Community Assistance Branch at (202) 720-7671, or, American Farmland Trust, at (202) 331-7300. AFT web site: [www.farmland.org](http://www.farmland.org). USDA web site: [USDA.gov](http://USDA.gov)*

## 1998 Farmland Protection Program Awards

State	Grant amt.	Amt. Requested	Entity	Matching funds	Acres
MD	\$1.4 million	\$5 million	18 counties, joint application	\$24,132,662	16,027
PA	\$1.4 million	\$4.56 million	Bureau of Farmland Protection	\$9,303,806	7,161
NJ	\$1.4 million	\$2 million	State Agri. Development Comm.	\$8,000,000	2,444
NY	\$1.4 million	\$13.63 million	Dept. of Agriculture & Markets,	\$21,752,069	7,515
DE	\$1.33 million	\$4.7 million	Agri. Lands Preservation Fdn	\$7,050,653	9,763
VT	\$1.2 million	\$2 million	Vermont Housing & Cons Bd	\$2,300,000	6,741
MA	\$1.2 million	\$4 million	Dept of Food & Agriculture	\$4,000,000	3,542
MI	\$1.05 million	\$4.96 million	Dept. of Natl Res; Peninsula Twp.	\$6,365,500	7,232
CO	\$1 million	\$2.79 million	Great Outdoors Colo.; Routt Co.	\$4,453,023	4,092
CA	\$1 million	\$2.22 million	Dept of Conservation	\$2,341,250	2,522
CT	\$1 million	\$2.91 million	Dept of Agriculture	\$2,919,000	2,138
KY	\$700,000	\$1.6 million	PACE Corp.	\$1,600,000	4,503
RI	\$675,000	\$3.12 million	RI NRCS	\$8,090,000	974
FL	\$600,000	\$2.66 million	Florida NRCS	\$3,367,000	15,075
WI	\$590,000	\$1.19 million	Town of Dunn, Dane County	\$1,193,500	1,198
WA	\$450,000	\$6.29 million	Skagit County	\$649,200	841
ME	\$360,000	\$600,000	Dept. of Agriculture	\$600,000	4,966
NC	\$300,000	\$1 million	Forsyth County	\$1,173,500	1,324
NH	\$225,000	\$1.18 million	New Hampshire NRCS	\$1,570,000	510

Sources: FPR survey, Sept. 1998; USDA-NRCS, Community Assistance

Agricultural Summit**Vermonters seek ways to strengthen agriculture**

RANDOLPH, VT — "Vermont agriculture defines Vermont's culture, landscape and sense of place," said Vermont Commissioner of Agriculture Leon Graves in kicking off a statewide Agricultural Summit July 9.

"But," he warned, "Vermont agriculture is definitely at a crossroads."

While Vermont has preserved more than 200 farms covering about 75,000 acres, low density sprawl has eaten up farmland and driven up land prices and property taxes. Meanwhile, low milk prices have threatened farm profits in this state that produces about half of New England's milk.

"A critical mass of farms and farmland is key," commissioner Graves said, adding that the right regulations, marketing and land use planning were also essential.

Vermont Governor Howard Dean noted that 17 percent of Vermont jobs are related to agriculture, a \$700 million a year industry. The governor cited the success of the Vermont Housing and Conservation Board in preserving farmland, but he challenged the crowd of 50 invitees to find solutions to the question: "How does the landscape stay a working landscape?"

Tom Daniels, Professor of Planning at the State University of New York (SUNY) - Albany and former Director of the Lancaster County (Pa.) farmland preservation program, argued that profitability and stability of the land base are the two biggest obstacles farmers face. He complimented Vermont on creating several large blocks of preserved farmland, but stressed the need to buy development rights to create urban and village growth boundaries to limit sprawl. He criticized Vermont's limit of \$950 per acre for development rights, and called for increased funding of the state's purchase of development rights program, administered through the Vermont Housing and Conservation Board (VHCB).

*please continue to next page*

**etcetera ...****Maryland governor stops development, buys properties**

Annapolis, Md. — Gov. Parris N. Glendening announced that Maryland will spend \$25.3 million to buy most of the 2,225 acres along the Potomac in Charles County where developers were planning to build 4,600 homes. The property will now become a park and nature preserve.

The plan would have added 12,000 people along the banks of the Potomac about 20 miles south of Washington. The Conservation Fund will try to raise the \$2 to \$4 million required to purchase the remaining acres not covered in the purchase.

The developer claimed the project, called Chapman's Landing, would have reflected the governor's Smart Growth policies because of its design, blending commercial and residential uses where people could live and work. Environmental groups said the project would have devastated a sensitive area and further degraded the Chesapeake Bay.

The Glendening administration in the last six months has made other purchases to prevent development. The state purchased Deep Creek Lake, the centerpiece of a popular resort in Western Maryland, and a farm parcel in Howard County that had greatly appreciated in value because of its proximity to Columbia and Washington. The Howard property will be used as a park.

**New York localities ask state for \$42 million to purchase development rights**

Albany, NY — Responding to New York's third request for proposals to preserve farmland, five counties and nine towns asked for \$41.9 million to purchase development rights on more than 11,000 acres. Farms range in size from 10 acres, on Long Island, to dairy farms of more than 600 acres in the Finger Lakes region.

The requests far exceed what the state will likely authorize. Last Spring, Gov. George Pataki announced just \$4.5 million in awards to 11 localities, bringing the state's commitment to \$10 million over

two years (see FPR, May 98).

Funding for the program is through the state's Clean Water/Clean Air Bond Act and the state Environmental Protection Fund.

Proposals have been ranked internally and suggested funding levels have been forwarded to the Commissioner of Agriculture.

"The commissioner is reviewing them and will submit the list to the governor for approval," said Bob Somers, chief of the agricultural protection unit in the Department of Agriculture and Markets. "Then we'll see how much we will receive from the bond act and the Environmental Protection Fund." *Contact: Bob Somers, (518) 457-2713.*

### **AFT headquarters moved to new address**

*Washington, D.C.* — The American Farmland Trust moved into new offices effective Sept. 1, leaving behind its former suites near Dupont Circle where the group had its headquarters for about 10 years. Phone numbers have also been changed. The new information is:

American Farmland Trust  
1200 18th Street, NW, Suite 800  
Washington, DC 20036  
Phone: 202-331-7300  
Fax: 202-659-8339  
<http://www.farmland.org>

### **Connecticut makes first purchase from open space bond initiative**

*Hartford, Ct.* -- Gov. John G. Rowland made the first purchase of open space lands through the \$160 million bond initiative announced last January.

The state moved to protect Trout Brook Valley, a 668-acre property owned by a hydraulic company. The state will contribute \$6 million to the purchase, and the towns of Easton and Weston, location of the property, as well as the Nature Conservancy and a local coalition will contribute to the \$10 million purchase price.

The open space bond initiative is for the purchase of park lands only and does not provide funds for the farmland preservation program. *Contact: Governor's office, Dean Pagani, (860) 524-7313.*

### **Vermont, from preceding page**

Daniels also emphasized the need for agricultural zoning at one two-acre building lot per 25 acres.

Daniels, a native Vermonter, called for the closing of a 10-acre loophole in the state's subdivision law that allows houses to be built on 10-plus acre lots to avoid septic system regulations. Daniels said his research has shown that more homes in Vermont are constructed on lots of more than 10 acres, resulting in more farmland being developed than necessary.

John Ewing, Director of the Vermont Forum on Sprawl, noted that Vermont's development model has been "compact settlements surrounded by a working rural landscape. But the systems to implement that are not working."

At a wrap-up session, ideas for strengthening Vermont's agriculture included: improved marketing to increase the demand for Vermont farm products; a working landscape think tank; greater media awareness; increased funding to buy development rights; and consistency in policies affecting land value, taxation, and zoning.

*Contacts: Roger Clapp, Deputy Commissioner, Vt. Dept of Agriculture, (802) 828-3830; Tom Daniels, (518) 442-4770; John Ewing, (802) 864-6310.*

### **INSTALLMENT PURCHASES IN JEOPARDY**

## **Harford fears effect of ballot question, delays purchases**

**BEL AIR, MD** — For the first time since establishing its local purchase of development rights (PDR) program, officials in Harford County, Md., delayed 10 purchase approvals fearing the effect of a proposed one-year building moratorium on the ballot this November. The moratorium, according to the county treasurer, will affect revenues from the county's real estate transfer tax, which funds the PDR program.

But the council didn't have long to allay its fears, according to the county's finance consultant,

## Harford program needs new funds

*continued from page 5*

and had to approve the purchases in September.

While county treasury officials say a one-year moratorium on building permits would affect transfer tax revenues, the county has kept no data on what percent of the revenue is derived from new home sales versus existing home sales, which would not be affected by the moratorium. Without such data, no one knows how much transfer tax revenue would be lost.

The moratorium, and other restrictions on development, were placed on the ballot through petitions circulated by Friends of Harford, a citizen group fighting the effects of rapid development in the county, one of the nation's fastest growing over last the decade.

Program administrator Bill Amoss told the Council that new funding, regardless of the referendum, must be found if the county is to purchase the remaining 50 farms on the program waiting list. Transfer tax revenues have "topped out" and must be used to continue paying installment agreements already completed. The county's popular program pays farmers annual tax-free installments over 20 years, ending with the remainder.

"Next year we will only be able to pick up one or two farms. We must find a way to fund these farms that have applied. Some have been on the list since 1993, and some of the owners are quite elderly," Amoss said.

Amoss said in an interview that if the moratorium affects county revenues significantly, the property tax credit given to landowners of preserved farms could be in jeopardy. The tax credit, an important incentive of substantial value to prospective enrollees, costs the county about \$650,000 annually.

And, if new funding is not identified, "our program will lose its momentum," he said, affecting the good faith farmers have in the program. For the last three years, the Harford program has been among the fastest growing in the nation, logging between 3,000 and 5,000 acres annually.

In addition to freezing building permit approvals, the referendum would impose further restrictions on development including lowering the allowed school capacity from 120 percent, a state-imposed limit, to 95 percent. The school capacity limits automatically freeze building permits in affected school districts. Farmland preservation observers warn that the effect of stricter limits will encourage developers to eye areas where schools are not at capacity, including rural areas where preservation investment is greatest. *Contact: Bill Amoss, (410) 638-3103.*

### legislative and program briefs ...

**In New York...** Scenic Hudson, Inc., a nonprofit that has traditionally worked to protect environmentally sensitive and scenic lands along the Hudson River, is spending \$2.5 million to preserve a contiguous block of farms in the town of Red Hook, making up about 1,000 acres.

Suffolk County voters will consider a \$62 million bond issue for farmland and open space in November, \$40 million to go to the county's PDR program. The program is currently out of money, and has just \$5 million allocated for next year from the county's capital budget.

Average per-acre easement cost is about \$7000.

**In Maryland ...** Cecil County officials are looking to create a local farmland preservation program to qualify for state program certification and a greater share of funds allocated by the state. To prove its commitment, some officials favor establishing a property tax break for preserved farms.

**In Pennsylvania ...** 23 farms were approved in August, bringing the total acreage preserved to date to 123,423.

**In Ohio ...** 54 counties have formed ag land task forces in part to apply for \$10,000 in farmland protection planning grants made available from the state Office of Housing and Community Partnerships, Department of Development. The grants were announced in June.

About 40 local and state farm bureau representatives, as well as planning commissioners and others visited Maryland and Pennsylvania localities in August to see farmland preservation and water quality efforts at work. The bus tour, led by Joel Hastings of the Ohio Farm Bureau Federation, made stops in Montgomery, Carroll and Harford Counties in Maryland, and Lancaster and Adams counties in

Pennsylvania.

**In California ...** The American Farmland Trust honored the 30th anniversary of the Napa Valley Agricultural Preserve, a district designated by the Napa County Board of Supervisors in 1968. Over the past 30 years, areas have been added to the Preserve, but "not a single acre removed for non-agricultural use," said AFT President Ralph Grossi in a presentation of the group's National Achievement Award.

Gov. Wilson signed legislation that will allow ag landowners to convert existing 10-year Williamson Act contracts to a new program of Farmland Security Zones, with 20-year contracts in exchange for property tax relief.

**In Connecticut ...** The Farmland Preservation Program released its annual report, showing the state has authorized, since 1978, \$79.25 million in bond funds. Through Dec. 1997, \$75.65 million of those funds had been spent, protecting 170 farms and 25,632 acres. Purchases have been slow: just seven farms were preserved from 1995 through 1997. Federal funds contributed \$1 million.

**In Indiana ...** More than 400 attended a statewide land use conference held Aug. 31 and included panel discussions on agriculture and land use, environment and property rights, and sprawl. "We had good press coverage and a lot of interest in the topic, so I think it was very worthwhile," said Kathy Altman, executive director of the Indiana Commission for Agriculture and Rural Development. Altman said the conference will be followed up with a series of public forums and recommendations to the governor by Jan. 1.

**In Washington ...** Clallam County Commissioners passed a Transfer of Development Rights ordinance aimed at preserving farmland in a designated regional planning area. The law was adopted July 28 and provides details of urban growth areas and TDR allocations. Contact: Planning Director Andy Meyer, at (360) 417-2326, or email ameyer@co.clallam.wa.us.

## CALIFORNIA CALL TO ACTION

### Central Valley producers flex muscle

**SACRAMENTO, CA** — Major agricultural operations with heavy investments in California's vital Central Valley, joined forces in July to cite urban sprawl as a threat to the health of their industries, and to call upon the state and local governments to take actions to curb farmland loss and rejuvenate urban centers.

The event marked the first time ever that the state's agricultural interests worked together to identify development as a threat and to name solutions.

The Agricultural Task Force for Resource Conservation and Economic Growth in the Central Valley included citrus growers, cattlemen, grape and tree fruit growers, rice growers and wineries, and representatives of agricultural organizations including the California Farm Bureau Federation and the American Farmland Trust.

The task force formed early in 1996 "to try to reach consensus on what needs to be done and to put our findings and recommendations into a report," said Jack Pandol Jr., task force chairman and a table grape producer near Bakersfield.

"Even though the groups involved represent many of the Valley's major landowners, they had never before come together for such a purpose," Pandol said at a press conference July 14.

Pandol said that despite the Central Valley's importance to American food production, producing 250 commodities and generating \$16 billion in annual sales, "our nation's most productive food factory is in jeopardy. Acre by acre, it is being paved over by sprawling, poor, wasteful patterns of urban growth and development."

The Central Valley's population has grown from one million in 1940 to five million today, with projections to triple to 14 million within 40 years.

The task force drafted 10 principles needed to prevent development from overtaking agriculture in the Central Valley, calling on local governments to take actions to support agriculture, through planning and development policies and ordinances. It called for amendments to the California Environmental Quality Act (CEQA) "that provide more thorough and consistent environmental evaluation" of plans that convert farmland to non-ag uses. The report called for more efficient use of urban lands through incentives and transportation policies.

Specific recommended measures included buffers around new development when abutting agricultural lands; stronger right-to-farm laws; and revenue sharing agreements between cities and counties.

## professional resources ...

### JOB ANNOUNCEMENTS

#### Director

The Center for Farmland Preservation  
Medina County, Ohio  
Salary: Up to \$55,000

Spearhead regional response to farmland loss in northeast Ohio. This grant-supported position will develop and implement an agenda through public education, organizational networking, policy research and technical assistance. Ensure the organization's financial security through grant-writing and membership development. Strong interpersonal and organizational skills; work with elected officials and community leaders; organize, facilitate meetings and events; conduct negotiations; develop consensus among disparate interests. Send resume to Joe Daubimire, Ohio State University Extension/ Medina County, 120 W. Washington St., Medina, OH 44256.

#### Director of Conservation and Community Programs

Columbia Land Conservancy (NY)

Cultivates and implements conservation programs; negotiates conservation easements; develops initiatives with farmers and conservation organizations; assists with fundraising/ public outreach. Requires: Five years land trust experience with related training, excellent writing and speaking skills. Salary, benefits commensurate with experience. Opportunities for advancement. Resume, cover letter to: CLC, P.O. Box 299, Chatham, New York 12037 by Oct. 26; 518-392-5252. (Posted 8/4/98)

#### Project Manager

Trust for Public Land (CO office)

Spirited, creative individual for Denver office to design strategies for land acquisition/ disposition for parks and open space. Negotiate land purchases with landowners, work with government agencies to convey open space to public ownership, represent TPL in marketing and public relations. 2-3 years project management experience, understanding of real estate/tax law, land use planning, government land acquisition. Flexible work habits, ability to travel, excellent organization and communication skills. Letter, resume to: Marlana Howell, TPL, 418 Montezuma, Santa Fe, NM 87501. (Posted 8/4/98)

For further listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org)

### CONFERENCES, EVENTS

Sept. 11 - 12, Atlanta, GA: Smart Growth Conference~ Blueprint for Successful Communities, organized by The Georgia Conservancy, ULI District Council, EPA. Includes sessions on best management practices, viable development alternatives, coalition building, successful community models, etc. Cost: \$150. Call (404) 876-2900 ext. 36.

Sept. 12 - 16, Portland, OR: Rail-Volution '98 ~ Building Livable Communities. Call 1-800-788-7077.

Sept. 17 - 20, Ithaca, NY: From Garden Cities to Green Cities and Beyond, a conference celebrating the 100th anniversary of the publication of Ebenezer Howard's influential work and the origin of the Garden City Movement. Held on the Cornell University campus. Call (607) 255-4331 or email [green-cities@cornell.edu](mailto:green-cities@cornell.edu)

Oct. 17 - 20, Madison, WI: National Land Trust Rally 98. Call Land Trust Alliance for a Rally brochure (202 638-4725) or check their website at: [www.lta.org](http://www.lta.org)

Dec. 15 - 17, Austin, TX: 2nd Annual Partners for Smart Growth Conference sponsored by EPA and ULI, City of Austin. Call ULI at 800-321-5011.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Election '98: Michigan

### Developers pack war chest against local PDR initiative

ANN ARBOR, MI — Homebuilders in Washtenaw County, Michigan have put together a war chest exceeding \$200,000 to oppose Proposition 1, which would establish a purchase of development rights program and a 0.4 mill property tax increase to fund it. Proponents of the measure had raised about \$55,000 at the end of September.

The Homebuilders Association of Washtenaw County is working to convince voters that purchase of development rights (PDR) will not help farmers and will increase the cost of housing in one of the state's busiest new home markets. The group also claims that land prices will go up as a

result of PDR.

"We oppose it for a variety of reasons," said executive director Maureen Sloan. "We are against any taxation that will affect the affordability of housing, and there are other ways to protect farmland more conducive to farmers. What they really need is tax relief," she said.

Sloan also said her group had looked at the program in Peninsula Township, the state's only local program, and that "the price of land has gone up because of the PDR program."

But Peninsula Township program administrator Gordon Hayward said he knows of no study,

*please turn to page 2*

## ELECTION ROUND-UP

### Six Long Island localities to vote on taxes, bond questions

LONG ISLAND, NY — On New York's Long Island several initiatives that could net as much as \$140 million would substantially boost farmland preservation in five towns and in Suffolk County, which operates the nation's oldest purchase of development rights program, begun in 1974.

With per-acre easement values generally between \$6000 and \$8000, and sometimes as high as \$20,000, it's no wonder Suffolk's local program can't be a match for the region's staggering development pressure. But help seems in the offing: in June Gov. George Pataki signed legislation enabling five of Suffolk's towns to enact local real

estate transfer taxes of up to 2 percent to fund land preservation.

The towns should have no trouble passing tax

*please turn to page 3*

Volume 9, Number 1      October 1998

#### inside this issue ...

- New Jersey to vote on \$1 billion for conservation ..... p. 3
- Courts end Harford moratorium push ..... p. 4
- Rural Legacy Program experiences growing pains .... p. 4
- Legislative briefs ..... p. 6,7

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## Farm bureaus, urban mayors, send support to Washtenaw

*continued from page 1*

or any inquiry that was made to his office or the office of the township assessor regarding a link between farmland preservation and land prices.

"None of us here remembers telling anybody that. We don't have any empirical evidence that land prices are going up because of PDR," Hayward said.

Many farmers in Washtenaw County have sided with the homebuilders. But an equal or greater number support the opportunity to sell development rights, according to Scott Everett of the Michigan Farm Bureau, which supports the initiative.

### Other county farm bureaus aid initiative

However, financial support for the Proposition 1 campaign has come from outside the county, from other local farm bureaus, Everett said. The contributions were garnered by Farmers for Farmland Preservation, a coalition that believes the result of the Washtenaw ballot will have a lasting impact on the political strength of the state's fledgling farmland preservation program and on efforts in other counties to start local programs. The state program, which has no permanent funding source, completed its first round of easement applications this year.

### Linking farmland and urban issues

Outside support for Washtenaw's initiative goes beyond the farming community. A coalition of urban mayors from the state's 12 largest cities gathered at a press conference in Ann Arbor Oct. 1, to demonstrate the link between farmland preservation and urban revitalization.

Detroit Mayor Dennis Archer said that saving farms and saving Michigan's cities must be a singular effort.

"We can't preserve farmland without preserving our cities. I also wholeheartedly agree we can't preserve our cities without saving our farmland," Archer said. "It's not a city versus farm issue - we're all in this together."

The Michigan Farm Bureau public affairs

division has worked to promote the link between urban and rural land policy.

The bureau's move also points up the land use policy design of Proposition 1: of the estimated \$3.5 million generated annually from the tax increase, half would be used to purchase development rights, 25 percent would be used to acquire open space lands, and 25 percent would be used for urban redevelopment projects.

Michigan Farm Bureau president Jack Laurie, a dairy farmer in Tuscola County, said farmers are beginning to understand the link between urban decay and farmland loss.

"We can't save our farms without saving our cities," Laurie said. "Making cities attractive places to live and work will help relieve urban pressures on farmland."

Proposition 1 is the result of the Washtenaw Co. Agricultural Lands and Open Space Preservation Plan, Final Report, published last December. It called for preserving 20,000 to 30,000 acres of farmland. In 1992, the county had 475 farms producing a minimum of \$10,000 in sales, on 155,683 acres. Dairy, beef cattle and corn are the predominant operations.

If passed, the Washtenaw program would be the state's second local program, following Peninsula Township, but would be the state's first countywide local program.

\*\*\*\*

A statewide initiative, to create a \$675 million Clean Michigan program, will also be on the ballot in November. The program will not support purchase of development rights on farmland, but its brownfields development emphasis will help ease development pressure on farmland, proponents say.

Contacts: Scott Everett, (517) 323-6560; Jim Fuerstenu, Macomb Co. Farm Bureau, (810) 727-3515; Maureen Sloan, (734) 996-0100; Gordon Hayward, (616) 223-7323.

**Election Round-up, from page 1**

initiatives for land preservation, according to Roy Fedelem of the Suffolk County Planning Department. Three of the towns have in recent years passed bond initiatives for farmland preservation, he said.

In addition to the potential for new town funds, Suffolk County legislators drafted a \$62 million bond referendum, for countywide approval by voters this November, that will put \$40 million into farmland and open space preservation, \$20 million into parks and \$2 million into building a natural history museum.

While voters in Suffolk County have in the past favored preservation initiatives, this time around the Long Island Builders Institute may wage an advertising campaign to convince voters that retiring development potential will hurt county revenues. But several environmental groups at work to pass the referendum say voters are more alarmed by dwindling open space. *Contact: Roy Fedelem, (516) 853-5111.*

## New Jersey to vote on \$1 billion conservation bond

TRENTON, NJ — New Jersey voters will be asked to approve a \$1 billion bond initiative this November slated to protect half of the state's remaining two million acres of farmland and open space in the next decade. The initiative was proposed by Gov. Christine Todd Whitman and approved by the legislature almost unanimously July 30.

The bond would be supported by a \$98 million dedication from the state sales tax, dedicated constitutionally to secure the bond repayment, according to Greg Romano, executive director of the State Agriculture Development Committee (SADC). Romano said the new bonding authority will allocate up to \$170 million annually with potentially \$50 million going to farmland preservation annually.

"Nothing's set in stone, but we don't see it being less than \$50 million," said an optimistic

Rob Baumley, SADC assistant director. "There's high optimism, but we've got to do our homework," to assure public understanding of the proposal, he said.

The SADC is adding to its staff, partly in anticipation of greater funding, according to Baumley. About five new employees will be added, he said. These include an ag retention manager, an ag resource specialist, staff to help with the agency's overview of the state TDR bank, a review appraiser and support staff.

In addition to the statewide referendum, many municipalities have put initiatives to raise matching funds to meet the extra funding anticipated at the state level. Within the last two years, 39 towns have passed tax initiatives, bringing the count to a total of 53 towns that have approved dedicated taxes for open space and farmland.

And, at least a dozen New Jersey counties too, collect between 1 and 5 cents on each \$100 of assessed property value to feed open space trust funds. Now, those localities are gearing up for what could be an exciting year.

If the state farmland program is funded at \$50 million a year, Monmouth County program administrator Karen Fedosh said, she will be "doing 20 applications a year," instead of six or seven. Fedosh said she will definitely need a colleague to help with the extra workload.

"There should be someone by the end of the year, and that will be fabulous," she said. The county has 5,340 acres preserved, with 632 additional acres under contract. *Contact: Rob Baumley, (609) 984-2504; Karen Fedosh, (732) 431-7460.*

## California voters look at urban growth boundaries

SAN FRANCISCO, CA — Growth management has been a top issue in California for years, and urban growth boundaries have emerged as the preferred local method for curbing overdevelopment, at least in the San Francisco Bay Area. Just in the last

*please continue to next page*

### ***Election Round-up, continued from page 3***

two years, 13 cities in the region established UGBs, eight by referendum. In November, three other cities will do the same, according to Michael McCauley of the San Francisco-based Greenbelt Alliance, an open space advocacy group. McCauley says voters are likely to favor the moves.

"Chance of passage does look good," he said. But opposition from developers could resurface, as it did last year when one UGB was voted down after homebuilders poured money into a media campaign.

"We are beginning to see more money and more organized opposition coming from developers. We're obviously preparing," McCauley said. *Contact: Michael McCauley, (415) 398-3730.*

## **Courts strike down Harford anti-growth referendum**

ANNAPOLIS, MD — The Maryland Court of Appeals Sept. 29 upheld a Harford County judge's decision that an anti-growth initiative petitioned to referendum was inappropriate for addressing the county's troubling rate of growth.

Circuit Judge William O. Carr ruled that the citizen group Friends of Harford was attempting to circumvent the legislative process by proposing an amendment to the county charter that would impose a one-year building moratorium and permanent standards for regulating new development based on school capacities.

Friends of Harford had gathered 13,000 signatures to place the charter amendment on the Nov. ballot after an embattled season of comprehensive rezoning in which the Harford County Council increased building allowances in a number of communities.

The County Council, unhappy with the proposed charter amendment, fought back, and against the advice of its own counsel prepared ballot language that said a new tax would be required to implement the amendment. Calling the Council's ballot language fraudulent and a

guarantee that the measure would fail, Friends of Harford filed suit to force the Council to rewrite the language.

But developers and builders, backed by the Chamber of Commerce and the county administration, also filed suit, claiming the charter amendment violated the state constitution and would severely damage the economy. Harford County government released quickly prepared figures asserting the amendment would cost taxpayers \$53 million in lost revenues "in the first three years alone," and that an 11 percent property tax increase "would be needed to partially offset the losses."

The county government also claimed lost revenue would force its farmland preservation program to "terminate, and there will be no additions to the 25,000 acres already preserved."

Friends of Harford disputed the county's claims, but had performed no economic study of its own.

An earlier Friends of Harford referendum, to overturn the comprehensive rezoning legislation, was unaffected and will remain on the ballot.

### **MARYLAND'S RURAL LEGACY**

## **First grantees say promise of flexibility eludes program**

ANNAPOLIS, MD — Significant changes to Rural Legacy Program guidelines, procedures and policies were issued by the Maryland Department of Natural Resources (DNR) in late September, just in time to advise new and returning applicants as they develop grant proposals for the program's second round.

Meanwhile, the program's first grant agreements have reached completion, with less than favorable reviews from grantees. While changes in application requirements are welcomed, the program's first applicants are complaining that the program is not user-friendly, and that promises of flexibility and a bottom-up approach are

not holding up when it comes to signing on the dotted line.

Many are worried that second-year applications are running head-long into first-year grant agreements, creating a double work load.

So far, just two grant agreements, those for Queen Anne's County and Worcester County, have been signed, with two others, from Prince George's and Carroll Counties, submitted. Others, such as those in Montgomery and Baltimore Counties, are working their way through county law departments.

In Montgomery County, where \$3.7 million was awarded in June, John Zawitoski said his county's law department was not yet satisfied with the grant agreement drafted by DNR. One of the things the county is trying to negotiate is more time for easement processing, now set at 18 months by DNR.

"That's enough time if nothing goes wrong," Zawitoski said. "We're not ready to sign yet."

Zawitoski said there are an array of improvements to the Rural Legacy Program he would like to see. Although a comment period has ended, Zawitoski said his office will submit both general and specific concerns to the Rural Legacy Board.

"The things we see are true obstacles. The program has not been user friendly. MALPF is a cake walk compared to Rural Legacy," he said, referring to the farmland preservation program administered by the Maryland Agricultural Land Preservation Foundation.

A larger change he said should be considered is how grant monies are transferred to localities and nonprofits.

"It would be better for the grant to go right to the county so interest can be retained, instead of being lost to the general fund," he said. Rural Legacy Program monies are to be transferred in "project agreements" with each easement paid as settlements are reached.

On the positive side, Zawitoski said he is pleased to see elimination of the requirement to distinguish Rural Legacy Areas from Rural Legacy Plans. Montgomery will prepare another application for fiscal year 2000.

## etcetera ...

### Survey of land trust activity reveals steady growth in movement

*Washington, D.C.* — Local and regional land trusts in the United States have preserved 4.7 million acres, a 135 percent increase since 1988, according to a report released by the Land Trust Alliance (LTA) Oct. 1.

The National Land Trust Census, conducted by the LTA over the last year, profiles the work and growth of local and regional nonprofit organizations whose primary purpose is private land protection. National organizations such as The Nature Conservancy, which has preserved millions of acres, are excluded from the survey.

As of 1998, 1,213 local and regional land trusts operate in the nation, a 63 percent increase over the 743 land trusts surveyed in 1988. Today's land trusts report about 50,000 volunteers and about one million supporters.

Land trusts protect land mostly by purchasing or accepting donations of land. The use of conservation easements has become a more popular tool during the 1990s.

For more information on the survey, contact Martha Nudel at (202) 638-4725.

### CORRECTION TO FPP TABLE IN SEPT. ISSUE

In the September issue's table of 1998 Farmland Protection Program Awards, the "Amount Requested" listed for Skagit County, Wa. was incorrect. The actual request, according to Skagit County, was \$1,514,200.

In Baltimore County, where a grant of \$3.1 million was awarded to a county-generated proposal to preserve lands on the Chesapeake Bay, "we don't see any obstacles at the moment," to completing the grant agreement, said Wally Lippincott, farmland program administrator. "One thing we are deliberating on is whether it is necessary to have legislation to govern how the

## Rural Legacy has 'growing pains'

*continued from page 5*

money is spent." Lippincott is about to prepare a second-year application to continue the project called the Coastal plan.

In Howard County, although no Rural Legacy awards were received there, Bill Pickens, farmland program administrator is ready to apply again under the new guidelines, which he was glad to see.

"We're going to apply again because most of the property owners are still willing to participate," Pickens said.

Changes to the Rural Legacy Program guidelines were "consistent with our comments ... it appears they've reduced areas. We had done a whole watershed. Looking at the new guidelines it would seem our [new] focus would be sub-watersheds or smaller," Pickens said.

But Howard's largest concerns are costs of land and development pressure, which the Rural Legacy Advisory Board said were too high. The new guidelines won't help that, Pickens said.

One grant agreement that has been signed is with Queen Anne's County, for a project called Land's End, along the south shore of the Chester River. While the grant agreement drafted by DNR called for the easement to be held by the Maryland Environmental Trust, Queen Anne's Director of Parks and Recreation Wes Johnson said he insisted on having the prerogative to name the holder.

"I didn't like those kinds of dictates," Johnson said. "The law had plenty of flexibility, but we had to battle to get the language acceptable to us. It was difficult the first time around. We need to simplify the format for submittal."

But interpretation of state law takes time and puts some technical aspects in question, according to Grant Dehart, director of Program Open Space and lead administrator for Rural Legacy.

"I think the main thing is that neither the department or Queen Anne's County wanted to be put in a non-negotiable position," Dehart said.

The Land's End plan calls for fee acquisition of a property, and under the state's "merger of interests" ruling, any fee interest must be separated from easement interest. Dehart said it appeared that MET or DNR would have to hold the easement under this ruling. But it was eventually determined that if the county was to own the land in fee, any qualified conservation organization, separate from the county, could hold the easement.

Dehart agrees with the critics that the process has been slow,

### legislative and program briefs ...

**In Maryland ...** Cecil County passed a property tax break of 50 to 75 percent as an incentive to enroll in farmland preservation and to establish a local program eligible for increased state funds. The tax break will not apply to improvements. "The biggest farm will only see about a \$600 to \$700 tax reduction," said a county commissioner.

Farms for the Future forums will be held throughout the state between mid-November and January, according to Donna Mennitto of the American Farmland Trust. The first will be held Oct. 29 in Montgomery County.

The Rural Legacy Board will meet Oct. 13 at 2 pm, at Tawas Building, Conf. Rm C-1. Upcoming agenda items include consideration of TDR's role in Rural Legacy grants and the role of matching funds in relation to grant amounts.

Mary Heinrich has been hired by AFT as mid-Atlantic director. Heinrich was formerly involved in creating the Virginia Beach PDR installment purchase program.

**In Pennsylvania ...** The Pennsylvania Environmental Council has hired Clarion Associates to conduct a cost of sprawl study, with funding from the Mellon Foundation and the state Department of Conservation and Natural Resources.

The Pennsylvania Bureau of Farmland Protection and Agriculture Secretary Samuel Hayes Jr. will commemorate the preservation of the program's 1000th farm on Oct. 15 at a farm in Lancaster County.

In Chester County, where 88 farms and 8,667 acres are preserved, county commissioners are likely to appropriate \$1 million for easements for 1999.

**In Kentucky ...** A one-year moratorium on rural subdivision is in effect in

*please continue to next page*

Lexington-Fayette County while the county develops a Rural Land Management Plan. That plan will likely include purchase of development rights funded by up to three sources: an occupational tax on those who live and work in the county; a motel or bed tax; and a property tax increase.

**In New York ...** Farmland protection administrators were hoping an announcement from the governor on allocations from the Environmental Protection Fund and the Clean Water/Clean Air Bond Act would be made by September. "We just tell everybody we'll probably know before the election," said Bob Somers, chief of the Agricultural Protection Unit, Department of Agriculture and Markets.

**In Indiana ...** A series of public forums on land use are scheduled throughout the state from Oct. 15 through Oct. 27, convened by the Hoosier Farmland Preservation Task Force. The purpose of the forums is to give the public opportunity to comment on recommendations to be forwarded to the governor. Most recent items on the task force agenda included rural density and urban growth boundaries.

**In Minnesota ...** The Green Corridor Project is holding five public forums this month to gain public input on which of three land protection scenarios should be adopted for permanent land preservation in Chisago and Washington Counties. A survey conducted in July of 300 randomly selected voters showed a majority support either a tax increase or flat fee to pay for open space preservation. The project is directed by Michael Pressman at the Land Stewardship Project, (612) 653-0618.

**In California ...** The Agricultural Land Stewardship Program is gearing up to spend the \$13.7 million allocated by the legislature in August.

In Ventura County, a ballot initiative seeks to freeze current zoning and allow changes only through voter approval. A similar action in Napa County was upheld by the state Supreme Court.

### ***Rural Legacy, from preceding page***

but says part of the reason is that nonprofits have to adjust to the circumstances created by state law. Many Rural Legacy grants were awarded to land trusts.

"Some have to think things through, reorder priorities, and get county commissioner approval... It's been slow, but being the first year, we should have expected that," he said.

For his staff, after many months of developing the program and reviewing 23 major proposals, conducting grant agreements through a labyrinth of legalese is "a natural let-down," Dehart said, "but we're anxious to get as much of this money awarded as we can while the need is so great."

According to a memorandum from John Griffin, chairman of the Rural Legacy Board, the new guidelines are designed to "reduce the size and improve the content of the applications, streamline the review process, make it easier to compare applications on the basis of the same information and criteria, and to enhance understanding of the Rural Legacy Program by potential sponsors, property owners and the public."

Even those who are annoyed with how their applications were handled say they value the program and want it to improve and succeed.

"I think the program can be what it is supposed to be, but it's got some growing pains," said Wes Johnson. "The basic program is good and I want to see it successful."

The next round of applications are due Jan. 30.

*The Rural Legacy Board will meet Oct. 13, from 2 to 4:30, in conference room C-1, Tawes State Office Building. Contacts: Chip Price, Grant Dehart, (410) 260-8403.*

### **Book Review**

## **'Lancaster County' not just another picture book on tourist circuit**

### **Lancaster County**

**By Ed Klimuska; Photos by Keith Baum and Jerry Irwin  
Voyageur Press, 144 pp, \$29.95**

Although tourists, present and past, will find this book a compelling selection in the shops of Lancaster County, it is not your typical photographic remembrance of a favorite vacation. It is, rather, a complete picture of America's most robust and confident traditional farm county, and its most productive, if not considering the California and Florida

**Book Review, from page 7**

counties that depend on irrigation for their agricultural wealth.

Lancaster possesses this country's highest concentration of superior soils and has, perhaps, the most committed and most spiritually rich congregation of dedicated farmers in the nation.

Ed Klimuska is a reporter by trade, but his coverage of Lancaster County's cultural, natural, agricultural and historic resources is more than just the facts~ it is colorful, personal, and holistic. Baum's and Irwin's photos are outstanding in composition and compelling in the stories they tell.

The story of what Lancaster County is, and how it lives, is so thoroughly grounded in farming that this work is really about agriculture and how it has shaped the county's identity and its wealth.

For conservationists, a forward by Patrick Noonan is telling before it is read. This book isn't going to avoid, for the sake of pleasantness, a discussion of Lancaster's greatest challenge — how to save its heritage and its beauty while doing what it must under the law: accommodate growth. Klimuska was determined to provide an understanding of that challenge, and outlined in a last chapter the legal workings that must meet the need. These include the comprehensive plan, the farmland preservation program, ag zoning and urban growth boundaries. The chapter includes comments from Tom Daniels, Alan Musselman and Darwin Boyd. Several vignettes illustrate farm families that have preserved their farms.

The book provides an in-depth look at the reasons people visit Lancaster: the antiques and auctions, the German food, the Old Orders, the small towns and villages, the old buildings and barns, the scenic landscapes, the wealth of which, is built on the agricultural foundation that makes the county a pleasant place to both visit and live. For the conservationist, it's a pleasant and insightful work, an A-Z guide, that offers a more well-rounded understanding of the place so well-known for its farm production and preservation.

*Lancaster County is also available in paperback for \$19.95 in book stores or from Voyageur Press with Visa or Mastercard at 800-888-9653. It contains 130 color photos, an index and bibliography.*

## professional resources ...

### JOB ANNOUNCEMENTS

North Oakland Headwaters Land Conservancy (MI)  
Executive Director

Duties: office management and program responsibilities with emphasis on fundraising, land acquisition and membership development. Minimum qualifications: Bachelor's degree, two years' work experience, strong organizational skills and the ability to communicate effectively and make persuasive presentations. Resume and cover letter to: Dr. Thomas K. Stone, North Oakland Headwaters Land Conservancy, P.O. Box 285, Clarkston, MI 48347. (Posted 10/2/98)

The San Joaquin River Parkway and Conservation Trust (CA)  
Recreation Director

The new position will report directly to the executive director and is charged with developing and implementing natural resource land recreation programs that further the organization's mission.

The individual will create Recreation Program Services as a self-sustaining unit of the organization in its first year through the development of revenue sources, including grants, sponsorships, and program service fees. Qualifications include related degree, ability to build partnerships with community groups, strong experience and entrepreneurial spirit, canoe/kayak skills. Salary up to \$28,000 plus benefits. Letter of interest, resume to Executive Director, 1550 East Shaw Ave., Suite 114, Fresno, CA 93710. (Posted 10/2/98)

For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org)

### CONFERENCES, WORKSHOPS

Nov. 3 - 6, Manchester Village, VT: Land Stewardship: The Science and Art of Managing Natural Resources and People, a workshop sponsored by the Land Trust Alliance and The Conservation Fund. Limited to 25 participants, fee is \$600 - \$700 including accommodation at the historic Equinox Hotel in the Green Mountains. See the LTA website at [www.lta.org](http://www.lta.org) or call LTA at (202) 638-4725.

Dec. 15 - 17, Austin, TX: 2nd Annual Partners for Smart Growth Conference sponsored by EPA and ULI, City of Austin. Call ULI at 800-321-5011.

June 6 - 9, 1999, Philadelphia, PA: Keep America Growing, sponsored by 14 conservation, planning and governmental organizations including the American Farmland Trust and National Association of Counties. See website at [www.farmland.org/KAG.html](http://www.farmland.org/KAG.html) or call AFT for brochure at (202) 331-7300.

### Three ways to contact FPR:

Phone  
(410) 692-2708

Fax  
(410) 692-9741

Email  
[dbowers@harford.campus.mci.net](mailto:dbowers@harford.campus.mci.net)



# farmland preservation report

*Covering the policies, practices and initiatives  
that save farmland and open space*

*Since 1990 • Deborah Bowers, Editor*

## New Jersey creates nation's largest preservation program

TRENTON, NJ — New Jersey voters gave Gov. Christine Todd Whitman the green light to put in place the nation's most well-endowed land preservation program — a startling \$1.4 billion is expected to be used over 10 years for both farmland and open space. With borrowing costs, the price tag is expected to total \$3 billion, to be supported by the state sales tax.

The funds will be split between the State Agriculture Development Committee (SADC), which administers the state purchase of development rights program, and the state's Green Acres Program.

The goal is daunting: preserve at least half of the state's remaining two million acres of undevel-

oped land. For the farmland program, that means soliciting applications from county boards and making offers on 500,000 acres of eligible farmland over the next ten years.

### Washtenaw County, Mi. effort fails, p. 3

"We say we can do it," said an excited Rob Baumley of the SADC. "It's a goal, maybe we won't hit a million [acres statewide], but by golly we're going to give it the best shot we can."

The program, established in 1983, has preserved 50,000 acres— 15 years to protect just one-tenth of the program's new goal of 500,000 acres, expected to be completed in just 10 years.

*please turn to page 2*

## ELECTION RESULTS

### Most ballot initiatives for farmland, open space, passed

The 1998 election resulted in bond initiatives as well as new taxes to fund farmland and open space protection at the local and state levels.

Victories in five towns on eastern Long Island, and in Suffolk County will pour more than \$150 million into farmland and open space preservation within the county's borders. Sixty-six percent of Suffolk County voters gave thumbs up to borrowing \$62 million, of which \$40 million will go to farmland and open space. The five towns of Riverhead, Southold, Shelter Island, East Hampton and Southampton each passed ballot initia-

tives to create a Community Preservation Fund—a land bank funded by a 2% buyers real estate

*please turn to page 2*

**Volume 9, Number 2 Nov. - Dec. 1998**

### inside this issue ...

Developers win in Washtenaw .....	p. 3
UGBs win big in California .....	p. 4
Ohio may get \$200 million for preservation .....	p. 5
Legislative briefs .....	p. 6,7

NEW JERSEY

## Voters create nation's largest land-saving program

*continued from page 1*

To accomplish that, Baumley said big changes in how SADC carries out its mission are in the works — new staff hired to do the work of easement transactions; plans to promote the program from the state level; plans to hold easements at the state level; incentive grants to municipalities; GIS mapping; coordinating with state planning to determine focus areas; and working with nonprofits, such as the New Jersey Conservation Foundation.

While the state will be flush with funds, localities, too, got the go from voters to pad local preservation coffers — 50 municipalities and six additional counties have created preservation funds. It means stronger participation with more matching funds.

"Counties will be more aggressive, and our office will be too," Baumley said. Public support is critical, and the farm community can feel more confident that the dollars are there, and the opportunity is solid, he added.

The state program has a leg-up toward its goal— it has a 100,000-acre backlog in current applications. And, Baumley said he expects 100 new applications for the program's next round, taking place this month.

Contact: Rob Baumley, (609) 984-2504.

## Voters nationwide approve preservation initiatives

*continued from page 1*

transfer tax. Over its life of 12 years, the fund is expected to generate \$120 million for farmland, open space and habitat protection.

Next door in New Jersey, voters by 2 to 1 authorized the nation's largest open space protec-

tion fund: an estimated \$1.4 to \$1.8 billion in bonds supported by the state sales tax in a plan to save one million acres within 10 years (see story this issue).

Greg Romano of the State Agriculture Development Committee said the bond will be supported by a \$98 million dedication from the state sales tax, with annual allocations of up to \$170 million. Romano expects \$50 million to be allocated annually for farmland preservation.

According to the New Jersey Conservation Fund, six of seven ballot initiatives in New Jersey counties passed. These include three counties that are creating open space trust funds for the first time — Essex, which includes Newark, Bergen and Camden, which includes the city of Camden. These counties are among the most urbanized in the nation.

According to the Land Trust Alliance, voters in seven additional states passed major open-space protection measures.

In Alabama, voters passed a \$110 million bond for improvements to state parks and public historic sites.

Arizona authorized \$20 million a year for 11 years for open space protection, winning with 52.7 percent of the vote.

In Florida, the state's Preservation 2000 bonding program for land acquisition was permanently reauthorized.

Minnesota extended dedication of lottery proceeds to an Environment and Natural Resources Trust fund through the year 2025.

Rhode Island put forward a \$15 million bond issue for greenways, with about 66 percent of the vote.

Georgia voters refused to pass a doubling of the state real estate transfer tax to create the Land, Water and Wildlife Heritage Fund. The increase from \$1 per \$1000 to \$2 per \$1000 in the tax would have generated about \$30 million annually for acquisition of open space, significant habitat and recreation properties. The initiative garnered just 46.8 percent of the vote in a state already noted for unchecked and rapid sprawl.

## Development interests defeat Washtenaw farmland initiative

ANN ARBOR MI — Big money and negative campaigning by developers won out in Washtenaw County, Michigan, ending in the defeat of an initiative that would have created a purchase of development rights program.

Homebuilders, succeeding in convincing voters that the move would hurt farmers, spent in excess of \$182,000 in newspaper advertising and signage. The proposal won just 42 percent of the vote.

The program would have been funded with a 0.4 -mill property tax levied over 10 years, generating an estimated \$3.5 million annually. Both farmland and open space were targeted for protection.

Two groups worked for passage of the initiative: Farmers for Farmland Preservation, and an environmental coalition, "Save Our Land, Save Our Future." But the well-heeled opposition got ahead of the pack.

"They did a hell of a good job convincing voters this was bad for farmers," said Scott Everett of the Michigan Farm Bureau. "We knew a week out we were going to lose."

A conservative think-tank study released just days before the election claimed urban sprawl was not a threat to farmland, citing that "only 10 percent of Michigan land is urbanized," and that "farms are disappearing at rates lower than before, while more food is being produced per acre."

Washtenaw County Commissioner David Montforton told *The Ann Arbor News* that a well-financed attack by opponents had its impact. "A nationally well-funded campaign by special interest groups defeated a proposal that was highly complicated," he said.

Earl Hornig, chair of Farmers for Farmland Preservation, said even though their campaign included much literature and exposure on the issue, voters needed more education about farmland preservation and what the proposal would do for Washtenaw County.

"Many of them didn't understand — it was just no, no, no. I don't have an answer for what happened at the polls, other than it was big money that stopped the issue."

Prior to the opposition's massive campaign efforts, polls indicated about 70 percent in favor of the initiative, according to Laverne Leach, president of the Washtenaw County Farm Bureau.

"I was surprised it went down in pretty much all the townships," he said.

According to Scott Everett, a real obstacle to successful farmland preservation efforts in Michigan is that localities lack taxing authority. Only the property tax can be tapped for programs like farmland preservation, he said, which leads to easy opposition of tax increases that are applied to everyone, including farmers.

The only way out of that, Everett said, is a statewide ballot initiative creating new taxing authority. A tax on farmland conversion, such as the real estate transfer tax used in Maryland, "is the way to go," he said.

Everett said for a farmland preservation initiative to be successful at the local level "farmers have to be out in front. They're the ones who have to want this. They have to campaign for its passage."

In the Washtenaw effort, environmental groups led the fray, due to the initiative's inclusion of open space. Farmers, or the economics of protecting the future of farming, were not the focus in campaign mailings, Everett said.

While proponents of PDR in Washtenaw regroup, a new effort in Macomb County, north of Detroit, is underway. There, dairy farmer Mark Falker is involved in spreading the word to local officials that farmland loss is a problem that must be addressed.

"We've been going around to the townships with a resolution that states there's a problem here, and we want them to come up with solu-

MICHIGAN**Well-financed campaign  
beats Washtenaw initiative***continued from page 1*

tions," Falker said. Falker's committee of about 20 people is planning an educational forum "for the rural community" in early December.

"We're getting a lot of negativity because people don't understand the hows and whys," Falker said.

The goal is to get county commissioners to appoint a study committee. Still, according to Falker, the obstacles to PDR are similar to what proponents faced in Washtenaw.

"People think the public shouldn't be paying for it."

Contact: Scott Everett or Dennis Rudat, 800 292-2680. Jennifer Vincent of the Michigan Farm Bureau contributed to this story.

Book Review**Amos Funk's life is a how-to  
in political persuasion**

**Amos H. Funk—My Life and Love for the Land**  
Masthof Press, 282 pp  
\$19.95, + \$3 s & h

Amos Funk of Lancaster County, Pa., is called the father of farmland preservation for good reason: he was talking about the idea of purchasing development rights from farmland at least 10 years before Suffolk County, NY became the first locality to create such a program in 1974.

Funk was the driving force behind creation of the Lancaster County Agricultural Preserve Board, first established in 1980. But what led up to such leadership and determination is a study in what it takes to get a local government and a people to

**etcetera ...**

**California voters approve seven more  
urban growth boundaries**

*San Francisco, Ca.* — Voters in the towns of Cotati and Petaluma in Sonoma County, and Milpitas in Santa Clara County, approved creation of urban growth boundaries (UGBs), and voters throughout Sonoma County established a 20-year current-use zone for lands along Highway 101 between Petaluma and the Marin County line. Measure D requires voter approval of any new development in the area. A similar measure passed in Ventura County, in southern California.

Four UGBs were also approved in Ventura County.

According to Jim Sayer of the Greenbelt Alliance, Petaluma's UGB (known as Measure I) won 79 percent of the vote. Measure I creates a 20-year UGB that follows the city's current urban limit line.

In nearby Cotati, 71 percent of voters passed Measure E, which shrinks the city's current short-term UGB, passed by the voters in 1990. The city's old boundary allowed Cotati to add about 2,600 acres to its current size of 1,209 acres. Measure E scales back the potential growth area to 1,350 acres so that more land can be preserved as open space.

Protection of scenic vistas along Highway 101 will be a boon to Sonoma County's farmland and open space protection effort, which currently ranks third in the nation for acreage preserved, tallied at 28,537 acres in July. Much of the protected land lies in the Highway 101 corridor.

The three new UGB approvals bring to 15 the number of UGBs now in effect in the Bay Area. According to Jim Sayer eight more will be considered in the next few years.

Not all news was good on election night in California, particularly the news of the defeat of a "rural landscape protection measure" in San Diego County. The measure would have changed minimum agricultural parcel sizes from 4-8 acres to 40-80 acres. The citizen-sponsored measure, according to Sayer, "was buried under an avalanche of land speculator and developer dollars (they were paying for expensive county-wide TV ads in the last week of the campaign)

and lost by 60-40%."

In addition to the county wide measure passed in Ventura County (just north of Los Angeles), four out of five Ventura County cities with UGBs on the ballot adopted them — the first voter-approved boundaries outside of the Bay Area, according to Sayer.

Contact: Jim Sayer, (415) 398-3730; Website: [www.greenbelt.org](http://www.greenbelt.org)

### Ohio's Taft proposes \$200 million for farmland, open space preservation

*Columbus, Ohio* — Ohio governor-elect Robert Taft has announced he will propose a \$200 million fund for open space and farmland preservation. The announcement followed passage of SB 233, which authorizes localities and the state department of agriculture to purchase and hold development rights.

Passage of the legislation has been long sought by proponents of farmland preservation after it was determined two years ago that Ohio law precluded government entities from holding easements. An effort to place enabling language in the state's 1997 budget bill was held off by real estate interests.

The new governor "is very friendly to the Farm Bureau and knowledgeable about farmland preservation," said Joel Hastings of the Ohio Farm Bureau Federation. "We're optimistic Taft will continue his interest in farmland preservation and we look forward to working with him."

Contact: Joel Hastings, (614) 249-2400.

### Baltimore County 10-year plan gets tough on rural sprawl

*Towson, Md.* — A new 10-year master plan released for public comment in early November proposes requiring owners of residentially zoned land to buy development rights before they can develop their properties. The plan calls for greater limitations on development of rural land and calls single-family homes on rural lots "the single greatest threat to the preservation of agricultural lands."

The plan calls for strengthening older neighborhoods, and would create a "quasi-public redevelopment corporation with the power to acquire and redevelop property."

The master plan revision will go through public hearings and the county planning commission before adoption by the County Council next summer.

*Amos Funk, from preceding page*

put preservation on a level playing field with "progress."

Funk is well-known in Lancaster County and throughout Pennsylvania for his conservation efforts. Now 87 years old, he is a preservation legend and has received 35 national, regional and local awards for his devotion to the cause.

This book is composed of short chapters describing, first, Funk's family life and how he became concerned with soil conservation and farmland loss, and his public life, with chapters describing his work with the Lancaster County Agricultural Preserve Board, Lancaster Farmland Trust, Pa. Conservation Commission, the Advisory Committee to the U.S. Soil Conservation Service and other entities.

The book contains speeches and testimony on legislation, newspaper articles about Funk and his crusade to save farmland. One of those articles is from 1966, and contains the seeds of a national movement — well before the American Farmland Trust or the very first PDR program was created. Funk, in 1966, was suggesting that states and the federal government provide funds to localities to purchase development rights, an unheard-of proposition.

Funk understood the power of context. One of Funk's first public talks was a Sunday guest sermon titled "The Christian Use of Land."

Funk explains how he talked with state legislators, other farmers, realtors and chambers of commerce. It is easy to see how the force of gentle persuasion from the right source - a farmer - is so valuable in establishing a new order.

Funk's openness to new ideas is a hallmark of his life and it was this openness that allowed him to spread news about farmland loss and what it was doing to Lancaster County. One example is his presentation to the Lancaster Tomorrow Committee in 1978. Funk describes how he came to see that the condition of the City of Lancaster had a lot to do with development pressure outside its core. He was obviously one of the first land conservation leaders to see this connection.

*please continue to next page*

Book Review (continued)**Amos Funk's way provides reference***continued from page 5*

This book is a compilation and not a narration with a beginning and an end, but as such can serve as a valuable resource for individuals in states and localities who are now facing the very same struggles that Funk faced more than 30 years ago. This is a book for conservationists in Ohio and Michigan, Indiana and Kentucky, and South Carolina, places where conservationists are struggling to explain the PDR concept and are meeting with resistance.

Amos Funk's life is the story of personal enlightenment and how one person can spread this enlightenment throughout his community and far outside its boundaries, to help people embrace a new idea. This book is a resource that working conservationists can't afford to be without.

*Amos Funk, hardcover, is available from Masthof Press by calling (610) 286-0258 or by sending \$19.95 plus \$3 for shipping (Pa. orders add also \$1.20 tax) to: 220 Mill Road, Morgantown, PA 19543-9701.*

**professional resources ...****JOB ANNOUNCEMENTS**

**Carolina Mountain Land Conservancy (NC)**  
**Executive Director**  
**Salary Negotiable**

Founded in 1994, CMLC was an all-volunteer organization through 1997. The first part-time staff was hired in 1998. The organization is transitioning toward professional staff and organizational development. Office is running with interim personnel. Initially, assignment is approximately one-third administrative (membership services, newsletter, publicity, office operations, etc.). The remaining duties will be to develop and carry out an effective executive director's role in land and resource protection in mountain counties that are under strong development pressures. Currently 800 acres are under protection. Salary negotiable, including benefits. Resume to PO Box 2822, Hendersonville, NC 28793-2822.

**Peninsula Open Space Trust(CA)**  
**Director of Land Management**

*please continue to next page***legislative  
and program  
briefs ...**

**In California ...** Gray Davis, former state treasurer, was elected governor. Davis told voters he was concerned about sprawl and wanted to protect sensitive areas such as the coastline from development. Seven new UGBs were approved by voters in the Bay Area and in Ventura County (see etcetera, page 4). Publication of "California: Land and Legacy" was announced with a special presentation at the State Capitol as part of the state's sesquicentennial celebrations (see resources, page 8).

**In Ohio ...** The Ohio House of Representatives on Nov. 5 passed SB 223, authorizing the state as well as local governments to acquire and hold agricultural conservation easements. Prior law allowed for conservation easements only on non-agricultural lands. The bill was previously passed by the Senate 33-0. (See story this issue).

Ohio Governor-elect Robert Taft, a Republican, announced he will propose \$200 million for open space and farmland protection.

**In Maryland ...** Gov. Parris N. Glendening was reelected governor by a margin of 150,000 votes, much better than in his previous race against the same opponent, Republican Ellen Sauerbrey, in which the margin was just 6,000 votes. The governor was helped by environmental groups, who weighed in on public opinion. Over the last two years, Glendening has pleased environmentalists, particularly land preservationists, with major land-saving deals, and with inauguration of a Smart Growth law that includes the Rural Legacy Program.

More new guidelines in the second application year will be forthcoming to the Rural Legacy Program, putting

applicants once again on an uncertain playing field. Guidelines involving TDR, matching funds and other planning and zoning matters are being drafted by the Maryland Office of Planning. New applications, now underway, are due Jan. 29. Some have already been submitted, according to program coordinator Pam Bush.

In Harford County, confused voters approved a series of upzonings that will increase densities in several rural communities. Homebuilders stocked a war chest to convince voters that approving the upzonings was a way to preserve farmland.

**In North Carolina ...** Don Belk, preservation planner with Orange County, reports that the North Carolina legislature appropriated \$250,000 to the state's Farmland Preservation Trust Fund. "The fund was created in 1986, but no money was appropriated until now," he said. The funds will establish a pilot program for easement transactional costs and provide some matching funds for counties and land trusts.

**In Delaware ...** The Delaware Agricultural Lands Preservation Foundation recently approved 57 farms, comprising 13,394 acres, at a cost of \$14.5 million. "This puts us at 36,597 acres permanently preserved," said Mark Davis. All farms have been appraised and offers accepted.

**In Maine ...** The Land for Maine's Future program is reviewing 22 applications resulting from last year's \$3 million appropriation. The program was also awarded \$360,000 from the federal Farmland Protection Program.

**In Michigan ...** Washtenaw County voters turned down Proposition 1, ending hopes for a PDR program there. But voters statewide gave thumbs up to create a \$675 million Clean Michigan Program that will establish brownfield development incentives.

**In Pennsylvania ...** Penn State, through a Pa. Department of Agriculture grant, recently distributed GIS software designed to perform LISA rankings for farmland preservation programs.

Responsibilities include oversight of conservation easements on agriculture and forest land, management of 12,000 acres of land held in fee, enforcement obligations, coordination with government agencies, and management of land related volunteer programs. Competitive salary with excellent benefit package. Please send resume with cover letter to Walter Moore, Director of Land Conservation, Peninsula Open Space Trust, 3000 Sand Hill Rd., 4-135, Menlo Park, CA 94025; fax (650) 854-7703; or by e-mail: [wmoore@openspacetrust.org](mailto:wmoore@openspacetrust.org). (Posted 10/30/98)

#### **Valley Conservation Council (VA) Assistant Director**

Regional land trust in Shenandoah Valley seeks high-energy individual to coordinate land conservation strategies. Develop and implement land-owner and community outreach programs and publications, negotiate conservation easements and other protection methods, and coordinate with local and state conservation entities. Requirements: 3 years of land conservation experience, flexible work habits, people skills, excellent organizational and communication skills. Letter, resume to: VCC, PO Box 2335, Staunton, VA 24402. (Posted 10/23/98)

#### **Southeast Michigan Land Conservancy Executive Director**

Administers and coordinates of all programs and activities of the conservancy. Responsibilities include fundraising (\$100,000/year); hiring, training and managing staff and volunteers; refining and updating vision and strategic plan; generating, evaluating and implementing projects; public relations, marketing and advertising; and promoting and expanding our membership and volunteer base. Qualifications: Dynamic, ethical, upbeat person with passion for conservation; creative problem solver able to cooperate and work well with a variety of people. Bachelor's degree or equivalent experience, proven fundraising expertise, ability to work independently, excellent organizational skills, computer literacy, basic knowledge of real estate transactions, excellent communications skills. Compensation based on experience. Letter, resume, writing sample (prefer fundraising letter, PR or marketing sample), detailed description of your fundraising experience and successes, three references, compensation requirements to: Ms. Helen Jeter, Southeast Michigan Land Conservancy, 14344 Mercedes, Redford, MI 48239. (No calls, please.) (Posted 10/23/98)

#### **The Nature Conservancy (East Hampton, NY) Land Protection Specialist**

One year appointment to negotiate real estate acquisitions in the Long Island Pine Barrens and Peconic Bay Estuary. Real estate negotiating experience preferred. Send resume and cover letter to: Bonnie Verrine, The Nature Conservancy, 250 Lawrence Hill Rd., Cold Spring Harbor, NY 11724. (Posted 10/23/98)

*For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org)*

## READINGS

**California: Land and Legacy**  
By William Fulton  
The Conservation Fund  
Westcliffe Publishers \$50

This is the history of California from an environmental perspective that features more than 100 photos. According to a press release from The Conservation Fund, the book "employs compelling text and stunning photographs to trace California's dramatic growth over the last 15 years and the impact such rapid change has had on the land and natural resources of the state."

Fulton covers how commerce and transportation, from gold mining days to urban sprawl, has altered the landscape. *California: Land and Legacy*, according to Patrick Noonan, chairman of The Conservation Fund, "raises many important issues about the relationship between land and people and the interdependence of economy and environment."

The Conservation Fund has helped protect over 700,000 acres in 13 western states. It helped protect portions of the Redwood National Park and the San Diego National Wildlife Refuge.

The book is available at bookstores or by calling 800-523-3692 to order.

**Well Grounded ~ Shaping the  
Destiny of the Empire State -  
Local Land Use Law and  
Practice**

By John Nolon  
Pace University, Land Use Law  
Center, 400 pp, \$29.95

According to a flier, this book covers 55 land use topics, from incentive zoning to the role of the

courts, in an effort to help officials and anyone involved in land use better understand the process and choose the best techniques for making towns more livable and countryside economics more sustainable.

Two companion volumes — Lawyer's & Planner's Desk Book and a Primer are also offered at \$24.95 and \$16.95 respectively.

The Primer is written for citizens who need a quick and easy grasp of how things work, and contains a glossary of land use terms and phrases.

The production of this three-volume work was supported by a grant from J.M. Kaplan Fund and is available as a set for \$64.95 or can be purchased separately. Call (914) 422-4262.

## CONFERENCES, WORKSHOPS

**Dec. 15 - 17, Austin, TX:** 2nd Annual Partners for Smart Growth Conference sponsored by EPA and ULI, City of Austin. Speakers include Ray Suarez, Peter Calthorpe, Hank Dittmar, Robert Liberty, Ed Thompson, Tony Neleson, Christopher Leinberger, Randall Arendt, and Ron Young. Call ULI at 800-321-5011.

**June 6 - 9, 1999, Philadelphia, PA:** Keep America Growing, sponsored by 14 conservation, planning and governmental organizations including the American Farmland Trust and National Association of Counties. "The objective of the conference is to explore ways of conserving working lands... while allowing for growth and development to satisfy the needs of our growing population." See website at [www.farmland.org/KAG.html](http://www.farmland.org/KAG.html) or

call AFT for brochure at (202) 331-7300.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## N.J. RULING REVERSES '97 DECISION

### Court says sale of easement triggers estate tax recapture

A federal appeals court has ruled that sale of a conservation easement triggers estate tax recapture under section 2032A of the Internal Revenue code. The decision overturns a 1997 New Jersey district court ruling.

The U.S. Court of Appeals for the 3rd Circuit declared the Internal Revenue Service correct in recapturing estate tax excused when Warren County, N.J. farmer James C. Gibbs Jr. inherited his father's farm in 1985 and elected to value the farm at its agricultural-use value for estate tax purposes. Gibbs will not be refunded \$159,823 in recaptured estate taxes he paid when he sold a

conservation easement to the New Jersey farmland preservation program. That action, the court ruled, was a disposition of interest under section

#### Right-to-farm ruled unconstitutional, p. 3

2032A.

Under 2032A, an heir to farmland may elect to be taxed at agricultural value rather than at "highest and best use" value, but as part of tax abatement, the landowner agrees to pay the tax if he disposes of any interest in the property within 10

*please turn to page 2*

### New York awards \$7.7 million for farmland preservation

ALBANY, NY – New York has awarded \$7.7 million in farmland protection grants to 13 municipalities "to protect economically viable farmland from development." The grant money was allocated from the 1996 Clean Water/Clean Air Bond Act and from the state's Environmental Protection Fund with individual awards announced Dec. 28 by Gov. George Pataki.

The awards include \$2.8 million for projects on Long Island, and a \$1.1 million grant to a combined habitat and farmland protection project in Columbia County.

A \$1.3 million grant to the Town of Warwick in Orange County will contribute to the protection

of a 345-acre dairy farm "under significant development pressures" and a "prime target for subdivision."

*please turn to page 4*

Volume 9, Number 3 January 1999

#### inside this issue ...

Iowa high court knocks down right-to-farm .....	p. 3
South Carolina to reconsider PDR .....	p. 5
Book Review: Tom Daniels' latest .....	p. 6
N.J. Green Acres Program gears up .....	p. 7

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## Court rules estate tax break, easement sale can't coincide

*continued from page 1*

years of inheritance. At the time of Gibbs' easement sale to the state, eight years had elapsed.

Greg Romano, executive director of the New Jersey State Agriculture Development Committee said the appellant was aware of the recapture provision, but "it was an emergency situation," and he elected to take his chances that a ruling would be favorable, as were two IRS determinations in New Jersey in 1996.

The Gibbs case argued that the conveyance of a deed of easement was not a disposition of property interests but only imposed land-use restrictions. But the court cited the language of the New Jersey Agriculture Retention Act itself, which defines an easement as "an interest in land..." that conveys development value.

In addition, the court stated that "the language of the Deed of Easement is quite clear that a sale of an interest in land has taken place."

New Jersey Attorney General Joseph Yannotti in an amicus brief argued that the legislative history of section 2032A indicates "that Congress intended the recapture tax to be triggered only by the sale of the entire property, not a portion thereof." But the court disagreed, and further stated that the attorney general's opinion was "foreclosed by the actual statutory language chosen by Congress, which provides that a recapture tax is owed if a taxpayer 'disposes of *any* interest in the qualified real property' 26 U.S.C. § 2032A(c)(1)(A) (emphasis added)."

Reviewing the legislative history of provisions under 2032A, the court interpreted the intent of Congress: "By including the recapture tax provision in section 2032A, it appears that Congress intended to prevent a taxpayer from obtaining a special use valuation on property for estate tax purposes, and then, by sale of other disposition within a relatively short period, obtaining the value of the property's highest and best use. In other words, Congress sought to prevent the exact result that taxpayer urges here: an heir to a family farm avoiding estate taxes on the nonagricultural uses of the property and shortly thereafter reaping

the monetary benefits of those same nonagricultural uses."

Further, the court said it did not need to consider the effects of the 1997 Taxpayer Relief Act, in which Congress amended section 2032A to provide that conservation easements by donation, gift "or otherwise" are not deemed a disposition and therefore not subject to the recapture provision.

The court said that the subject deed of easement was executed before the effective date of the amendment, and stated "the amendment pertains to a charitable contribution of a conservation easement, but does not apply to an individual such as taxpayer, who sells a conservation easement for valuable consideration." The opinion did not mention or address the "or otherwise" provision.

The recapture provision has been applied unevenly over the last several years. The Gibbs case contradicts two IRS determinations made in 1996, both in New Jersey, in which farm heirs were excused from the recapture provision when they sold development rights to the state preservation program within the 10-year restrictive period. A Maryland farmer, however, was billed for estate tax and fined when an easement was sold to the state. Program administrators in four states at that time reported landowners in known 2032A situations waiting for the lapse of the 10-year period before completing conservation easement transactions.

Greg Romano said two program applicants who elected the 2032A provision for estate tax relief had been awaiting the outcome of the Gibbs case before settling.

"We kept in touch with them... we're trying to work with them," Romano said. In one case, in which five years remain in the waiting period, the program offered to hold the applicant's offer for later settlement.

"We doubt if they accept, because the offer could be higher in five years."

Romano said the ruling is likely to affect the

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**Estate tax, from previous page**

program further as it strives to reach its new 10-year, 500,000-acre farmland easement goal established by voter approval in November of a \$1 billion preservation initiative.

"Anything that inhibits farmers from applying will affect our efforts," he said.

*The Estate of Gibbs v. United States is available at the web site of the Mayo Law Firm, at [www.mayolawfirm.com/Conservation/Gibbs-Appeal.html](http://www.mayolawfirm.com/Conservation/Gibbs-Appeal.html). Further contact: Greg Romano, (609) 984-2504.*

## Iowa high court rules right-to-farm provision violates neighbors' property rights

The Supreme Court of Iowa has ruled that the state's right to farm law is unconstitutional, striking down the protection from nuisance claims offered to farmers who create agricultural areas under the state's 1982 Land Preservation and Use law.

It was the first state appeals court to examine the takings implications of a right-to-farm law, according to Neil Hamilton, professor of law at Drake University in Des Moines.

*Bormann v. Kossuth County* came through the appeal of a district court ruling that rejected the claims of a group of neighbors who had opposed the approval, by Kossuth County, of an agricultural area adjacent to their lands.

Not claiming that any nuisance existed, the neighbors were challenging the nuisance "immunity" granted under the law. They argued, and the high court agreed, that the creation of an agricultural area with the accompanying nuisance protection gave the applicants the right to create a nuisance over adjacent properties, in effect, creating an easement in favor of the applicant.

The effect of the nuisance immunity, the decision stated, was a "taking of easements in the neighbors' properties for the benefit of the appli-

cants. The easements entitle the applicants to do acts on their property, which, were it not for the easement, would constitute a nuisance. This amounts to a taking of private property ..." under both the U.S. and Iowa Constitutions.

The court ruled that the Iowa legislature exceeded its authority "by authorizing the use of property in such a way as to infringe on the rights of others by allowing the creation of a nuisance without the payment of just compensation."

The suit did not seek compensation, but sought only to invalidate the nuisance protection under the state law.

The court did so, and stated, "When all the varnish is removed, the challenged statutory scheme amounts to a commandeering of valuable property rights without compensating the owners, and sacrificing those rights for the economic advantage of a few. In short, it appropriates valuable private property interests and awards them to strangers."

"It's clearly a significant decision. It will be difficult to legislate your way around it," said Neil Hamilton, who also serves as director of Drake University's Agricultural Law Center.

Hamilton said it is doubtful there is room for a legislative response, since the court clearly spoke on the constitutionality of the legislature providing nuisance protections without compensating neighbors.

Two other Iowa laws granting nuisance protections for feedlot operations are now "in serious doubt of legal viability," Hamilton said. "Because some version of the laws exist in all 50 states, it is now likely similar challenges will be made to laws in other states."

Jerry Cosgrove of the American Farmland Trust said the language of right-to-farm laws has been sensitive to property rights, yet the ruling demonstrates that nuisance protection walks a fine line.

"It was couched as an immunity, but there were exceptions— they were all in there," he said, referring to certain conditions in the Iowa law,

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## Ruling threatens right-to-farm laws, experts say

*continued from page 3*

such as negligent operations or water pollution, that would not be protected from complaints.

"We've tended to get caught up in the language of right-to-farm, which overstates what these laws are intended to do – provide balance when neighbors move in. The importance of the ruling is it's a vivid reminder that right-to-farm is not a substitute for planning or a substitute for good neighbor relations," Cosgrove said.

Contact: Neil Hamilton, (515) 271-2065; Jerry Cosgrove, (518) 581-0078.

### New York

## Local farmland projects get new round of state grants

*continued from page 3*

Projects are awarded based on three criteria: economic viability of the farm, development pressure, and proximity to a key natural resource.

Awards to Long Island localities will boost recent local initiatives in which more than \$150 million was approved by voters. Expensive small parcels costing in the range of \$8000 to \$10,000 per acre will be added to a patchwork of protected farms that has gradually become more filled-in on the county's protection map. Parcel sizes range from 12 acres to about 88 acres.

Supporting the continuance of agriculture on Long Island is only part of the equation, with open space preservation clearly a strong political motive. In his remarks, Gov. Pataki pointed to the desire to protect "idyllic countryside." That's in sync with Long Island voters who showed in November they want to spare no expense for land protection.

This year's allocation to Long Island brings to a total of \$10 million spent there by the state since

1996. The farmland protection program is its third year.

### Combining habitat, ag goals

The town of Ancram in Columbia County will receive \$1.1 million for a project that combines bio-diversity and sustainable agriculture concerns. The Drowned Lands Swamp in the Hudson Valley contains rare, threatened and federally endangered species, according to Judy Anderson of The Columbia Land Conservancy. The grant will go toward the purchase of development rights on four farms that, according to Anderson, help support the habitat needed by the swamp's resident bog turtles.

"This was a real tribute to the long-term vision of balancing environmental protection and agriculture." Development of any of the farms, Anderson said, would degrade the sensitive habitat.

General Assembly Minority Leader John Faso agreed that the dual role of the project is a good move for the program.

"It's an outstanding example of partnership between wetland and farmland conservation and will ensure the long-term economic viability of this agricultural area."

### Watershed program still stalled

But while the state's farmland program swings toward combining environmental and agriculture goals, another program that would do the same thing has been mired in a bureaucracy unfriendly to agriculture, according to Karl Czymmek of the Watershed Agricultural Council of Walton, just west of the Catskills park.

One program to help clean up the watershed that supplies New York City's drinking water has been in the stall mode since 1996, because, Czymmek said, the program focuses on preventing development by purchasing easements on farmland.

The Council, a not-for-profit organization, contracted more than two years ago to receive \$10 million for the purchase of development rights in the Catskills watershed, and hired Czymmek to implement the plan. But no work order has yet

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come from the Office of Management and Budget, and not much help has come from the New York Department of the Environment, where agriculture, according to Czymmek, has been looked upon as the enemy of watershed protection.

Calls to the department's watershed project liaison were not returned.

"We've got a long way to go to show agriculture is environmental protection," Czymmek said. "We definitely have an educational battle not only with the bureaucracy but with environmental groups, which really have sway in New York City."

Anderson, who agrees agriculture takes a lot of punches from the environment community, said New York State is simply overbooked with high-priority, high-priced habitat projects, particularly behemoth-size forest land holdings being let go by timber companies that the state has stepped in to buy.

"I would say there's a long-standing list of conservation projects and farmland protection has a hard time competing with that. I hope in the next few years we can bring farmland protection up the ladder," she said.

Czymmek said the Council believes money will be allocated soon and that work on implementing the watershed easement plan will begin sometime this spring.

Meanwhile, the Watershed Ag Council has been at work implementing a \$35 million nutrient management program, funded by New York City, with the goal of directing nutrient management practices on 85 percent of the watershed's farmland. *Contact: Karl Czymmek, (607) 865-7790; Judy Anderson, (518) 392-5252.*

## South Carolina to reconsider state farmland program

COLUMBIA, SC — The South Carolina legislature will again consider establishing a purchase of development rights program with the reintroduction of a bill that missed passage last spring by the objections of just one senator.

The Farm and Forest Lands Protection Act, reintroduced as S. 12, would create county programs that would designate Priority Agricultural Land areas where easements could be purchased "to preserve farm and forest lands, scenic and cultural landscapes, and environmentally sensitive areas such as open spaces for wildlife habitat, and clean air and water."

Introduced last session by Sen. Phil Leventis, the bill has been pre-filed and will be scheduled for a hearing in the Agriculture and Natural Resources Committee in January, according to staffer Patty Pierce.

Pierce said the bill has already gained support in the House.

"The House agriculture committee chair is supportive and is the primary sponsor of the House bill. Hopefully we'll get something this year," she said.

The bill calls for a 16-member state board to approve county programs and allocate money from a trust fund, but a source of funds is unnamed. County councils would appoint Priority Agricultural Land (PAL) boards. PAL areas would be initiated upon the first request for designation from a landowner.

The legislation lists aspects to consider when creating a PAL area, including development pressure, soil types, size of the parcel, and compatibility with planning and zoning. The bill allows for either appraisal or point system methods for determining easement value.

Thirty-three percent of state funding would be allocated evenly to eligible counties and the remaining 67 percent would be disbursed on a competitive basis.

While the state program bill fell short of passage last June, a local effort in Beaufort County took flight with county council approval of PDR and a 2-mill property tax dedication to fund it. Last month the Beaufort County Council approved program rules and has now created the first local purchase of development rights program in the state, and the first program south of Virginia Beach.

*Contact: Patty Pierce, (803) 796-6700.*

BOOK REVIEW**Daniels' latest book builds a strategy for urban fringe****When City and Country Collide ~ Managing Growth in the Metropolitan Fringe****By Tom Daniels****Island Press, 361 pp., \$32.50***Reviewed by Deborah Bowers**Editor, Farmland Preservation Report*

It might be good to start out describing what Tom Daniels' latest book is not, than what it is. It is not a tirade injected with a multitude of adjectives defining the nightmare that is sprawl. It is not an attempt to glorify the existence and continuance of "edge cities." It is not a one-size-fits-all prescription for solving a region's growth problems. And, it does not provide false hope that we can turn back endless armies of paving machines.

What Daniels' book does do is provide a way to conceptualize places where rural is not really rural, and where "suburban" can no longer describe the form or function of the landscape. We know these places exist, maybe even live there, and it becomes clear that this uncharted territory between suburban and rural is a place that has distinctive problems when it comes to planning and growth management.

The most worrisome problem in the metropolitan or rural-urban fringe, as Daniels has chosen to call these outlying areas surrounding urban regions, is that citizens and their elected officials are often not prepared to deal with the problems created when city and country collide.

That's because planning literature has provided untested or narrowly-focused solutions that target the most obvious conflicts, but it is short on general guidance. It is this void that Daniels seeks to fill, and he may have come closer to accomplishing this amorphous task than most other book-length attempts of the last 10 years.

This is not to say Daniels doesn't come up

with ideas that seem way beyond reach, such as suggesting the federal government make fringe living less desirable by raising the cost of gasoline.

But a look at this work in total shows an obvious difference in the author's approach. If you accept that you can't provide solutions until you really know the problem, then defining the fringe accurately and understanding how it functions is prerequisite, and Daniels is on the mark. The fringe is not the suburbs. And form, as we know, must follow function.

Daniels starts out with a story about a farmer in Baltimore County desperately seeking to mitigate the effect of new homes planned next to his cropland. It is the perfect example of planning's failures: a preserved farm, a new planning concept – in this case, open space development design, a.k.a. rural cluster, and a place that is no longer truly rural, but not suburban, either. The message is clear: even new concepts such as clustering won't help ease residential development where farming is still practiced. Those trying to earn a living from farming never know where the next bomb shell will hit.

Daniels says localities first need to decide whether they are pro-growth, for balanced growth, or are determined to have no growth or slow growth and discusses each of these. The next step is to understand the legal issues, from constitutional to subdivision regulations, that will govern a locality's ability to achieve that aim. Then, a locality must set out to pick the strategy – regulatory, incentive-based or a combination – that feels right politically.

Daniels provides plenty of insights and guidance based on the experiences of numerous localities nationwide and current attitudes about sprawl and property rights. Daniels believes in building a package that is both regulatory and incentive-based, that provides a sensible strategy and combines proven techniques that will work together.

Daniels says a vision for the rural-urban fringe has yet to be developed. He describes the ideal as

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a mix of uses, but with open lands and agriculture predominating. To accomplish this, urban uses such as job centers and affordable housing will have to be confined to existing town and village areas. The real conclusion is that decisionmakers must create their own vision of what the fringe is to be, or the decision will be made for them.

*When City and Country Collide* provides a whole solutions-based tour of the rural-urban fringe. It follows on the heels of  *Holding Our Ground – Preserving America's Farms and Farmland*. It is a more rounded work that focuses on the growth management that is necessary to provide a foundation for farmland preservation and survival of natural lands close to population centers. *When City and Country Collide* is a fresh and much-needed contribution that provides a new, more holistic framework from which to generate solutions.

*When City and Country Collide* may be ordered from Island Press. Call 1-800-828-1302.

## NEW JERSEY

### Green Acres program gears up for some banner years

TRENTON, NJ — With coffers soon to be overflowing with money from taxpayers eager to save open space, Green Acres Program administrator Tom Wells has a problem he thought he'd never have. While most other states struggle to find enough money to purchase the lands they want to preserve, Wells must find enough land to purchase with all the money that now must be spent: \$500 million – half of the approximately \$1 billion dedicated, to be spent over the next 10 years.

In November, voters approved an amount of money equal to all the bond issues approved for land protection in the preceding 40 years.

"We've been preserving probably between 20,000 and 30,000 acres a year on average, through our local loan and grants program," Wells said. That will increase to about 50,000 acres a year until the state reaches its goal of one million acres

of preserved farmland and open space.

The state's farmland preservation program, administered by the State Agriculture Development Committee, has the same task – to spend \$500 million, its share of the \$1 billion approved – but that program has a list of ready applicants. (See story last issue.)

"Ours won't be a ten-fold increase in acres [like the farmland program]. I know ag has been putting a lid on applications, so they can just lift that lid," Wells said. "We're looking at 50,000 acres a year. That's about double where we've been."

To take on the extra acreage, Wells said his program will have to seek out new approaches and plan a strategy.

"We're going to have to gear up. We plan to work more with nonprofits in cooperative projects. We've done a fair amount of that on an ad hoc basis. Now we'll make more use of their resources."

The Green Acres Program, established in 1961, provides matching grants to towns, counties, and nonprofit organizations for parks and open space projects. The program focuses on acquiring lands that link other preserved lands and serve multiple recreational and habitat purposes. The strategy, Wells said, is to connect stream corridors with trail corridors and to connect those with existing open space areas. To that strategy is added three "big areas" that are always emphasized for preservation projects: the Highlands, Pinelands and the Delaware Bay wildlife management areas.

Wells is excited that the new funding will help complete projects and speed up major plans.

"We have had significant resources in the bond issues of '89, '92 and '95 for acquisition. Generally, we've had the financial resources to move forward, but in some cases we've lacked staff resources to finish deals. This will allow us to accelerate our efforts," he said.

Wells said there are local projects representing about \$300 million in existing program requests.

"In a recent work session, localities said they would like more help in moving projects along." Now, the program will be able to do that.

## professional resources ...

### JOB ANNOUNCEMENTS

#### Land Trust For Santa Clara Co. (CA)

##### Executive Director

Responsible for organization's day-to-day operations, including: supervision of staff, volunteers and consultants; liaison between land trust board and county open space authority; budgetary, program, policy proposal analysis; seeking opportunities for and executing land acquisition, grant funding, fund development and community outreach. Must have knowledge of management and organizational principles; land conservation strategies and techniques; marketing, public relations, fund development, volunteer and outreach programs; and history and function of Santa Clara Open Space Authority. Applications due Feb. 1. Letter, resume, more information: 6146 Camino Verde Dr., Suite P, San Jose 95119-1460, 408-224-7476. (Posted 12/23/98)

#### The Nature Conservancy

##### South Fork-Shelter Island Chapter (East Hampton, NY),

##### Director of Land Protection

Responsible for the overall planning, coordination and implementation of a comprehensive protection program on Long Island. The director is responsible for implementing the conservancy's internal conservation priorities as well as responsible for achieving conservation priorities through overseeing and representing the conservancy in contractual relationships with government agencies and advisory committees. The director supervises the land protection specialists (2) and the land protection administrative assistant. Contact Bonnie Verrine, Director of Administration, 250 Lawrence Hill Rd., Cold Spring Harbor, NY 11724. The Nature Conservancy is an equal opportunity employer. (Posted 12/18/98)

#### The Nature Conservancy

##### South Fork-Shelter Island Chapter (East Hampton, NY),

##### Land Protection Specialist for Southampton and East Hampton

Responsible for planning, coordinating, and implementing an acquisition program focused on assisting the towns of Southampton and East Hampton in protecting important habitat. Responsible for ensuring the integration of TNC conservation goals into public acquisition programs. Requires initiative, flexibility, creativity, and the ability to work in close cooperation with citizens, corporations, universities, and government. Contact Bonnie Verrine, director of administration, 250 Lawrence Hill Rd., Cold Spring Harbor, NY 11724. EOE. (Posted 12/18/98)

For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org)

### CONFERENCES, WORKSHOPS

**Feb. 25 & 26, Harrisburg, PA:** Pennsylvania Agriculture in the 21st Century - A Symposium on Profitability, sponsored by The Pennsylvania State University. Registration fee: \$35. Call (814) 865-8301 for brochure or registration information.

**March 22 & 23, Baltimore, MD:** Toward a Sustainable Chesapeake, sponsored by Center for Chesapeake Communities. Information available at: [www.chesapeakecommunities.org](http://www.chesapeakecommunities.org) or call 410 956-3712.

**March 28 - 30, Perrysville, OH:** Purchase of Agricultural Conservation Easements: The Next Generation, sponsored by the American Farmland Trust. Annual conference on PACE (a.k.a.

PDR) being held for the first time outside the northeast. Registration materials available late January. For info. call Robin Sherman at (413) 586-9332.

**May 2 - 5, Detroit, MI:** National Town Meeting for a Sustainable America. Sponsored by the President's Council on Sustainable Development and the Global Environment & Technology Foundation, the program will showcase best practices that promote sustainability. Visit website at [www.sustainableamerica.org](http://www.sustainableamerica.org) to register and receive materials or call 1-888-333-6878. Local event affiliation encouraged.

**June 6 - 9, 1999, Philadelphia, PA:** Keep America Growing, sponsored by 14 conservation, planning and governmental organizations including the American Farmland Trust and National Association of Counties. "The objective of the conference is to explore ways of conserving working lands... while allowing for growth and development to satisfy the needs of our growing population." See website at [www.farmland.org/KAG.html](http://www.farmland.org/KAG.html) or call AFT for brochure at (202) 331-7300.

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# farmland preservation report

*Covering the policies, practices and initiatives  
that save farmland and open space*

*Since 1990 • Deborah Bowers, Editor*

## CLINTON BUDGET

### Substantial federal boosts to land preservation proposed

WASHINGTON, D.C. – Farmland preservation would get a \$50 million federal boost if the Clinton administration's proposed Lands Legacy initiative survives intact in its fiscal 2000 proposed budget, released Feb. 1.

The federal Farmland Protection Program ran out of money last September when it announced \$17.2 million in grants to 19 states, spreading the last of the \$35 million allocated to the program in the 1996 farm bill.

The day after the budget proposal was released, Sen. Patrick Leahy introduced a bill to

reauthorize the Farmland Protection Program as a permanent program with \$55 million in funds from the Commodity Credit Corporation.

But even more inspiring to conservationists than the Clinton administration's attention to the FPP, are a number of budget proposals that focus on land use that are surprisingly systemic and reflect the environmental concerns and interests expressed in past years by Vice President Al Gore.

The \$1 billion Lands Legacy initiative is just one in a series of initiatives that if passed will attempt to turn around the federally stimulated,

*please turn to page 5*

## 1997 AG CENSUS

### Census changeover dramatically alters some local stats

The 1997 Agricultural Census, released Feb. 1, contained some surprises for counties in the western U.S. in terms of farmland loss or gain, and in the east in terms of value of agricultural products sold.

As in past years, however, changes in land in farms, which shows a gain or loss in farmland acres for each locality, does not indicate what amount of decreased acreage represents acres lost to conversion.

The agricultural census, completed every five years, was conducted for the first time by the National Agricultural Statistics Service (NASS). Previously, it was conducted by the Bureau of

Census.

The changeover between agencies brought changes to the way agriculture is defined. While

*please turn to page 4*

**Volume 9, Number 4 February 1999**

#### inside this issue ...

Ag census table for top PDR counties .....	p. 3
Md. Smart Growth law shows its teeth .....	p. 4
Rural Legacy Program sees second cycle .....	p. 5
Legislative briefs .....	p. 6,7

## New ag census causes dramatic changes in local stats

*continued from page 1*

the definition of a farm did not change, the types of operations that are included as agriculture did: Christmas trees, maple syrup and short-term woody crops, according to Kent Hoover, chief of planning and analysis for the NASS. Christmas trees, a rapidly growing sector in urbanizing areas, had been treated as forestry, he said, and accounts for some gains, or, less than expected losses in farmland acreage in mid-Atlantic counties.

Another big change for the 1997 census is the inclusion of acres enrolled in the Conservation Reserve Program. If an entire farm was enrolled, the 1997 census counted that acreage as working farmland.

The 1997 ag census was performed through a decentralization of data gathering, Hoover said. When the responsibility for the ag census was transferred to the NASS, information was collected at the agency's 45 local offices. Those offices are usually shared with state agricultural departments, where local knowledge of farm operations can make a difference in how farmland acres are counted, he said.

For western states, where farm operations can cover thousands of acres and cross county lines, some big changes may have occurred in how operators report their county of operation, Hoover explained. Sometimes a farm or ranch may move its center of operation across a county line, while the majority of its acreage may be on the other side.

This might explain how Marin County, Ca., is reported to have lost 19,216 acres between 1992, the year of the last census, and 1997.

A loss of that magnitude in Marin County can't indicate farmland conversion, and "bears no relationship to reality," said Bob Berner, director of the Marin Agricultural Land Trust, which has preserved about 25,000 acres since the early 1980s.

A lot of change also has to do with how census takers interpreted data. Sometimes judgements were made as to whether an operation represented one or two farms. If it were one farm, a

single county of operation had to be determined. Much of the information gathered from California operators, was processed through the California office, Hoover said. "Local knowledge of agriculture," played a role in determining the numbers.

In Sonoma County, which is adjacent to Marin, an increase of 53,690 acres was reported, a change that intrigued local officials and might also explain some of Marin's reported losses.

"I'm curious as to what's going on," said David Hanson, executive director for the Sonoma County Agricultural Preservation and Open Space District. Hanson guessed that creation of vineyards was a likely factor.

That was confirmed by Dwayne Nelson, deputy statistician for the NASS California office, who said Sonoma's big acreage gain could have occurred because vineyards that were not yet producing by 1992 could now be producing a majority of income for a number of producers in Sonoma who may have large land holdings in other counties, including Marin. Those outside acres may be counted for Sonoma, he said, because the operator's main income is derived from his Sonoma vineyards.

Changes in the way reports from operators were interpreted by NASS offices resulted in many counties near Marin also showing big acreage decreases compared to the 1992 census. The 1997 census showed Mendocino, north of Sonoma, with a loss of 86,552 acres; Napa County with a loss of 22,889 acres, and Lake County with a 25,648-acre deficit.

In Maryland and Pennsylvania counties where farmland preservation has gotten a foothold but development pressure remains high, a loss in farm acreage was common, but not at the levels known to local officials. Changes in what acreage is included is the reason: Christmas tree farms and CRP acres made a big difference, according to Maryland ag statistician Ray Garibay. These changes make determining farmland lost to conversion more complicated, he said.

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## Ag census data for nation's top preservation counties

Top counties	Acres preserved *		# Farms 97 / 92		Land in farms 97 / 92		Market value 97 / 92 / % change in millions			Full-time farmers 97 / 92		Average farm size*
Montgomery	48,457	526	561	77,266	82,470	28.5	27.7	.37%	221	253	147	
Carroll	28,886	1,041	1,080	160,180	157,505	71.2	66.9	6%	495	541	154	
Sonoma*	28,537	2,745	2,737	570,804	517,114	463.6	280.8	65%	1,344	1,234	208	
Lancaster	27,900	4,556	4,490	391,836	388,368	766.7	680.8	13%	3,380	3,376	86	
Harford	26,790	651	695	94,112	97,312	38.8	28.7	33%	313	338	145	
Marin	25,504	276	260	149,663	168,879	53.8	42.1	29%	172	182	542	
Caroline	19,676	525	588	111,316	126,981	95	85	12%	325	357	212	
Howard	17,521	318	382	39,846	44,623	19.6	18.9	12%	127	177	125	
York (PA)	13,680	1,698	1,692	261,164	252,052	128.6	120	7.5%	861	919	154	
Baltimore	12,628	781	840	75,795	83,232	51.1	40.6	25%	351	390	97	
King (WA)	12,600	1,091	1,221	41,653	42,290	93.7	84.5	11%	472	487	38	
Calvert	12,506	349	400	33,450	37,320	7.7	6.7	14%	160	196	96	
Frederick	12,286	1,304	1,346	215,927	222,768	101.6	109.1	6.5%	667	754	166	
Burlington (NJ)	11,796	857	816	103,667	97,186	87.5	64.5	35%	432	405	121	

Sources: NASS; Farmland Preservation Report, June 1998. Notes: \* Acres preserved as of June 1998. \* Sonoma County ranking occurred July 1998 as correction to June ranking. Average size farm was virtually unchanged from 1992. The ag census is available online at the USDA website, under the NASS heading. For information on obtaining printed copies, call 800-523-3215.

"CRP was the biggest definitional change that will impact Maryland. You can have more land lost to development than what will show. The important thing to know is that this is the minimum acres lost."

In Harford County, for example, local officials know at least 1,000 acres were lost each year to development during the period, and over the five-year census period the county gained about 30,000 new residents. Yet the 1997 ag census shows just a 3,200-acre loss over five years.

Tom Daniels, professor of planning at the State University of New York (SUNY) at Albany, and an agricultural economist, said the new ag census can't serve the field of farmland preservation with the way it was performed – an unfortunate circumstance as farmland preservation and smart growth initiatives take a higher profile on the national agenda.

"The change in who conducts the census from the Bureau of the Census to the USDA and the

## Ag census out of touch with farmland loss issue

*continued from page 3*

changing methods of counting farms and farm acreage, make identification of farmland loss difficult," Daniels said.

"In many counties if you compare the increase in population from 1990 to 1997 and change in farm acres from 1992 to 1997, you get some strange results." For example, Daniels noted King County, Wa. grew by an estimated 125,000 people from 1990 to 1997 but the ag census indicates the county lost only 637 acres from 1992 to 1997. "That just doesn't make sense," Daniels said.

Garibay, of the Maryland NASS office, said a special tabulation could be performed that would provide a figure that would more closely indicate number of farmland acres converted to other uses. Such adjustments could be performed at the request of state or local governments, he said.

Some counties were surprised to see actual increases in farmland acres. These were Lancaster (+ 3,468) and York (+9,112) Counties in Pennsylvania and Carroll County (+2,675) in Maryland. The reasons, again, were significant numbers of whole farms enrolled in Conservation Reserve or Wetlands Reserve Programs, as well as Christmas tree farms, not included in 1992.

There are other adjustments for county agriculture officials to make as well. A notable change for farmland preservation counties was in value of agricultural products sold. An increase was noted for all but one county included in the June 1998 *Farmland Preservation Report* ranking of the nation's top PDR localities (see accompanying table).

Increases ranged from six percent in Carroll County to 33 percent in Harford County, where cattle sales were shown to have more than doubled, a suspicious figure that could be in error, according to Garibay, whose research to check the figure could not be available by FPR press time. Frederick County was a notable exception, with a 6.5 percent loss in ag value.

### etcetera ...

#### Practices, not policies, focus of group

*Annapolis, Md.* – A new breed of environmental organization has stepped into the sustainability movement with a mission to help local governments in the mid-Atlantic make their practices consistent with their smart growth and environmental policies.

The Center for Chesapeake Communities, launched last spring, focuses on helping local governments walk through the maze of options for implementing their policy choices.

"We believe there was a need to provide additional financial and technical support for local governments... the central philosophy is sustainable development," said executive director Gary Allen.

"We're a support structure. We're not a Chesapeake Bay Foundation or a Sierra Club. We're trying to change practices, not policies, at the local level."

With a \$1 million budget the group coordinates a small watersheds grant program that helps localities apply for federal grants. The Sustainable Community Training Program helps development officials look at projects with an eye for compatibility with local environmental goals.

The group is sponsoring a conference in Baltimore in March. Call (410) 956-3712. Web: [chesapeakecommunities.org](http://chesapeakecommunities.org)

#### Maryland smart growth law shows its teeth

*Annapolis, Md.* – Gov. Parris Glendening's fiscal 2000 budget, released last month, cut five highway projects that had been in the state's transportation plan because their construction would not be consistent with the state's new Smart Growth law that went into effect Oct. 1. A \$53 million police training center, scheduled to be constructed in Carroll County, was also knocked off course.

The highway projects cancelled, two in Carroll County, and one each in Montgomery, Allegany and Queen Anne's counties, were scheduled bypasses around towns, the traditional method of dealing with increased traffic on main streets in towns including Westminster and Chestertown.

The governor defended his decision to cancel the police training center, citing the traffic and sprawl development the new facility would generate.

**Clinton budget, from page 1**

decades-old land use system known as sprawl.

The Lands Legacy initiative reads like a wish list for open space programs at the state and local level, and even for land trusts. Lands Legacy would be an interagency program to "conserve important lands for recreation, open space and wildlife habitat, plus the preservation of forests, farmland and coastal areas" according to the proposed budget.

The initiative, while startling in its scope compared to recent years, is only as large as that passed in the state of New Jersey last November, which has the goal of preserving one million acres of open space and farmland. The Clinton initiative would be funded through the Land and Water Conservation Fund, monies generated from off-shore oil and gas drilling royalties and dedicated to purchasing conservation lands. The majority of the funds – \$588 million – would be used for grants to state and local governments, as well as land trusts, for land conservation and for resources protection and planning, and \$442 million would be used for federal land acquisition.

Equally impressive for conservationists is the companion livability initiative promoted by Al Gore that will help stimulate livable communities programs nationwide with a \$1.2 billion grants program for urban parkland acquisition, reforestation, watershed protection and brownfields cleanup and development. Innovative finance is key, as the program proposes the creation of "Better America Bonds" that would provide up to \$9.5 billion for localities to undertake massive projects to improve neighborhoods.

Some supporters think circumstances in Washington could prove favorable to passage of a budget that will include at least some of the land conservation initiatives.

"I'm very optimistic that a substantial portion of this can be passed by this Congress," said Russ Shay, director of public policy at the Land Trust Alliance. "They are very interested in getting something done to get the impeachment behind them."

GOP attempts to quash environmental initia-

tives in recent years, such as a move to weaken the Endangered Species Act, didn't please conservative constituents. Now, Clinton environmental proposals seem to generate less resistance, proponents say.

"It's clear a number of people in D.C. have looked up and seen what's going on in states and localities," in smart growth and environmental initiatives, and want to respond, Shay said.

Adding to the optimism is the approach the Clinton administration is taking – providing grants to state and local governments to help them with their own programs – an approach that fits Republican de-centrist philosophy.

Other initiatives for land conservation include \$50 million for the Forest Legacy Program, \$150 million to protect oceans and coastlines, \$29 million for national marine sanctuaries, \$50 million in grants to states to develop open space plans and smart growth laws, \$40 million for urban forest programs, \$80 million for state and local endangered species protection.

Another boost to conservation, particularly to watershed protection practices, is a proposed \$2 billion for the Clean Water Action Plan, a 20 percent increase in its funding over 1999 levels.

**MARYLAND****Rural Legacy applicants ask for \$90.6 million in grants**

ANNAPOLIS, MD – Twenty-five grant proposals were submitted to Maryland's Rural Legacy Program in its second application cycle, totaling \$90.6 million, but projected funding may only reach \$25 million for this fiscal year.

The program started last year as part of Gov. Parris Glendening's Smart Growth initiative, with a mission to protect large contiguous areas of farm and forest lands. The legislature authorized \$71.3 million through 2002, and also allows \$2 million per year to leverage an additional \$18.2 million in zero coupon bonds. Program goals are to preserve

## Rural Legacy sees lively second round

*continued from page 5*

225,000 acres over 15 years at an estimated cost of \$600 million. Local governments and land trusts endorsed by local governments can apply for the funds.

Nine land trusts acting as sponsors submitted 11 grant requests, and 13 counties sponsored 14 applications this year. Last year seven land trusts served as lead sponsors of 23 applications, with the balance sponsored by county governments. Most of the 1999 proposals are resubmitted requests from 1998, when \$29 million was awarded to 14 applicants.

The program's first annual report cited lessons learned from its first year, and changes since made to program regulations and guidance. Additional guidance on growth management tools was provided as a means to spur more effective planning and zoning by localities. Repeating a theme from last year, a strong case is made for initiating transfer of development rights at the local level as a way to support and boost Rural Legacy applications.

A revised manual set specific size and format standards to follow in developing grant proposals. Many grant writers said the standards made preparation easier and praised other changes that omitted redundancies and confusing requirements.

"It was definitely easier this time around," said Wally Lippincott of the Baltimore County Department of Environmental Protection and Resource Management.

Like last year, four proposals have come out of Baltimore County – more than from any other jurisdiction. But unlike last year, new guidelines require county governments to state in writing which of the plans they most want funded if two or more are submitted. The four proposals from Baltimore County total \$18.6 million with an average per-acre easement cost of \$3,734.

The largest single request for Rural Legacy funds came from Anne Arundel County, next to Annapolis, the state's capitol. The Magothy River Land Trust requested \$7.6 million for a new proposal to preserve 860 acres, with an average per-acre cost of \$8,871. In stark contrast is this year's second-highest grant request to preserve 5,500 acres in Queen Anne's County for \$6 million, an average per-acre cost of \$1,091. Grant requests include a three percent administrative allowance.

Most grant proposals have commitments from landowners to consider easement offers.

Only a few proposals are new this year. In addition to the Magothy River Land Trust plan for Anne Arundel County, Harford County is seeking funds for greater preservation in its Lower Deer Creek Valley Historic District. (See accompanying table, page 7.)

### legislative and program briefs ...

**In South Carolina ...** S. 12, the Farm and Forest Lands Protection Act, is in subcommittee. The bill would create county programs to designate priority agricultural land areas where easements could be purchased.

**In Ohio ...** Gov. Robert Taft came to office talking about a \$200 million fund for farmland preservation, but no further mention has yet been made. Meanwhile Rep. Krebs and Rep. Logan have reworked legislation from last year, breaking up a complicated land use bill into six pieces; one encourages planning, one enables localities to increase minimum acreages required for subdivision, one would codify the governor's executive order requiring agencies to preserve farmland, and one, the "Ohio Urban Renaissance bill," would create new tax breaks for inner belt communities and other UGB-type incentives. Cosponsors are sought.

**In Michigan ...** The Michigan Farm Bureau will be running another bus tour to Maryland and Pennsylvania farmland preservation counties, according to Scott Everett of the public policy division. The tour will take place March 25 - 29.

**In Pennsylvania ...** Gov. Tom Ridge signed a smart growth executive order and proposed to redirect \$1.3 billion from various sources for farmland and open space as well as watershed protection and other environmental programs. A legislative plan from Bucks County Sen. Joe Conti proposes \$1 billion for open space acquisition.

In Feb. the state program will preserve 21 farms comprising 2,889 acres for a cumulative total of 1,065 farms and 133,699 acres.

June Mengel was officially tapped to serve as director to the Lancaster County Agricultural Preserve Board. Mengel

served with Tom Daniels for five years prior to his departure last August. Prior to that she worked with the Lancaster Farmland Trust and the Chester County farmland preservation program. Mengel will have about \$4.5 million for easement purchases this year.

Berks County will put forward a \$32 to \$35 million bond issue for farmland and open space, according to Susanne Sharadin, program administrator.

**In Kentucky ...** Two years ago Lexington-Fayette County voted to expand its UGB by 5,000 acres and last year the county gained legislative authority to raise taxes to start a PDR program, an initiative now being considered for referendum next year.

**In Maryland ...** The Agricultural Land Preservation Foundation continues to discuss changes to rules regarding allowable subdivision of preserved farms. Recently discussed was allowing a lot or subdivision for any purpose with approval.

Several more grant agreements for last year's Rural Legacy Plans have been signed.

**In New York ...** Karl Cyzmmek has resigned as watershed project coordinator at the Watershed Agricultural Council in Walton to head up Cornell University's Nutrient Management Program.

**In Indiana ...** The Hoosier Farmland Preservation Task Force released recommendations to the governor and legislature. They included: establish an Indiana Land Resources Council; require farmland impact statements from the departments of commerce and transportation; enact enabling legislation allowing localities to enact PDR, TDR and other programs; foster and enhance urban revitalization.

**In Minnesota ...** 1000 Friends of Minnesota released maps of its proposed Green Corridor to guide development of land conservation initiatives in the state's rapidly growing Chisago and Washington Counties. The project is a collaboration of eight organizations and county governments.

## RURAL LEGACY PROGRAM GRANT APPLICANTS ~ FY 2000

SPONSOR	ACRES IN AREA	ACRES TO ACQUIRE	GRANT REQUEST (millions)	PER-ACRE COST
Worcester Co. (Coastal Bays)#	9,100	2,634	\$3.0	\$1,139
Anne Arundel Co.	9,090	550	\$2.2	\$4,015
Frederick Co.#	24,800	934	\$2.6	\$2,796
Montgomery Co.#	42,350	1,480	\$4.9	\$3,370
Washington Co.#	37,512	813	\$1.6	\$1,960
Long Gr Valley Conservancy*	23,000	800	\$3.0	\$3,750
Valleys Planning Council* #	19,720	1,383	\$5.0	\$3,615
Wicomico Co. (Quantico Creek)	8,000	1,776	\$3.2	\$1,832
ESLC* (Caroline, Talbot)#	11,500	1,500	\$2.6	\$1,751
ESLC (Caroline, Dorchester)#	10,100	1,000	\$1.0	\$1,051
ESLC (Kent, Cecil)#	12,500	1,800	\$3.1	\$1,752
Patuxent Tidewater LT*#	2,597	2,089	\$4.3	\$2,058
Prince Georges Co. (Pax)#	35,000	1,725	\$4.9	\$2,838
Charles Co. (Zekiah Swamp)#	17,325	2,069	\$3.3	\$1,597
Baltimore Co. (Coastal)#	15,340	1,234	\$4.7	\$3,859
Carroll Co. (Little Pipe Crk)#	30,806	2,318	\$5.1	\$2,200
Calvert Co.	8,500	636	\$2.0	\$3,145
Gunpowder Valley Cons.*	5,333	1,585	\$5.9	\$5,865
Harford Co. (Deer Creek)	15,900	1,618	\$5.4	\$3,001
Cecil Co. (Fair Hill)	16,045	600	\$2.3	\$3,833
The Conservation Fund	8,900	5,500	\$6.0	\$1,091
Howard Co (Cattail Creek)	18,400	493	\$2.8	\$5,708
Howard Co (Upper Pax)	15,100	528	\$3.1	\$5,983
Calvert Farmland Trust#	6,500	438	\$0.52	\$1,193
Magothy River Land Trust*	5,600	860	\$7.6	\$8,871
<b>TOTALS</b>	<b>409,018</b>	<b>36,563</b>	<b>\$90.6</b>	<b>\$2,479</b>

Notes:\* Long Green Valley Conservancy, Valleys Planning Council and Gunpowder Valley Conservancy serve Baltimore County. # - denotes grants received in 1998. ESLC - Eastern Shore Land Conservancy is sponsoring plans in five counties. Patuxent Tidewater Land Trust plan is for St. Mary's County. Magothy River Land Trust is in Anne Arundel County.

Source: Maryland Department of Natural Resources, Program Open Space

## professional resources ...

### JOB ANNOUNCEMENTS

#### The Potomac Conservancy (Washington, DC) Director of Land Protection

Reports to the executive director; responsible for planning, management, and implementation of land protection objectives. Works with landowners, government officials, conservation organizations and other stakeholders. Markets conservation easement program; evaluates and negotiates gifts of land and easements; develops strategic approaches for maximizing organizational resources. Requirements: bachelors or graduate degree (preferred); demonstrated ability to work effectively with diverse constituents; excellent communication skills; willingness to work as part of a team; high energy professional with commitment to protecting the Potomac River through private initiative. Apply no later than February 28 with letter and resume to Matthew Logan, Executive Director, The Potomac Conservancy, 4022 Hummer Rd., Annandale, VA 22003. (Posted 2/5/99)

#### Ducks Unlimited Inc. (TN) Manager of Conservation Lands

Position provides overall leadership, coordination and management of Ducks Unlimited's Conservation Lands Program, which serves to protect valuable habitat throughout the United States. Requires coordination with other national land protection organizations and DU's sister organizations in Canada and Mexico. Qualifications: law degree with knowledge in conservation and real estate law, working experience in land conservation programs. Knowledge of natural resource management helpful. Excellent interpersonal skills and good writing ability required. Send cover letter, resume and references to: Jack Payne, National Director of Conservation, Ducks Unlimited, Inc., One Waterfowl Way, Memphis, TN 38120; e-mail: [jpayne@ducks.org](mailto:jpayne@ducks.org). (Posted 2/5/99)

#### Virginia Outdoors Foundation Conservation Easement Program Staff

Aldie (near Middleburg) office hiring self-motivated, meticulous worker for mapping, title research, documenting/monitoring easements, database and file management in small, results-oriented office. Experience/interest in land conservation, rural land planning, BA or BS in related field required with excellent writing/communication skills and command of computers. Fax or mail letter of interest, resume to Tamara Vance, executive director, 302 Royal Lane, Blacksburg, VA 24060, Fax: 504-951-2695. (Posted 2/5/99)

#### Grand Traverse Regional Land Conservancy (MI) Land Protection Specialist

Duties will include negotiating conservation easements, purchases and gifts of land. Qualifications: Undergraduate degree in real estate, natural resources management, land use planning or related field, or 3-5 years of experience in land acquisition, grassroots organizing or related work. Salary commensurate with experience. Send resume to: Grand Traverse Regional Land Conservancy; Attn. Personnel; 624 Third Street; Traverse City, MI 49684. Accepting resumes until position is filled.

*For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org)*

### CONFERENCES, WORKSHOPS

March 22 & 23, Baltimore, MD: Toward a Sustainable Chesapeake, sponsored by Center for Chesapeake Communities. Information available at: [www.chesapeakecommunities.org](http://www.chesapeakecommunities.org) or call 410 956-3712.

March 28 - 30, Perrysville, OH: Purchase of Agricultural Conservation Easements: The Next Generation, sponsored by the American Farmland Trust. Annual conference on PACE (a.k.a. PDR) being held for the first time outside the northeast. For info. call Robin Sherman at (413) 586-9332.

June 6 - 9, 1999, Philadelphia, PA: Keep America Growing, sponsored by 14 conservation, planning and governmental organizations including the American Farmland Trust and National Association of Counties. "The objective of the conference is to explore ways of conserving working lands... while allowing for growth and development to satisfy the needs of our growing population." See website at [www.farmland.org/KAG.html](http://www.farmland.org/KAG.html) or call AFT for brochure at (202) 331-7300.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## NATIONWIDE SURVEY

### State legislatures consider farmland, open space funds

A nationwide survey by *Farmland Preservation Report* conducted this month has found that many state legislatures from Maine to California are considering bond issues or other initiatives to protect farmland and open space, some for the first time. Some bills under consideration, such as a statewide purchase of development rights (PDR) proposal in Montana, are grassroots initiatives finding strength in the growing public discontent over the effects of sprawl.

In Maine, where a land protection program depleted its bond funds and continues only on modest appropriations, more than a dozen bills in the legislature now call for substantial replenishment. Pennsylvania legislators will consider no fewer than three bond initiatives that seek to bolster their nationally recognized farmland preservation program with amounts ranging from \$44 million to \$150 million. The Utah legislature is considering enabling legislation to allow counties to use a sales tax to fund PDR.

park and open space bond proposals, which offer "modest amounts to the Ag Land Stewardship Program," said Erik Vink of the American Farmland Trust. The bond proposals range from \$800,000 to \$1.5 billion, and "everybody believes money will increase dramatically for the program," Vink said.

The 1965 Williamson Act, a statewide property tax incentive for short-term farmland protection agreements, was enhanced last year by SB 1182, which established "farmland security zones" in which farmers could convert 10-year Williamson Act contracts to 20-year "rolling contracts" within the zones, generally areas closer to urbanization. In exchange, among the package of incentives is a 35 percent reduction in the assessed value of contract land.

But local governments have balked at offering the contracts, citing potential revenue losses. So this year, a farm bureau-sponsored bill authored

#### California

In California, bills in both houses call for redirecting Williamson Act cancellation fees to the Agricultural Land Stewardship Program, the state's farmland easement program, funded at just \$3 million last year. The fees generate between \$2.5 and \$3.2 million annually, with \$1 million dedicated to the Soil and Water Conservation Fund. Also under consideration are a variety of

*please turn to page 2*

Volume 9, Number 5

March 1999

#### inside this issue ...

Nationwide legislative survey table .....	p. 3
TDRs ruled to exist on preserved farm .....	p. 4
Legislative briefs .....	p. 6,7

## Farmland loss spurs state legislatures to consider programs

*continued from page 1*

by Sen. Jim Costa of Fresno offers state reimbursements, called subventions, for revenues lost to the tax breaks if farmers opt out of the program, continuing the subventions until the end of the 19-year waiting period following contract cancellation. Such payments are not made during the waiting period for 10-year contracts.

"This should give counties the added incentive they say is needed for the conversion of 10-year [Williamson Act] contracts to 20-year Farm Security Zone contracts," said John Gamper, director of taxation and land use for the California Farm Bureau Federation.

Following passage of the Farm Security Zone (FSZ) legislation last year, Kings County was the only locality able to act quickly enough to attain the new requirements for the following tax year, converting 228,000 acres, representing 98 landowners, from 10-year Williamson Act contracts to 20-year FSZ contracts.

### New Jersey

This was the state with the biggest news in last fall's elections, with voters pretty much clamoring to borrow money to save open space and farmland – over \$1 billion worth (see FPR, Nov.-Dec. 1998). Now, the details have to be worked out, with enabling legislation being drafted that will allocate \$98 million "with bonding on top of that," said a staffer in the Senate majority office. The first ten years of borrowing will go to land and easement acquisition and the following 20 years for debt service.

### Maryland

While no funding initiatives are afoot in Maryland, several bills introduced would affect the farmland preservation program. One of those, HB 457, would allow counties to prioritize applications based on locally established criteria approved by the Maryland Agricultural Land Preservation Foundation, a voluntary supplanting of

the program's competitive bidding in round-one, according to Joseph Tassone, a member of the foundation board.

Under the option, counties would be required to consider the foundation's standards, local planning and zoning and patterns of development, and the state's smart growth law. An identical bill was considered last year but time constraints prevented passage.

HB 669 would allow a contract purchaser of land to apply to create a district and to sell development rights to the state program with permission of the landowner.

Several county program administrators said they are against the bill because local advisory boards could be pressured to prioritize a contract purchaser's application based on its apparent urgency, creating an unfair advantage against backlogged applicants. According to Baltimore County program administrator Wally Lippincott, that's a valid concern when paired with the possibility that local boards will have the authority to prioritize.

HB 704 would prohibit certain recreational uses on agricultural district lands, such as paint ball or dirt bike racing.

HB 865 requires counties and municipalities to establish transfer of development rights programs. No one queried expects the bill to pass. A hearing is scheduled for March 16.

SB 572 would allow the foundation to establish a pilot program for sand and gravel mining on preserved farms. A study would identify sand and gravel areas under easement and assess whether agricultural activity on specific properties would be impacted by mining. The foundation's policy has been to allow extraction only on properties with pre-existing sold or leased rights.

The absence of funding initiatives in Maryland seems to indicate satisfaction – or a heavy workload – with the state's Rural Legacy program, first implemented last year, that boosted both farmland and open space efforts by \$138.6 million from

*please continue to next page*

*Survey of legislatures, from page 2*

1998 to 2002. Easement acquisition costs in the state range from below \$1000 in some Eastern Shore counties, to about \$3500 in Montgomery and Baltimore Counties and \$4500 in Calvert County.

### Ohio

In Ohio, Gov. Bob Taft's plans for a \$200 million fund for open space and farmland have been delayed by a court ruling Feb. 27 that the state's efforts to address its school funding equity problems had not been sufficient.

"The governor's \$200 million bond initiative will probably be postponed until after November," said Denise King of The Nature Conservancy's Ohio office. "The [court's] decision said go back and revise the way you fund education."

King, who said she recently spoke with the governor, said she is "convinced he is committed" to going forward with his plans to create the Ohio Environment Preservation Fund over two biennial budgets. A Taft press release prior to his election said the fund would preserve or improve "green-spaces, watersheds, river basins, historic sites, state parks and farmland." According to King, the fund would include only "a small amount for farmland preservation."

Joel Hastings of the Ohio Farm Bureau also expressed doubts that a strong farmland preservation program would result from the governor's initiative.

"Our concern is that, with all those [programs] together, its not a lot of money. Every park district in the state will be looking to get some of those funds— every group out there," Hastings said.

Protecting natural beauty is the emphasis behind the governor's plan. A former program called NatureWorks, has been exhausted and Ohio ranks 47th among states in the amount of public land set aside per capita. The fund would be created through state bond issues and will require local land use planning and a 33 percent local match from a public, private or non-profit

### FARMLAND AND OPEN SPACE PROPOSALS

#### Legislation and funding type

- CA Directing an existing fee to be dedicated to the state farmland preservation program. Bond bills varying from \$800,000 to \$1.5 billion. A 35% reduction in assessed value for 20-year restrictive agreements.
- NJ \$1.4 billion in bonds approved by voters.
- OH \$200 million bond proposal
- IN Create Land Resources Council with \$249,000 for staff from general funds.
- DE Grassroots campaign targeting \$30 million from state surplus funds.
- ME Multiple bond proposals. Tax break for gifts of land and real estate transfer tax proposed.
- MA Enabling legislation to allow localities to create preservation funds through a.) real estate transfer tax; b.) property tax surcharge of up to 3%, if approved by voters.
- PA Major bond bills. Package of smart growth initiatives aimed at altering infrastructure spending.
- UT Create a PDR fund up to \$6 million from sales of state surplus lands and savings from the states energy efficiency program. Also would allow counties to create 1/8-cent sales tax dedication to fund PDR.
- MT General fund allocation at \$4 million over two years.

*Source: Farmland Preservation Report, March 1999 survey.*

entity.

The Ohio legislature is considering a series of land use bills that seek to move the state toward smart growth policy and practices. One bill will modify the state's Current Agriculture Use Valuation (CAUV) program, limiting participation to

*continued on next page*

## Many legislatures consider land protection programs

*continued from page 3*

farms over 20 acres (it had recently been changed from 30 to 10 acres). In addition, the bill would change required payback of taxes from three to six years, with years 4-6 going to farmland preservation funds either at the local or state level, depending on whether a certified program is operating locally.

Other bills address tax breaks for urban revitalization, the state's infamous five-acre lot law, agency attention to farmland preservation and incentives for statewide planning.

### Indiana

In the Indiana legislature, two bills seek to create land preservation councils. SB 662 would create the Land Resources Council with funding at \$249,000. A similar bill, HB 1952, has passed the House. Another bill, HB 1113, would require the state to pay 125 percent of appraised value of farmland in imminent domain cases. It, too, has passed the House.

### Delaware

In Delaware, the farmland preservation program is busy with its current round of applications, but there's no shortage of awareness that money will soon be running out, according to Lorraine Fleming, associate director for advocacy at the Delaware Nature Society, and a member of a coalition of 328 organizations promoting farmland and open space preservation. The Open Space, Parks and Farmland Preservation Coalition is pushing for a \$15 million fund for farmland and \$15 million for open space, with equal expenditures in each of the state's three counties. State revenue surpluses are the targeted funds, Fleming said.

The Delaware program purchased its first easements in 1996, with funds that arose from a

*please continue to next page*

**etcetera ...**

### Court rules TDRs exist on preserved farm

*Rockville, Md.* – A Montgomery County, Md. judge has ruled that a 1,125-acre farm that donated two easements to the Maryland Environmental Trust (MET) in 1978 and 1980 retained development rights that may be transferred in the county's transfer of development rights (TDR) program.

The decision "upheld the plaintiff's assertion that the deed was silent on TDR," said John Zawitkowski of the Montgomery County Office of Economic Development. While the easement language precludes development of the property, "there was no language saying development rights did not exist, so they are allowed to transfer."

According to MET director John Bernstein, the decision will not be appealed.

While the decision "doesn't help to bolster an already flat TDR market," Zawitkowski said the decision will not affect many acres in the county and the negative effects on the program will be minimal.

"Somebody found a loophole in the law. I don't think overall it will be negative, as long as the county acts aggressively to help a sagging market."

Zawitkowski said the property will have about 300 TDRs, many more than they will be able to sell readily.

Despite a flat market, TDRs are being sold in Montgomery County, but receiving areas have become scarce, and, it's definitely a buyer's market – as long as buyers can hold on to their purchases. While some receiving areas will open up under plans by municipalities to extend sewer capacity, no one can predict when those plans will be implemented. It is likely "many, many years away," Zawitkowski said.

TDRs in the county are selling at about \$7500 to \$8000 and transfer at one dwelling unit per right. They originally sold at about \$5000 in the early 1980s.

court decision that awarded the state \$220 million in abandoned securities and money known as escheat funds. From those funds, \$40 million was allocated to the farmland preservation program, which had operated since 1991 without funds for easement purchase. With 234 applications on hand, the program has about \$12 million to spend on its current round, according to program assistant Stewart McKenzie. The program has preserved 36,597 acres.

### Maine

According to Mark Desmeules of the Land for Maine's Future (LFMF) program, 18 land preservation bond bills are proposed, with the largest proposal at \$110 million for LFMF. In addition, the governor will soon announce his own bond package for the program, which combines open space and farmland preservation.

"This is definitely the year the legislature has finally focused on land conservation," Desmeules said. And, Gov. Angus King "has indicated and spoken regularly in support of our program."

"A whole host of other bills" affecting land protection include a real estate transfer tax proposal and tax breaks for gifts of land.

The LFMF program is currently considering the largest slate of properties since the program's beginning in 1990, even though "everyone knew we only had \$3 million," Desmeules said. "We had 53 properties—close to \$14 million in requests." Natural lands are emphasized, with only three of 14 projects being working farms in the program's most recent round of awards.

### Massachusetts

Companion bills in the House and Senate call for allowing localities to create preservation funds either through a real estate transfer tax or a property tax surcharge or a combination. Funds would be required to allocate 30 percent, divided equally, for land preservation, historic preservation and affordable housing, leaving 70 percent of revenues for any or all of the purposes. The bill is listed as a

legislative priority.

A real estate transfer tax, however, is not likely to pass under Gov. Paul Cellucci's no-new-tax policy, and real estate agents — including the Speaker of the House — are opposed.

But the property tax surcharge could keep the bill alive, said Marsha Westropp of the Massachusetts Audubon Society. Under the current legislation, called the Community Preservation Act, a surcharge of up to three percent of the property tax would have to be approved by voters.

### Pennsylvania

In addition to signing an executive order in January calling for efficient land use, Gov. Tom Ridge's "Pennsylvania Growing Greener" initiative blends smart growth and environmental restoration goals. Based on recommendations from the 21st Century Environment Commission, Ridge is proposing "to change the way over \$1.3 billion will be spent in the next five years."

The plan will redirect \$425 million to a special Environmental Stewardship Fund, send \$44 million to counties, and change criteria for spending over \$900 million in water and sewer system financing. Watershed protection is a chief focus, with \$95 million proposed, as is infrastructure spending that supports efficient land use planning, and brownfields and abandoned mine reclamation.

Grants to municipalities and conservation organizations for parks and greenways and "farmland and open space preservation projects" would be funded with \$50 million, with another \$44 million in "local land stewardship" that can include farmland projects.

But the governor's plan is not without its critics. Randy Gray of The Nature Conservancy said the governor's proposal leaves some environmental needs unmet, and feels that voters would be willing to support a stronger initiative.

"It's not that what he's proposing is bad or not needed, but there are other things that need to be done... there's a pretty good environment in Pennsylvania to raise money for conservation."

## State legislatures consider land bills

*continued from page 5*

Gray is a member of the Heritage 21 Alliance, a coalition of conservation, historic, recreation and community organizations that supports the governor's initiative, but has identified needs beyond those included in Growing Greener. The group is proposing a \$1.4 billion "Growing Greener Plus" initiative that includes farmland preservation.

Steve Crawford, executive director for Rep. Jeffrey Coy and staff to the House Agriculture Committee, said the governor's proposal doesn't commit funds specifically to the farmland preservation program.

"The governor's proposal doesn't do much for farmland preservation at all. You'd be hard pressed to find anything of substance that would help farmland preservation," Crawford said.

Two bond proposals submitted to the legislature, Rep. Rich Grucela's \$100 million proposal and Rep. John Barley's \$150 million bond proposal are "pretty much where we would like to focus our energies," Crawford said. "We have a backlog of 1,500 farms ... it's bad policy to make them sit and wait."

The bond proposals "are in their infancy. All we need is the right amount of support and we could have them ready to go by the end of June for the November ballot." Crawford said a coalition of urban and suburban organizations should back the bond proposals. "The environmental, business, and ag communities should get behind this," he said.

Chad Weaver, chief of staff for Sen. Noah Wenger, said a bond referendum would be "a good start" in assuring continuation of farmland preservation but that more is needed than the program's current annual funding of about \$20 million, which he said the bond proposals would merely maintain.

"We want to make sure the program is adequately funded - \$20 million is not a level that will allow us to be the leading farmland preservation state in the nation."

Weaver agreed that the governor's proposal doesn't get specific enough in regards to the farmland preservation program.

Weaver said funding should be directed at paring down the backlog of applications in counties with high development pressure, such as Lancaster, Bucks and Chester Counties in southeastern Pennsylvania.

"If we could complement that with the governor's initiative, that would be fantastic," Weaver said.

Tom Stouffer of the Lancaster Farmland Trust, operating in a

### legislative and program briefs ...

**In North Carolina ...** New Orange County planning director Craig Benedict reports that a new department has been formed to better serve land conservation needs. The Environmental Resource and Conservation Department (ERCD), headed by Dave Stancil, will be "working on a more aggressive conservation program to identify sites that should be preserved," Benedict said. Stancil, who was serving as a land use and environmental planner, said the idea was to get "all our resource efforts under one umbrella and acquire land through both fee and easement." Benedict replaced Marvin Collins, who died last year.

**In California ...** John Amodio is the new administrator for the Agricultural Land Stewardship Program in the Department of Conservation. Ken Trott has moved on to the Office of Government and Environmental Affairs.

**In Pennsylvania ...** Lancaster County recently passed the 30,000-acre mark in farmland permanently preserved.

**In Maryland ...** Presentations to the Rural Legacy Advisory Committee have been moved up to May, and grant decisions and announcements will not be made until September, three months later than last year.

**In Ohio ...** Karl Gebhardt will leave his post at the Department of Agriculture to help head up Teater-Gebhardt, a public affairs consulting firm, effective March 12. The firm will work on natural resource and agricultural lobbying and program development, Gebhardt said. Gebhardt was formerly with the Ohio Farm Bureau.

**In Michigan ...** The farmland preservation program was approved for \$5 million in appropriations, and \$5 million more is expected in a supplemental bill, said Rich Harlow, program administrator. The program garnered 311 applicants in 1998

*please continue to next page*

with only \$3 million in funds. Just 37 applicants were selected, with 1,800 acres now preserved. An additional 700 acres have been donated to the program.

**In Vermont ...** The governor's budget could include about \$2.5 million for the farmland preservation program, from state appropriation and from the remaining Farms for the Future funds.

**In New York ...** The governor's proposed budget includes \$4.5 million for the Environmental Protection Fund, one half million less than last year. The fund is a source of money for the farmland preservation program, which awarded \$7.7 million to municipalities last December for PDR.

**In Minnesota ...** Several bills would bolster local land use planning. One bill calls for more funding for pilot projects under the community-based planning act, created in 1997. Washington County, under enabling legislation passed last year, is drafting a purchase of development rights program, the first in the state. Other counties are also exploring PDR and TDR, according to Lee Ronning of 1000 Friends of Minnesota.

**In Rhode Island ...** Just \$1 million is expected for farmland preservation from the \$15 million bond that was passed in November, according to program director Ken Ayers. The program's previous \$2 million bond allocation from 1996 is almost spent, preserving six farms, comprising just over 300 acres, at \$6000 to \$7000 per acre.

**In Connecticut ...** The state budget includes a Farm Viability Enhancement Program, with funding at \$1 million, to help farmers improve their income potential. Modeled on a Massachusetts program, farmers can apply for up to \$40,000 grants to build new structures or other improvements. In exchange, they sign a 10-year deed restriction. The farmland preservation program has requested \$5 million. Last year it received \$3.5 million.

### *Survey of legislatures, from preceding page*

county with a 10-year waiting list, said he believes a line item in the annual budget should be pursued.

A bond issue is "a one-shot thing ... even \$100 or \$150 million will not take care of the program," Stouffer said. "We really have to hope for some kind of a line item. I think there would be a lot of support for it. Once it's there it's funded every year."

## Utah

The legislature closed up shop in early March, having passed HB 119, the Quality Growth Act of 1999. The act creates a commission that will establish an incentive-based system to guide growth into Quality Growth Areas where state funds will be channeled - much like the Maryland Smart Growth Areas law, said Michael Crane of the Governor's Office of Planning and Budget.

"We have a policy and philosophical commitment not to subsidize sprawl. The commission will create the criteria," said Crane, who will serve as staff to the commission.

The act also sets up a fund, of up to \$6 million, to buy conservation easements. Sources of funds include sales of state surplus lands and savings from the state's energy efficiency program. A separate bill for local options enables counties to enact a one-eighth cent sales tax for local purchase of development rights.

"If every county does that, the state would raise \$36 million," Crane said.

Some localities are already setting up funds. Park City just approved a \$10 million bond to buy land and development rights, according to Crane, and other towns are exploring options.

## Montana

The Montana Senate recently passed by 39 - 9, a bill sponsored by Don Hargrove of Bozeman that would use general funds for a state-wide farmland preservation program administered by an Agricultural Heritage Commission. "Conserving rural landscapes" by preserving family farms is the impetus. The House hasn't heard the bill.

A separate appropriations bill calls for \$2 million in each of two biennial budget years to fund the program.

"It was supported by a whole array of groups with diverse interests," said Jeanne-Marie Souvigney, associate program director for the Greater Yellowstone Coalition. Souvigney gave an emphatic "yes" when asked if she thought the bill will succeed.

Montana has a conservation easement program for wildlife habitat. The current legislation arose from "a groundswell of concern about the loss of small family farms to development, and reflects a strong interest in conserving those values," she said.

## professional resources ...

### JOB ANNOUNCEMENTS

#### Land Protection Specialist Sudbury Valley (MA) Trustees

Seeking a person to work directly with private landowners to protect land through conservation easements, bequests, and gifts of land. Responsible for managing multi-party transactions, contractors and budgets. Reports to Executive Director. Requirements: exceptional interpersonal and analytical skills. Preferred educational background: graduate degree in business administration, public administration, or land-use planning, and/or 3-5 years experience in land conservation transactions, or real estate development. Full-time position. Respond with cover letter, resume and salary history to: Search Committee, SVT, PO Box 7, Wayland, MA 01778. SVT is an equal opportunity employer. No phone calls, please. (Posted 2/26/99)

#### Land Manager

##### Katy Prairie Conservancy (TX)

Responsible for helping plan, manage and implement land protection and acquisition activities, including acquisition in fee simple, coordinating wetland mitigation and habitat enhancement projects, providing conservation assistance to private landowners, and negotiating agricultural and hunting leases and conservation easements. Works with diverse stakeholders and regulatory agencies. Requirements: bachelor's or graduate degree (preferred) in related field, demonstrated experience in wildlife and land management; working knowledge of agricultural operations, excellent communications and interpersonal skills; team player. Salary/benefits commensurate with experience. Send letter, resume and reference to: Mary Anne Piacentini, Executive Director, Katy Prairie Conservancy, 3015 Richmond Ave., Suite 230, Houston, TX 77098. (Posted 2/26/99)

#### California Field Director Pacific Forest Trust (CA)

Seeking individual with a strong background in conservation real estate transactions, preferably with natural resource management experience. Qualifications include excellent organizational, negotiation and communication skills; strong computer skills; and a generalist capable of addressing multiple tasks flexibly. Prefer advanced degree in land use planning/conservation, real estate, forestry or other natural resources management, tax or real estate law or equivalent. Minimum: five years experience in non-profit conservation real estate transactions, preferably in acquisition and management of conservation easements. PFT is a non-profit organization dedicated to the preservation of private, productive forestland and demonstration of the synergies between ecological and economic forest productivity. Send resume and salary requirements to The Pacific Forest Trust, PO Box 879, Boonville, CA 95415. (Posted 2/18/99)

For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org)

### CONFERENCES, WORKSHOPS

**May 2 - 5, Detroit, MI:** National Town Meeting for a Sustainable America. Visit website at [www.sustainableamerica.org](http://www.sustainableamerica.org) to register and receive materials or call 1-888-333-6878.

**June 6 - 9, Philadelphia, PA:** Keep America Growing, sponsored by 14 conservation, planning and governmental organizations including the American Farmland Trust and National Association of Counties. See website at [www.farmland.org/KAG.html](http://www.farmland.org/KAG.html) or call AFT for brochure at (202) 331-7300.

**June 10, Middletown, CT:** One-day conference at Wesleyan University "devoted to preserving and protecting Connecticut's farms and farmland." For brochure, call (860) 296-9325 or email [hfoods@erols.com](mailto:hfoods@erols.com).

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## PDR Conference

### Veterans and newcomers meet in Ohio to exchange ideas

PERRYSVILLE, OH – About 100 farmland preservation administrators and newcomers to the field attended a conference at an Ohio state park resort in late March to exchange information and ideas on farmland preservation policy and practice. Veteran program administrators from Pennsylvania, Delaware, New Jersey, Massachusetts, Connecticut and other northeastern states came to provide information to newcomers in the field and to exchange insights with fellow veterans.

The conference was sponsored by the American Farmland Trust, which has a field office in Ohio where it has been promoting adoption of a purchase of agricultural conservation easement (PACE) program, the organization's term for the purchase of development rights (PDR). The Ohio Department of Agriculture was a co-sponsor.

Forty-six attendees hailed from Ohio, Indiana, Wisconsin, Kentucky or Michigan. Twelve people came from western states.

Top administrators from the state farmland preservation programs of Pennsylvania, New Jersey, Delaware, Connecticut, Massachusetts, and Vermont participated.

Over two days, attendees chose from 17 concurrent sessions on technical and policy issues including program design, combining protection strategies, installment purchase, raising funds, ranking systems, writing easement documents, monitoring easements, and drafting legislation.

The annual conference of farmland preserva-

tion administrators was held last year in Boilings Springs, Pa., near Carlisle, and had been held for several years in Sparrow Bush, NY, considered to be a central location for the northeast programs operating between Maryland and Maine. The conference was moved to Ohio this year to benefit several midwestern states where farmland protection efforts have been underway, some of them struggling, over the last three to five years.

"I don't think you could call Ohio a historical leader in the area of farmland retention," said Dr. Larry Libby of the Ohio State University, C. William Swank Chair, who presented the welcoming address.

"But we are on the leading edge – we are doing things in this state that others will follow," Libby said, citing recent state authorization to acquire and hold conservation easements, establishment of the state Office of Farmland Preserva-

*please turn to page 4*

Volume 9, Number 6

April 1999

### inside this issue ...

California bills look at smart growth .....	p. 4
Wisconsin pays farmers income tax credits .....	p. 4
Sustainable development conference .....	p. 5
Legislative briefs .....	p. 6,7

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## Speaker calls on Ohio governor to step up, give direction

*continued from page 1*

tion, a matching grants program for developing local farmland preservation programs and current land use legislation that will build a foundation for farmland protection.

In addition, Ohio Governor George Voinovich has proposed \$200 million for land preservation, some of which would go to farmland preservation, but the initiative has been delayed because of the state's need to address school funding equity (see March issue).

Libby said Ohio is under severe development pressure that spreads statewide throughout 13 metropolitan statistical areas (MSAs). "Every farm in the state is in the shadow of an MSA."

Libby said Ohio needs to empower its localities to use exclusive agricultural zoning, and said he feels there is a growing movement toward stronger planning.

"People are discovering the importance of the process. I see direction and momentum in Ohio and feel very strongly that a state-level initiative is important ... it's time for the new governor to step forward and give direction."

### **Farmland preservation and the big picture**

A session on combining farmland protection strategies was led by Tom Daniels, professor of planning at the State University of New York at Albany, Al Sokolow of the University of California at Davis, and June Mengel of the Lancaster County (Pa.) Agricultural Preserve Board.

Daniels, Mengel's predecessor in Lancaster, outlined the goals of PDR programs and the different types of agricultural zoning. Daniels asserted that protecting farmland in large contiguous blocks was desirable, and creating belts of protected land around incorporated areas was a strategy that could create an effective urban growth boundary or secure a legally established UGB.

Daniels compared different types of agricultural zoning, and said area-based allocation of building rights, for example, one building right per 25 acres (1-25), offers better protection of

farmland than "large-lot" zoning, where a parcel is split into equal-sized lots which can result in the entire parcel being developed. In area-based allocation, of 1-25, four lots of two acres or less each, can be divided off a 100-acre farm, leaving the remainder for farming. Daniels also explained the use of sliding scale zoning.

Al Sokolow presented case studies showing use of easements in the context of local planning in Marin, Sonoma, and Yolo Counties in California. He described different ways of perceiving the use of easements, such as to maintain agricultural characteristics, to define or support an urban growth boundary, or to protect lands between urban areas as designated community separators.

In Marin County, two-thirds of the 25,500+ acres preserved by the Marin Agricultural Land Trust are in the county's designated Inland Rural Corridor, a region containing most of the county's dairies and ranch operations. The remaining easements are located in the county's Coastal Corridor, also designated for protection.

Sokolow said Sonoma County, next to Marin, had intended to use easements to protect areas designated as community separators, but that so far only about 25 percent of easement purchases protected land between cities in the targeted Highway 101 corridor.

Sokolow reported that the city of Davis, in Yolo County, had enacted an ordinance requiring developers to purchase easements on an amount of acreage equal to any farmland conversion resulting from their projects. The Yolo Land Trust holds easements on over 1,000 acres resulting from the 1996 mitigation law. Sokolow said, however, that the danger in such a mitigation program is that development is more easily allowed or justified.

### **Some newcomers skeptical of PDR**

In a session for beginners, titled Program Design 101, veteran Howard County, Md. program administrator Donna Mennitto, now with

*please continue to next page*

***PDR conference, from previous page***

AFT's mid-Atlantic office, fielded questions from about 30 farmland preservation novices concerning the details of setting up local PDR programs. Questions focused on nuts and bolts issues such as dealing with lenders, title work and mapping, and expanded into big-picture topics.

Holly King of the Great Valley Center in Modesto, Ca., was not optimistic about a local PDR program there because of cynicism toward government programs.

"There is just no interest in a government oriented PDR program," she said.

Mennitto stated that land trusts can play a role in easing the discomfort the public may feel about government entities holding easements. In a later session, Greg Romano of New Jersey and Ethan Parke of Vermont reported easement applicants who would not accept offers that involved federal money.

One newcomer expressed skepticism about the result of PDR and the public's perception.

"How do you justify public money for private industry?" he asked. A discussion ensued regarding the economic development role of PDR and how other long established economic development programs have subsidized many types of private industry.

**Veterans spar over strategy on federal funds**

At an experts roundtable designed for program veterans and attended by 36 people, Chuck Beretz of the AFT explained how the organization worked to amend the federal Farmland Protection Program (FPP) to include land trusts and new programs as eligible applicants so that "more political pressure would surface from more states."

Veteran administrators from states with established programs, however, have berated the result of this strategy: less money for states where demand is highest.

In response to Delaware program director Michael McGrath who pointed this out, Mary

Heinrich of the AFT, a former activist who helped establish the Virginia Beach program, defended the organization's strategy.

"I saw this as a strategy to build a movement in a state without a program. I understand that that means other states won't get a pot of money, but the Farmland Protection Program has to save farmland everywhere."

Funds from the FPP have been spread nationwide even to states without farmland preservation programs because qualifying entities, some of which had no prior experience with farmland easements, proposed such projects when federal funds were authorized. These entities included a water management district in Florida, a land trust in North Carolina and localities in various states where defunct programs were renewed or new programs created as a result of federal funding availability, exactly the result the AFT had been seeking.

**Debate over subsequent sales and land values**

Administrators also debated whether programs should exercise control over subsequent sales of preserved farms as a means of keeping farms affordable.

Rich Hubbard of the Massachusetts Agricultural Preservation Restriction (APR) Program described his state's problem with preserved farms being purchased by "estate buyers" who pay more for large parcels and desire larger estate dwellings, resulting in inflated property values.

The APR program influences the resale of easement farms by including in the deed of restriction an option to purchase the property at agricultural value. Several workshop participants felt following farms through subsequent sale is an extreme function for a preservation program, but Hubbard said land values in the state make the provision necessary.

In Massachusetts land values are higher than in some other farmland preservation states, and the APR program was designed to work beyond actual easement sale by assuring affordability of land to farmers. Hubbard said the state program can't step aside after easement purchase and let

## Program veterans debate policies on land affordability

*continued from page 1*

the market determine what happens to preserved farms.

Hubbard said his program has always intended to not only keep land available for farming, but also to keep it affordable.

Michael McGrath, director of the Delaware program, said watching the real estate market and keeping estate buyers away from preserved farms is not a function of his program.

"We're more concerned with the land - I don't care who owns it."

Preston Bristow of the Vermont Land Trust lent support to McGrath's perspective in a later session he led where the debate was briefly rekindled.

"I'm not as down on estates as some are. The land is what's important," Bristow said.

Cindy Gilman, with the Burlington County, NJ farmland preservation program, said she once shared McGrath's view, but that she had seen "collapsing PDR values" because purchases of preserved farms where inflated prices were paid were creating a rise in agricultural value in areas the county targets for PDR. When agricultural value increases, easement value drops.

In an interview, Gilman said when preserved farms are purchased at high per-acre prices, it affects appraisals on area farms that are based on comparable sales.

"The sales of record become the comparables that my appraisers are using. We've jumped \$500 an acre within the past year because of three farm sales where high per-acre prices were paid." Gilman said New Jersey should study the Massachusetts approach. "We should see if that's a direction we want to move in."

But newcomers attending the experts roundtable session were concerned about too much involvement in the land market. A partici-

*please continue to next page*

## etcetera ...

### California legislature looks at smart growth bills

*Sacramento, Ca.* - Legislation that would allow counties to coordinate interagency and regional plans and provide incentives to do so has been introduced as AB 1575. The bill was developed following an agricultural task force report released last July and will soon be heard in the Assembly Local Government Committee.

Because of its complexity and innovative policy, "this could be a two-year bill," said Erik Vink of the American Farmland Trust, who served as staff to the Agricultural Task Force for Resource Conservation and Economic Growth in the Central Valley, which convened in 1997.

The bill would "authorize planning agencies to adopt a coordinated plan" and would put participating counties "ahead of the line for incentives," such as increased state reimbursements for tax credits, and priority status for agency grants and loans, Vink said.

The bill is supported by the California Farm Bureau Federation and a coalition of agricultural organizations and businesses that served on the task force.

Another bill, SB 680, would create an income tax credit for conservation lands. Thirty-five percent of the credit allowance would be allocated to farm properties. The bill has strong support from corporate land holders. An income tax credit for conservation is also being considered in Massachusetts. *Erik Vink, (530) 753-1073.*

### Wisconsin pays farmers \$19.9 million in farmland preservation credits

*Madison, Wi.* - Wisconsin paid \$19.9 million in Farmland Preservation Credits to 22,000 farmers in 1998, according to state revenue secretary Cate Zeuske.

The credits are paid through the state income tax or as a cash refund if the credit exceeds tax due.

The Farmland Preservation Credit Program was begun in 1977 to provide tax relief to farmland owners and to encourage local governments to develop farmland preservation policies. Of the state's 72 counties, 70 have certified agricultural preservation plans.

Among eligibility requirements are a minimum of 35 acres, gross farm profits of at least \$6000, and location in an exclusive agricultural zone, or, coverage by an agreement that acts as a term easement of from 10 to 25 years.

About 6.8 million acres and 30,000 farmers are subject to exclusive agricultural zoning, which must meet the state's minimum standards, such as prohibiting residences except for family or fulltime workers. About 38 percent of farm owners with 35 or more acres claimed farmland preservation credits. The largest credit payments were in Dane, Dodge, Fond du Lac, and Iowa counties. *For more information on the program, call Keith Foye at (608) 224-4603.*

### **Sustainable communities focus of Baltimore conference**

*Baltimore, Md.* – About 250 people attended a Baltimore conference on sustainable development in late March, sponsored by the Center for Chesapeake Communities.

Michael Kinsley of the Rocky Mountain Institute presented a plenary address on "moving from economic development to sustainable development." Kinsley said that citizens fighting wasteful development no longer can be categorized.

"They're not tree-huggers, they're not liberals, they're just everybody."

Kinsley said there is a "fundamental shift in how our economy is operating." He outlined RMI's Economic Renewal program, which he said has been successfully implemented in dozens of communities.

The environment plays an important part in a community's fiscal health. For example, Kinsley said, "look at how a forest works. Nothing is wasted." *Forests offer services, such as stormwater management, he said. Kinsley at RMI: (970) 927-3851. Ask for "RMI's Economic Renewal Program: An Introduction."*

### **Conference, from preceding page**

pant from Ohio said programs need to focus on preserving the agricultural base, and that "tinkering" with subsequent sales "could affect the ability to sustain [programs]."

"As long as you have that land available, you have an agricultural economy," the participant said. "Trying to manage the social environment around the farmland program would be the most politically unpopular thing we could do."

### **Issues in easement policy**

In a session on writing easements, Judy Anderson of Columbia Land Conservancy in New York, and Jerry Cosgrove of the AFT provided pointers for effective and appropriate provisions in a conservation easement aimed at protecting a working farm. The session was attended by both newcomers and experienced administrators.

Topics ranged from nuts and bolts to policy decisions. One discussion focused on what type of activity should be allowed on preserved farms, such as type of operation, and, what types of restrictions should be put in place to address storage or placement of structures such as cell towers.

"You have to think beyond the present zoning. Think about what's needed now, but down the road you may need some flexibility built in," Anderson said.

Cosgrove said that ag easements differ from land trust type easements by being more aware of the needs of farm operations. Sometimes those needs may conflict with the goals of environmental groups or those looking for scenic protection.

"Some purported ag easements prohibit trailers," Cosgrove said, "but trailers are affordable housing for farmers. Avoid future problems like 'the original landowner wanted to protect the scenic view.'"

Anderson added, "You need to understand your constituency - what their tolerances and beliefs are," in determining how much protection to seek.

Anderson said that allowing cell towers on

*please continue to next page*

## Movement has to "grow its own help"

*continued from page 5*

preserved farms "could be a public relations nightmare ... guess what happens to our funding stream?"

One newcomer from Ohio said it was difficult to find professional assistance with starting a new program. "We need legal help," she said.

The session leaders, however, weren't setting up shop in Ohio after the conference, and said Ohio's farmland preservation movement would have to provide opportunity for the legal community to take up the specialty.

"You have to grow your own help," Cosgrove said.

### PDR status and challenges reviewed

Bob Wagner, assistant vice president for field programs for the American Farmland Trust, delivered a plenary address outlining the status of farmland preservation programs.

Wagner said the purchase of development rights, or agricultural conservation easements, had become "the workhorses of farmland preservation." In 1989 the number of preserved acres was about 128,700, Wagner said, but since then a 340 percent increase has occurred, with preserved farmland acres now reaching, according to the AFT, 567,150 acres nationwide. Wagner's figure includes totals from 14 state programs.

Wagner reviewed the spread of PACE programs from a predominantly northeast and mid-Atlantic activity to the midwest and California.

"At the same time that we have all witnessed the lateral movement, geographically, of PACE programs inward, we have also seen vertical movement as far as the jurisdictions involved," Wagner said, outlining the growth of locally operated and funded programs.

Wagner said that local programs at the county and township level are either encouraged by state governments or "in response to apathy at the state level and in some instances outright opposition from state leaders."

While promoting their use, Wagner said PACE programs can't substitute for planning and zoning.

"PACE programs can't work in a vacuum... it may be easy for a community or a legislature to assume that they have taken care of agriculture or they have dealt with their growth management issues by establishing a PACE program. But as we all know, just as the loss of farmland is only the tip of the iceberg of many community problems, PACE is only the tip of the solution."

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## legislative and program briefs ...

**In Florida ...** In March, Sarasota County voters approved by 65 percent a one-quarter mill increase in property tax to protect environmentally sensitive lands. At the same time, they approved, by a 68 percent majority, \$53 million in bonds to bolster immediate protections.

**In Maryland ...** HB 865, to require localities to establish TDR programs, was referred to study. HB 704, to prohibit certain recreational uses on ag district properties, was withdrawn. HB 457, authorizing local ag advisory boards to prioritize applications, passed. HB 669, allowing contract purchasers to create a district and to apply to sell development rights to the state program, passed. SB 572, authorizing the state program to establish a pilot program for sand and gravel mining on preserved farms, passed.

**In New Jersey ...** The Senate majority office has not yet introduced its allocation bill for the farmland and open space program, slated to spend up to \$1 billion over the next 10 years. The Assembly, however, has introduced a bill allocating \$81 million for the program's first year. The Senate bill is expected the first week of May.

**In Maine ...** A real estate transfer tax bill was tabled to wait out results of a plethora of bond bills targeting land preservation. The bill would shift 45 percent of the state's transfer tax to Land for Maine's Future (LFMF) program, at an estimated \$5 million per year for 10 years. One pending bill seeks to put restrictions on how the LFMF program operates, and will be opposed by the administration. The bill seeks to eliminate, for example, the program's ability to work with nonprofit entities. Another bill seeks to establish a state system of "eco-reserves." A bond

issue for land preservation is a stated legislative priority.

**In Indiana ...** SB 662, to create the Land Resources Council, has passed both chambers, but proposed funding at \$249,000 was stripped. Negotiations are underway to have funding replaced in the budget. A similar bill, HB 1952, failed. HB 1113, which would have required to state to pay 125 percent of appraised value in eminent domain cases involving farms, failed. April 29 is the session's closing date.

**In Pennsylvania ...** No action yet on bond bills in the House Agriculture Committee, calling for authorizing \$100 million and \$150 million in bonds for the farmland preservation program.

**In Massachusetts ...** No action on companion bills allowing localities to create preservation funds. The biennial session goes through November.

**In Ohio...** Ohio extension specialists, local officials and others gathered for a special Ohio focus meeting during the AFT conference at Mohican State Park Resort in Perrysville. "We did an update on SB 233 and on the Krebs-Logan planning bills and what has transpired," said Joel Hastings of the Ohio Farm Bureau. Hastings said the first part of the Krebs-Logan package of bills, a bill referred to as 'The Planning Bill,' has been introduced. The bill calls for requiring comprehensive plans and agricultural zoning. Hastings reported that 59 counties have been approved to receive \$10,000 each in farmland preservation planning grants, a program begun last year. The grants must be matched 1-1.

**In California...** Bills that will redirect Williamson Act cancellation fees to the Agricultural Land Stewardship program have passed through several committees and are in good shape as budget time nears. See "etcetera" column for more California legislative news.

**In Minnesota ...** 1000 Friends is working to develop TDR in Chisago and Washington counties as part of a funded conservation program.

*Conference, from preceding page*

Wagner challenged administrators to work for farmland preservation "beyond more funding" for easement programs.

### Book Review

## "Under the Blade" provides bigger picture of farmland loss

**Under the Blade: The Conversion of Agricultural Landscapes**  
Richard H. Olson and Thomas A. Lyson, eds.  
Westview Press, 1998. 459 pp., \$25.00 paper

Reviewed by Tom Daniels

In preserving farmland, government agencies and land trusts can easily become caught up in focusing on one farm at a time. The impacts of nearby development, local land regulations, proximity to other farms, and the economics of farming take second place.

Under the Blade presents a "bigger picture" look at the loss of farmland and the need to protect it. The book is divided into two parts. Seven chapters cover the loss of farmland, farming as a landscape, land use law, the economics of farmland conversion, the sociology of farming, ethics and aesthetic issues in farmland protection, and the need for a national farmland preservation policy.

There are also 22 case studies of farmland protection and conversion pressures.

The book provides useful background for understanding the forces that cause farmland conversion and for making the case for farmland protection in a community or region. The book is not a "how-to" manual. Vermont and Oregon are the only successful farmland protection programs evaluated. There is not a clear statement of how to blend a number of protection techniques into an integrated farmland protection program.

The book makes cogent arguments for a greater federal and state role in farmland protection. One major obstacle that deserves more attention is the laws in 25 states that require governments to pay compensation if a regulation reduces property value beyond a certain percentage.

With the strong nation-wide voter approval for land conservation measures last November, the awareness of the need to protect landscapes is growing, and this book can help.

*Tom Daniels is author of "When City and Country Collide," published recently by Island Press. He is professor of planning at SUNY-Albany.*

## professional resources ...

### JOB ANNOUNCEMENTS

#### The Trust for Public Land (NJ) Senior Project Manager

National conservation organization seeks individual to conduct all phases of land acquisition projects and related activities in New Jersey. Minimum 5-8 years real estate or related experience with proven background of independently closing RE transactions and an ability to train others. Bachelor's degree required. Salary commensurate with experience. Send resume to The Trust for Public Land, 666 Broadway, New York, NY 10012 or fax 212-353-2052. (Posted 4/2/99)

#### Geneva Lakes Conservancy (WI) Executive Director

Fifteen-year-old organization serves resort area of Geneva Lake watershed and surrounding rural communities. Board is committed to meeting the challenges of intensified development pressures from nearby metro Milwaukee and Chicago. Seeks experienced leader with strong general management skills and proven track record with a land trust or similar organization. Key qualifications: practical understanding of local political process and role of government in influencing conservation policy; ability to work effectively with government entities and diverse constituencies; knowledgeable about land trust issues and the tools and techniques available for addressing them; strong credentials in marketing, public relations and fundraising; planner and practical implementor. Professional, personal references required. Contact David Weinberg, Chairman, Search Committee, 203 North LaSalle St., Suite 2100, Chicago, IL 60601, 312-558-1633, fax, 312-558-1370, e-mail, [dweinberg@interaccess.com](mailto:dweinberg@interaccess.com). (Posted 4/5/99)

#### Black Swamp Conservancy (Ohio) Executive Director

Self-motivated, creative, highly organized professional for a permanent, full-time position with an established land trust serving Northwest Ohio. Requirements include: fundraising/membership, volunteer development, stewardship and office management, grant writing, desktop publishing. One-person office with strong board support and intern position to be developed. Experience in a land trust organization preferred. Strong professional references required. Send resume and salary requirements to: Carin Starr, president, 537 E. Front St., Perrysburg, Ohio 43551, Fax: 419-872-2592, e-mail: [nirac735@aol.com](mailto:nirac735@aol.com). (Posted 3/22/99)

*For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org). Positions involving farmland preservation may be vacant or not yet advertised. Subscribers may call the editor at (410) 692-2708 for information in confidence.*

### CONFERENCES, WORKSHOPS

**June 6 - 9, Philadelphia, PA:** Keep America Growing. See website at [www.farmland.org/KAG.html](http://www.farmland.org/KAG.html) or call AFT for brochure at (202) 331-7300.

**June 7 - 18, Burlington, VT:** University of Vermont Summer Land Conservation Program.

A series of short courses, workshops, and field experiences for students, professionals, and others in the land conservation community. Sponsored by the University of Vermont Natural Areas Center and the Conservation Study Institute, National Park Service. Offerings include Land Conservation Aims and Methods, Real Estate Law in Land Conservation, Farmland Preservation. For more information and to register for any of the above offerings, contact the Summer Land Conservation Program at (802) 656-4055 or email to [rparadis@zoo.uvm.edu](mailto:rparadis@zoo.uvm.edu).

**June 10, Middletown, CT:** One-day conference at Wesleyan University "devoted to preserving and protecting Connecticut's farms and farmland." For brochure, call (860) 296-9325 or email [hfoods@erols.com](mailto:hfoods@erols.com).

**October 14 - 17, Snowmass, CO:** National Land Trust Rally '99. This is the nation's incomparable land conservation conference, attracting over 1,000 people. Registration begins in June. Cost is \$250 for LTA members and \$350 for others. See LTA's website at [www.lta.org](http://www.lta.org) or call (202) 638-4725 for rally notices.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Calvert County downzones, reduces density by 50 percent

PRINCE FREDERICK, MD – Seeking to avoid the high cost of road and school construction, Calvert County Commissioners in April approved a downzoning of 50 percent, affecting all zoning districts countywide. The change will reduce build-out density from an estimated 54,000 buildable dwelling units to 37,000.

It is the first large-scale, countywide downzoning to occur in Maryland since 1980 when Montgomery County downzoned and established its transfer of development rights program. The Calvert County zoning amendment, however, contains a buy-back option.

The effective change in zoning allowance is from one unit per five acres (1-5) to one unit per

10 acres (1-10). On a 100-acre parcel, for example, building rights have been reduced from 20 to 10.

Located about a half-hour east of Washington, D.C., the county has reached 25,000 units and a

### *Density/Land values in Maryland, page 3*

population of 72,500. At its current growth rate it will take about 15 years to reach 37,000 units.

Calvert, too, has a transfer of development rights program, which will play a major role in the buy-back clause.

"We did a number of things to reduce the angst of the zoning change," said deputy planning director Greg Bowen. "You can buy back development rights to go back to your prior allowance."

*please turn to page 2*

## Pennsylvania nearly triples farmland preservation funding

HARRISBURG, PA – Farmland preservation funding was nearly tripled in Pennsylvania May 5 when the legislature approved a line item for \$43 million as a special allocation to help clear a long-standing backlog of applications in many counties. The money is in addition to the program's funding for 1999 of \$28 million, making a total of \$71 million, according to Ray Pickering, director of the Bureau of Farmland Protection.

The new funding will be allocated according to the program's redistribution formula for remainder funds, under which a county's levels of realty tax and funding match, as well as quality of soils are determining factors. Under the formula,

counties with high productivity, such as Lancaster County, receive a higher level of funding.

"The re-distribution formula will tend to direct

*please turn to page 7*

Volume 9, Number 7

May 1999

### inside this issue ...

Indiana making gains in preservation arena .....	p. 4
North Carolina coalition looks for \$1 million .....	p. 4
Localities still trying out TDR, some hot, some not .....	p. 5
Legislative briefs .....	p. 6,7

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## Calvert County downzones, boosts for farmland expected

*continued from page 1*

The average cost of TDRs in 1998 was \$2,416. Five TDRs are required for construction of one unit.

### No zoning/land value correlation

Bowen, who manages the county's farmland preservation program, helped augment the change by conducting a study of land values and zoning density based on appraisals of properties slated for easement purchase in 18 Maryland counties. Bowen said counties with more restrictive zoning showed higher, not lower, market value for land. Baltimore and Anne Arundel Counties, with 1-50 and 1-20 zoning respectively, showed the highest land values, at \$6000 and \$5000 per acre. Bowen admitted this has to do with location nearest urban centers, but the exercise showed more than that.

A graph showed Cecil County, with zoning at 1-5, having an average market value of \$4,567, and adjacent Harford County, with zoning at 1-10, having an average market value of \$4,029, indicating the change Calvert was seeking could have debatable impact. Other values, as compared to corresponding zoning densities, provided less than consistent results.

For example, Worcester County, in the state's extreme southeastern coastal region, showed a \$1,399 per-acre value with 1-20 zoning, while Charles County, part of which is next door to Calvert, showed a per-acre value of \$2,049 with 1-3 zoning, hardly a case for the more restrictive zoning. However, the numbers demonstrated that the traditional assumptions about the relationship between land values and zoning allowances is at the very least highly debatable if not invalid.

"The point was, there isn't a perfect correlation. There are a lot of variables," Bowen said.

Bowen took his cue from a study conducted by the Valleys Planning Council in Baltimore County in 1996, that compared zoning density and fee simple sales data in answer to farmers' assertions that a downzoning from 1-5 to 1-50 would cause a loss in equity. The study found that with parcels

of 60 or more acres, the difference in per-acre averages between the 1-5 zoning and the 1-50 zoning was negligible – a difference of less than \$100 – with the higher of the figures going with the 1-50 density.

While some Calvert farmers were skeptical that more restrictive zoning could have a positive effect there, the study nevertheless helped county commissioners, who were elected on a controlled-growth platform, enact the zoning change. The vote was 3 - 2.

### Comprehensive plan, smart growth were impetus

"The comprehensive plan said we had to reduce build-out," Bowen said. "We would have hit gridlock before build-out, and it would have required by-passes and six-lane roads."

Under Maryland's new Smart Growth law, Bowen said, state funds would not be available to make those improvements. School construction costs were also a major consideration.

"So the question was, how much would we have to reduce the density to avoid this? We know Rt. 4 can't handle 54,000 dwelling units. Nor does Calvert have the ability to build a six-lane highway. So we needed to do something to address infrastructure issues. If we can cut the theoretical build-out, so the state and county don't have to spend so much, we think we're doing something."

"Calvert County should not be a mecca for growth. We're not where 'smart growth' would have growth go," Bowen said.

### Public favored stronger option

At a public hearing in March, two options – were presented for amending the county zoning ordinance. The first called for reducing density by 25 percent, postponing the need to widen highways and preserving 40,000 acres. The second option, which a majority of citizens said they favored, was to reduce density by 50 percent, eliminate the need for a fifth high school, eliminate the need for a Prince Frederick bypass and five overpasses at three towns, and preserve

**Comparison of zoning density & land values in Maryland counties**

County	Zoning	# easements* 95 - 98	Avg. per-acre value
Anne Arundel	1-20	4	\$4,925
Baltimore	1-50	18	6,049
Caroline	4 lots + 1-20	16	1,770
Carroll	1-20	49	3,264
Cecil	1-5	20	4,567
Charles	1-3	3	2,049
Dorchester	1-11	10	1,862
Frederick	3-25; + 1-50	15	2,799
Garrett	no zoning	5	1,587
Harford	1-10	20	4,029
Kent	1-30	12	1,640
Queen Anne's	1-20	21	2,375
St. Mary's	1-3	7	2,491
Somerset	1-1	5	1,288
Talbot	1-20	13	2,432
Washington	1-1	8	2,826
Wicomico	2-1	8	1,890

\* Easements sold in state program only. Source: Calvert County Department of Planning & Zoning. Data from MALPF annual reports, 95 - 98. Values based on appraisals conducted prior to easement sale.

48,000 acres of farmland and open space. This option, presenters said, would cost \$88 million for farmland preservation and incentives, and would achieve a 50 percent reduction in density.

**Increased funding for PDR**

The county's planning commission recommended the 25 percent density reduction option and urged the commissioners to increase funding for the purchase of development rights, said Mike Phipps, a member of the planning commission and the Calvert Farmland Trust.

"One of the reasons we were hesitant is that we weren't sure the commissioners would increase funding," Phipps said. The planning com-

mission didn't want to see a potential decrease in land value without a corresponding boost in opportunity to sell conservation easements.

County commissioners will likely consider a new funding source for the farmland preservation program in the near future. Up for discussion are a real estate transfer tax and an increase in the recordation fee.

A real estate transfer tax will require state enabling legislation. A \$1.70 increase in the recordation fee, from \$3.30 to \$5, which doesn't require authorization, would bring an estimated \$1.5 million annually. Putting some of the funds into a bigger local match for the state program and investing in bond sales would be the way to use the money to best advantage, according to Bowen.

"If we leveraged that money right, it would mean about \$60 to \$70 million over 25 years," Bowen said.

**Land trusts part of strategy**

In addition to asking for dedicated funds for farmland preservation, the planning commission has asked the county commissioners to create a \$7.5 million revolving fund for local land trusts, which have been successful in buying down development density on critical properties. This, Bowen said, could become a key element in the county's preservation strategy, because the downzoning with its buy-back option, has substantially increased the cost of development, making paid preservation a competitive option.

Calvert Farmland Trust has been active in protecting land from development, even after a property has been subdivided and placed on the market. In one case, the group purchased a property after it was platted, decreased the number of lots from 30 to three, sold each, placed an easement on the remaining open space, and then sold it, breaking even at project completion. A county-funded revolving loan fund would allow more of this type of work to occur.

**Calvert first in nation with TDR**

Calvert County introduced the concept of transferring development rights for farmland

## Calvert County downzones, seeks boost for TDR

*continued from page 3*

preservation in 1977, after attaining enabling legislation from the Maryland General Assembly. While the technique had been used in New York for historic preservation purposes, Calvert was the first to use TDR to protect farmland.

State enabling legislation was required, and it took several years before landowners initiated its actual use. The first transfer occurred between two parcels owned by the same individual. Not long after Calvert's initiative, Montgomery County, Md., adopted its TDR program, going one step further by making TDR mandatory, with designated sending and receiving zones. In 1995, Calvert also established sending and receiving areas for its TDR program, and established a purchase of development rights program, which it calls its purchase and retire (PAR) program.

Calvert's first TDR sales data were recorded in 1981, when 5 TDRs were sold at an average price of \$1,200 per right. Ten years later, in 1991, 287 rights were sold, at an average of \$1,994. The average price currently is about \$2,400, with the requirement of five TDRs per unit making the total cost of one dwelling unit about \$12,000.

### How TDR will work under new zoning

In 1995 Calvert designated 55,000 acres as "farm community" including the county's best farmland. This is a sending area, from which TDRs can be transferred out. Transfers are not mandatory, but if parcels within this area are developed, lots must be clustered onto 20 percent of the site. Under the new zoning, landowners in this district can buy back their former density.

Another zone, comprising 17,000 acres and called "rural community" serves as receiving areas. Mandatory clustering on up to 50 percent of the site "helps to ensure that new developments will fit into the existing residential areas without ruining the rural character," according to Bowen.

*please continue to page 5*

## etcetera ...

### Preservation movement gains in Indiana

*Indianapolis, Ind.* – An executive order requiring state agencies to steer away from planning new facilities on greenfield sites, a commitment to Forest Legacy, and a statewide conference on smart growth are some of the undercurrents at work in Indiana that could help stimulate interest in a farmland preservation program, according to Joyce Martin, assistant to Gov. Frank O'Bannon.

Less than five months after the Hoosier Farmland Preservation Task Force presented its recommendations to the governor, he has signed an executive order that "all agencies are to build in downtown areas, not in green fields," Martin said.

At a recent conference convened by the state's two agencies that deal with land resources, farmland preservation was the topic in four sessions. Land use and farmland loss are capturing increased attention, Martin said. "I think it will have more prominence."

### Preservation start-up in North Carolina

*Raleigh, N.C.* – "We have the fewest number of acres protected of the 10 most populous states," said Chuck Rowe of the Conservation Trust for North Carolina, citing a need for concerted action for farmland preservation. Rowe's group has formed a coalition of seven land trusts that will try to get the state legislature to fund conservation easements at a greater level than last year – in 1998 the legislature authorized \$250,000 for the state's Farmland Preservation Trust Fund, its first allocation since created in 1986. The group had requested \$1 million.

This year the group is again asking for \$1 million (SB 754) and has a track record to help them get legislators' attention. With the \$250,000 from last year the Conservation Trust for North Carolina "disbursed the money and produced a report. We used that \$250,000 to leverage over \$1.5 million of local and private dollars, so we think it will be impressive," Rowe said.

One thing that keeps Rowe going is North Carolina's state income tax credit for conservation purposes. Since created in 1983, it was progressively increased to its current 25 percent of the value of the gift or easement.

Another receiving area is the town of Prince Frederick, where density was also cut in half.

In each of these areas, property owners can buy back development rights to use on their own properties. Landowners in the farm community and rural community zones can sell development rights for transfer into either the rural community zone or to Prince Frederick.

"This tips the balance strongly toward preservation in the farming areas," Bowen said. But will the result the county hopes for, actually pan out?

Bowen thinks that although the downzoning is artificial in the sense that property owners can buy back development rights, the true effect is that the cost of development has been increased enough to make many potential development projects take a second look at preservation options. Bowen expects a more active TDR market, and a concerted effort by elected officials to put forward substantial new funding for the PAR program. Bowen also hopes for a larger revolving fund for the county's land trusts. These mechanisms, already well in place, make up a strategy Bowen believes will work to preserve farmland and open space.

Joe Tassone, deputy chief for planning assistance and neighborhood development with the Maryland Office of Planning, expressed concern that all zoning categories could buy back development rights to use, even on parcels in farm zones, but felt the county had done a thorough study.

"They're thinking the competition for transferable rights for those areas will be great enough. That hole may not be that bad," Tassone said.

Bowen said Calvert County "has so few areas that are town centers with community water and sewer - you really can't put that much more density into them. Plus, we didn't want to make our town centers so much larger. Our farm communities ... are just so much bigger than our receiving areas. It just wouldn't work."

Both citizens and development interests opposed expanding town centers, Bowen said. *Contact: Greg Bowen, (410)535-2348; Joe Tassone, (410)767-4562. Several publications are available from MOP describing zoning in Maryland.*

### Transfer of development rights

## Some new TDR programs are hot ~ some are not

GRAND JUNCTION, CO -The Mesa County Board of County Commissioners this summer will consider a program for the voluntary transfer of density credits (TDC) to protect agricultural and sensitive lands.

One of a number of similar programs attempted over the past year nationwide, and usually referred to as the transfer of development rights, or TDR, program mechanics are almost always fraught with substantial difficulty, both technical and political.

In a draft amendment to Mesa County's land development code, transferrable density credits could be purchased from designated rural planning areas at the ratio of one dwelling unit per credit if from non-prime or unique soils, or, at the ratio of two dwelling units per credit from prime or unique soils. TDCs could be used to increase the allowed density by up to 20 percent.

While the proposal results from two years of work, its adoption is uncertain and its successful use is problematic at best, according to Keith Fife, director of long-range planning.

"The big issue with agricultural lands is the zoning," Fife said. With building rights allocations based on land feature constraints but averaging five-acre lot sizes, agriculture is unprotected.

Local leaders have said they will not consider downzoning, and the county "is so overzoned," it will make it unlikely that a TDC market will develop under current zoning, Fife said.

While a point system for determining TDC allocation through lot size requirements was considered, discussions were ended amid public opposition concerning equity.

"Now we're back to something that's still fairly objective. Our planning commission is struggling with it," Fife said.

Don Elliott of Clarion Associates, a consulting firm with experience in devising transfer of devel-

## Localities try to jump-start TDR plans

*continued from page 5*

opment rights enabling law, said the Mesa County situation "is a very complicated project" that involves the varied terrain of a valley, three mountains and the Colorado River, "with farmland close to the cities." That makes the zoning and development rights issue especially difficult, he said.

"The county has two distinct ag types - ranches that are just scraping by, and cherry orchards doing well. So the agriculture debate is hard - do you protect the orchard ground with bonuses to those areas?" Elliott said. Ranchers, he said, have no confidence in using soil classifications to develop a point system for allocating credits.

Elliott has been working on other density transfer programs, in Deschutes County, Ore., and Blaine County, Idaho.

In Deschutes County, the issue isn't farmland, but antiquated lots. "It's extremely complicated, involving 13,000 badly plotted lots that are polluting the water and involves mitigation," Elliott said.

In Blaine County, the object is to protect the scenic beauty of the Sun Valley ski resort area where development value is very high, "like Aspen - TDR values would be \$100,000," per TDR, Elliott said. The plan involved "substantial thought about supply and demand. We did a feasibility study and got enabling legislation." The ideal set-up would be for the county's three cities to participate, he said. The county has not yet drafted the ordinance.

Transfer of development rights programs have always been difficult to establish and complicated to administer. And, even when downzoning does occur, market activity is not a sure thing.

In Thurston County, Wash., for example, a downzoning from one unit per five acres (1-5) to one unit per 20 acres (1-20) prior to TDR enactment in 1996 has not helped to spur market activity. No transfers have yet occurred despite user-friendly documentation and promotion.

Some TDR programs, notably in Maryland, have had greater success. Montgomery and Calvert Counties in Maryland, along with the New Jersey Pinelands have accumulated the nation's only historical records of TDR activity, with sales data going back to the early 1980s. In Calvert County, in 1998, 520 sales occurred, at an average price of \$2,416 per TDR. In Montgomery County, the current average TDR price is \$7,500.

In Burlington County, New Jersey, persistent interest has resulted in TDR programs in two townships, with one, Lumberton, seeing some activity. Since enacted last year, two sales, one of three credits and one of 40 credits, have been completed. Prices per TDR were \$16,000 and \$19,000 each, respectively. Chesterfield Township

### legislative and program briefs ...

**In Pennsylvania ...** Chester County commissioners approved spending \$75 million over the next six years for farmland and open space as well as for urban revitalization. At \$12 million per year, it is the largest sum of local funding in the state, and in the nation, rivaling Sonoma County, Calif. ... The new state budget for the first time contains a line item for farmland preservation in the amount of \$43 million, a special allocation in addition to regular funding of \$28 million for 1999 for a total of \$71 million. The funding boost targets backlogs in counties that have put up significant matching funds. (See story, this issue.)

**In Indiana...** Effective May 3, Mark Thornburg ended his 18-year career at Purdue University Extension to become staff attorney for the Indiana Farm Bureau's Agricultural Development and Natural Resources Division. Thornburg said the farm bureau has become more involved in land use and was interested in his experience with farmland protection issues.

**In Ohio ...** The Wayne County Farmland Preservation Task Force has recommended creation of a farmland preservation office and a purchase of development rights program funded by a .25 percent increase in the county sales tax. The Wayne farm bureau pledged \$5000 annually and the Ohio Council of Churches pledged \$6000 annually to fund the farmland office, according to Maryanna Biggio, a task force member.

**In Maryland...** The Maryland Agricultural Lands Preservation Foundation continues to discuss changes in policies regarding lot exclusions and agricultural subdivision. Proposals include changing from one lot allowance per 20 acres for children's use, to one per 50 acres to be used or sold without restriction regarding relationship to

seller. Harford County will be seeking an agricultural economic development specialist in the coming months, according to the Dept. of Human Resources. The position will be paired with the farmland preservation program.

**In North Carolina ...** A number of bills would boost farmland preservation efforts: HB 1132 would provide matching funds to counties to hire ag economic development directors; SB 754 would add \$1 million to the Farmland Preservation Trust Fund, last funded at \$250,000; SB 1059 would create a TDR study commission, and a local bill would allow a TDR pilot; SB 910 would fund the Commission on Small Family Farm Preservation at \$25,000. Statewide TDR enabling legislation was discussed, according to Ben Hitchings of the Triangle J Council of Governments, "but there were too many gray areas" so a study commission was pursued instead. The legislative session goes to July and reconvenes in January to consider bills requiring funds.

**In Kentucky...** Tobacco settlement funds are the focus for programs looking for money, and farmland preservation is no exception. The state program was unfunded until 1996 when the state PACE board needed matching funds to apply for the federal Farmland Protection Program. About \$600,000 has been spent on easements to date. Meanwhile, in Lexington-Fayette County a strong push for a local PDR program continues, looking at a proposal to preserve 40,000 to 50,000 acres at a cost of \$100 million.

**In California ...** AB 1575, which would have allowed interjurisdictional planning and benefits for participating counties, took a lethal blow from development interests. "It never really received a full airing." SB 680, to create an income tax credit for conservation lands is still moving. Bills that will put more money into farmland preservation are still moving.

*continued from page 6*

adopted a TDR program last December, with no activity yet.

Despite its difficulty to enact, many local government officials continue to be intrigued by TDR and each year some attempt to foster a TDR market. Few attempts however, result in a workable program.

#### CLEARING THE BACKLOG

## Pennsylvania gives big boost to farmland preservation funds

*continued from page 1*

resources to the top ag counties – those facing the most development pressure – they happen to have the biggest backlog. We looked at the top 15 counties for matching level for 1998, and they represented 73 percent of the state's backlog," Pickering said.

"This is pretty exciting. They've addressed it in a way that is something I really agree with, because it will do the most for the backlog."

Pickering said \$1 million of the funding will be set aside for program innovations: half of those funds for implementing a long-term installment purchase program, and half for technical assistance for land trusts.

In Lancaster County, 200 backlogged applications, some dating to 1993, represent 17,000 acres.

June Mengel, director of the Lancaster County Agricultural Preserve Board, expects \$6.4 to \$6.5 million from the new state allocation monies, in addition to the current \$2.66 million allocation and the county's match of \$1.5 million, totaling \$11.2 million for Lancaster for this year. Last year's total was \$4.27 million.

"The focus of this funding is to get through this backlog," Mengel said. "We're hoping we can double the rate of preservation." That means about 50 farms and 5,400 to 6,000 acres to preserve in the coming year.

"The most encouraging part of it is that it's a line item. The main thrust of the effort was to secure a steady stream of funding." Mengel said. "But the challenge is not over yet. We need to assure the funding level will be maintained or increased."

In addition to the farmland preservation funds, the legislature approved \$8.7 million for the governor's Growing Greener initiative, which will, through separate and pending legislation, redirect over \$1.3 billion to special funds and change criteria for spending over \$900 million in water and sewer system financing. *Contact: Ray Pickering, (717) 783-3167.*

## professional resources ...

### JOB ANNOUNCEMENTS

#### Agricultural Easement Program Manager The Watershed Agricultural Council, Inc. (NY)

Trend setting nonprofit seeks dynamic, well rounded, agriculturally sensitive individual to administer and manage all aspects of a \$20 million purchase of agricultural conservation easement program funded by the NYC Dept of Environmental Protection and located in the Catskill Mountain region of New York State. Minimum requirements: Bachelor's degree; 3-5 years experience in land conservation; working knowledge of farmland protection issues; excellent written and oral communication skills; computer literate. Management and administrative experience (including contracts and grants), demonstrated fund raising skills and knowledge of farming systems a plus. Salary negotiable (40's) with excellent benefits and professional enhancement package. Resume must be received by June 15, 1999. EOE. Call Jean Parenteau at (607) 865-8542 or visit [www.nycwatershed.org](http://www.nycwatershed.org) for position description.

#### Project Manager Columbia (NY) Land Conservancy

Evaluates, negotiates conservation easements, land acquisition, gifts of land, and community conservation projects. Works with landowners, government officials, conservation organizations, etc. Min. qualifications: degree in natural resources, design/planning, law, or related fields, excellent writing/verbal skills, 3 years land trust or related experience. Resume to: Judy Anderson, P.O. Box 299, Chatham, NY 12037. No calls.

#### Executive Director The Coastal Georgia Land Trust

To be based in Savannah, Georgia. Responsibilities include negotiation, development and management of conservation easements, membership support and development, sourcing and managing grants, educational and other event organization, and office management. Bachelor's degree (or equivalent experience), one year related experience, and strong writing and presentation skills required. Submit resume to: Jo Hickson, Coastal Georgia Land Trust, 3601 Abercorn Street, Savannah, GA 31405. All resumes to be received for review no later than June 15, 1999. No calls please.

*For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org).*

### CONFERENCES, WORKSHOPS

**June 6 - 9, Philadelphia, PA:** Keep America Growing See website at [www.farmland.org/KAG.html](http://www.farmland.org/KAG.html) or call AFT for brochure at (202) 331-7300.

**June 7 - 18, Burlington, VT:** University of Vermont Summer Land Conservation Program. Call (802) 656-4055 or email to [rparadis@zoo.uvm.edu](mailto:rparadis@zoo.uvm.edu).

**June 10, Middletown, CT:** One-day conference at Wesleyan University "devoted to preserving and protecting Connecticut's farms and farmland." For brochure, call (860) 296-9325 or email [hfoods@erols.com](mailto:hfoods@erols.com).

**October 14 - 17, Snowmass, CO:** National Land Trust Rally '99. This is the nation's incomparable land conservation conference, attracting over 1,000 people. Registration begins in June. Cost is \$250 for LTA members and \$350 for others. See LTA's website at [www.lta.org](http://www.lta.org) or call (202) 638-4725 for rally notices.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Editor's Note

### Survey method pulls new counties into national ranking

With this year's annual survey of local farmland preservation programs nationwide, *Farmland Preservation Report* has instituted a new survey method that considers a locality's total farmland preservation effort, including acreage under easement by other programs or entities if a majority of these acres are agricultural.

In past years the survey considered only acres preserved by local government programs using purchase or transfer of development rights, or, in the case of Marin County, Ca., a nonprofit using public dollars.

We are changing the nature of the survey because substantial numbers of acres are preserved in some localities by other entities, through donation or purchase of easements, that significantly contribute to the overall purpose of farmland preservation – to preserve the opportunity to farm on quality soils in metropolitan regions, and to decrease population density in agricultural areas so that farming can occur with less conflict.

In some counties, conservation organizations have preserved high numbers of acres that in a few cases rival or exceed government programs. While some of these acres are preserved for purposes other than agriculture, we obtained information that at least a majority is in agricultural use or suitable for farming. Where possible, we asked organizations to include only properties in agricultural use.

For the sake of tradition and for those who would prefer a strictly local-government program ranking, we have provided those numbers and ranked them in a separate listing in the centerfold table, pages 4 - 5.

Using the new survey method, new counties have entered the ranking, and others have either moved up or down, or even out of the ranking.

Chester County, Pa., is the most dramatic example. While the county's farmland program has placed 9,940 acres under easement, the Brandywine Conservancy protects 23,380 acres in Chester alone, the majority of which, according to associate director David Shields, is land in agricultural use. The two figures together, totaling 33,320, put Chester County in the ranking for the first time, entering at 2nd place.

As another example, Baltimore County's purchase

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#### New ranking displayed in full centerfold, p. 4 - 5

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of development rights activity has netted 14,671 acres under easement. But the Maryland Environmental Trust holds easements on nearly 10,000 acres in Baltimore County – nearly all of it farmland that could qualify for farmland programs. The two figures together move Baltimore County from 10th to 8th place.

We feel that the new survey method provides a more comprehensive look at farmland preservation at the local level and offers more perspective on whether a locality will succeed in its farmland preservation goals. We hope our readers agree.

– Deborah Bowers

Volume 9, Number 8

June 1999

#### inside this issue ...

Montgomery, Chester Counties lead nation .....	p. 3
Centerfold table shows program status .....	p. 4, 5
Professional resources.....	p. 8

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## Counties move up or down in new survey, others fall out

*continued from page 1*

### Montgomery County

Montgomery County, Md., has led the nation in number of acres preserved since the beginning of farmland preservation. It achieved its status through a determined transfer of development rights program established in 1980 that thoroughly changed the way development was to occur in the county. About 90,000 acres in the county's northern tier were designated as a sending area and receiving areas were designated in the county's southern portion closest to the expanding Washington, D.C.

Since 1980, enough rights have been transferred to protect 40,583 acres, but leaving a density allowance of one unit per 25 acres as an agricultural zone.

The county's farmland easement program has protected 5,130 acres; under the Maryland Agricultural Lands Preservation Foundation (MALPF) program, an additional 2,074 acres have been preserved. The Maryland Environmental Trust has preserved 1,959 acres in Montgomery, putting the total farmland protection effort at 49,746 acres.

"We have a little more than 20,000 acres to go to get to our 70,000-acre farmland preservation goal," said Jeremy Criss, program manager.

But it might take a while to get there, depending on funding conditions, Criss said.

"We've been struggling with the ag transfer tax - the revenues are at a very small level. So we've been focusing on MALPF and Rural Legacy."

The county received \$3.7 million through Maryland's new Rural Legacy Program in 1998, the program's first year. The Rural Legacy Program, funded at \$138.6 million, protects farmland and natural resource lands.

### Chester County

Chester County, Pa., has entered the ranking for the first time, and in a big way - straight into 2nd place by way of the survey's new criteria for counting acres that takes into account the activities of the Brandywine Conservancy, one of the nation's most successful regional land trusts. Preserved acreage in the county stands at more

than 33,000 acres.

Chester's PDR program has preserved 107 farms to date, comprising 9,940 acres. While that's moderate compared to other counties in the ranking, the program won't be slacking off any-time soon.

That's because commissioners recently committed \$75 million to preservation programs to be spread over six years, and farmland preservation will make the case for winning a big chunk of those funds, according to program administrator Kevin Baer.

Commissioners have not determined how funds would be distributed, so each affected agency will submit proposals. Programs to be boosted in addition to farmland preservation are open space and parks, historic preservation and community revitalization.

Baer said that while his board has not determined how much of the \$75 million it will request, "my expectation is, more than a quarter."

The program will need \$30 million "just to clear our backlog," which includes 65 applications dating back two years, comprising about 7,000 acres. The county's per-acre average easement cost is \$3,900. Jacking up the \$30 million price tag will be new and returning applicants attracted by the influx of money.

"Last year it was rumored we had less funding, so some didn't reapply. If those farmers see how the county is supporting the program stronger than ever, it's very likely it will encourage them to reapply," Baer said.

Some of the backlog will be relieved through the state's newly allocated supplemental funds of \$43 million, which will be distributed to counties with the highest development pressure and biggest backlogs.

In 1989 the county put out \$50 million in bond funds for preservation programs with \$12 million going to farmland. Comparing the results of the all the funded programs since that time, Baer said, "we have the best track record."

"This program is standing the test of time, so I am certain I will see more people jumping aboard. Our applications could double."

Baer said the county commissioners are also

*National survey, continued from page 2*

creating a rural development council that will be charged with setting up an economic development program for agriculture. Several Maryland counties have such programs established or underway.

**Carroll County**

Despite its substantial preserved acreage total and pool of 40 applicants, Carroll County Commissioners continue to prefer to use the Maryland state program rather than to use its certified county program to hold easements. But commitment of funds has been steady and the county has used its Critical Farms Program to keep farms from slipping through the cracks while waiting for state action.

Under Critical Farms, the county pays landowners or contract purchasers 75 percent of the appraised value if the property qualifies for the state program. The landowner is then required to apply to sell an easement to the state within five years and to reimburse the county fund. The program has protected 22 farms this way since 1996. Critical Farms funding will likely be at the \$1 million level for the coming year, according to administrator Bill Powel.

This year, commissioners approved \$1 million to the county's Rural Legacy participation, and \$2.8 million to the ag program, from county surplus and general funds respectively. The county had 10 farms approved by the state last month, comprising 1,218 acres. State offers on the farms exceed asking prices, Powel said.

**Lancaster County**

Lancaster County's farmland preservation goals have benefited from a strong policy commitment and goal orientation of the Agricultural Preserve Board (APB) and from the commitment of the county's preservation community, which supports the work of the Lancaster Farmland Trust. The Trust has worked in effect as the non-profit arm of the APB, taking easement donations on farms that qualify for the PDR program.

But for a county with a backlog of about 200 applicants, funding from county commissioners has been modest, over the years in the \$1 million to \$2 million range, to supplement state funds. In

recent years, the commitment has increased, and now with increased state funds for counties like Lancaster, the backlog should be substantially diminished.

The county expects about \$6.5 million from the new state allocation monies, in addition to the current \$2.6 million and the county's match of \$1.5 million, totaling \$11.2 million for Lancaster this year. That's a \$6.9 million increase over last year.

"We're hoping we can double the rate of preservation," said June Mengel, executive director. The program will likely take in between 5,000 and 6,000 acres over the next year, she said.

**Harford County**

The Harford County installment purchase program, funded via zero coupon bonds through a local transfer tax at about \$4 million a year, has been the nation's busiest local program. Farmers prefer the county program over the state program because of the significantly higher purchase price via annual payments of interest with a balloon payment of the principal after 20 years. The backlog of applicants is currently between 50 and 60, with some applicants on the list since the program's start in 1993. The higher per-acre price for many is worth the wait, while fellow farmers with bigger and better farms continue to apply and bump others to lower rungs on the ladder.

Over the last year, however, uncertainty about funding has begun to cloud the picture. While current funding levels would allow the county to go after 20 farms this year, it was decided to go after 10 instead. The problem is a maxing out on the leveraging of funds – the local real estate transfer tax must be used to service the debt on the purchases already committed, and no new source of funds has been tagged.

**Sonoma County**

Coming in at 27,515 acres is the Sonoma County Agricultural Preservation and Open Space District, of coastal Sonoma County, Ca., an agricultural powerhouse of \$570.8 million in agricultural product value featuring wine grapes, fruits and nuts as well as milk. Adding to the District's figure is 1,979 agricultural acres preserved by the

## Nation's Top 10 Local Farmland Preservation Programs

Rank	County	Total preserved acres	Farmland Program Acres	No. of farms	Other preserved acres *
1	Montgomery(MD)	49,746	47,787	n/a	1,959
2	Chester (PA)	33,320	9,940	107	23,383
3	Carroll (MD)	30,815	30,104	241	711
4	Lancaster (PA)	30,636	24,421	268	6,215
5	Harford (MD)	30,602	27,900	n/a	2,702
6	Sonoma (CA)	29,494	27,515	n/a	1,979
7	Baltimore (MD)	24,399	14,671	131	9,728
8	Howard (MD)	20,641	17,841	n/a	2,800
9	York (PA)	18,214	15,245	61	2,969
10	Burlington (NJ)	17,277	12,981	93	4,276

### Notes:

\*Includes land under easement through other entities or programs; lands are predominantly agricultural.

\*\* In Maryland counties figures may be actual acquisition cost per acre through the state program only.

\*\*\* USDA figure shows how many acres are in agricultural use countywide.

Sources: Personal interviews to each county, May - June 1999, and, USDA 1997 Census of Agriculture.

### What the FPR survey considers

This survey looks at a locality's success in farmland preservation in terms of 1) Number of acres permanently preserved.; 2) leadership and skill; and, 3) significant commitment of funds. While the ranking itself considers only number of acres preserved, to be included in the survey all localities must meet, in the editor's judgement, the other criteria.

### Changes in this year's survey

This year's survey differs from past years in that it considers a

locality's total farmland preservation effort, including the activities of other entities and programs that serve as alternatives to a local PDR program.

For example, in Baltimore County, "other preserved acres" includes acres held by the Maryland Environmental Trust under easement. These acres are almost exclusively farmland acres that would qualify for farmland preservation programs.

This is also true of Lancaster County's other preserved acres, held under easement by the Lancaster Farmland Trust and in prior years

included as part of Lancaster's farmland program tally.

In other counties this figure includes, at the least, predominantly agricultural lands that may be interspersed with open space lands that contribute to population restriction.

Finally, another significant change is that Caroline County, Md., and Marin County, Ca., have been removed from Top 10 status due to lack of significant funding. Landowners in these counties, however, have committed more than 20,000 acres to permanent protection.

## farmland preservation report

\$ avail. for fmlnd prg (in millions)	Applications on hand	Mkt value, ag products (millions)	Avg cost per acre **	Land in farms ***	Source of funds
\$2.7	n/a	\$28.5	\$3,565	77,266	Ag trans tax; bonds; TDR
\$6-15	65	\$342.8	\$3,900	175,363	State prog; local bond issue
\$4.1	40	\$71.2	\$2,009	160,180	Local gen.fund; ag trans tax
\$11.6	200	\$766.7	\$1,809	391,836	State; local; state suppl.
\$4.2	56	\$38.8	\$2,000	94,112	Zero coupon bonds; ag t t
\$40	70	\$463.6	\$1,603	570,804	1/4 %local sales tax
\$3.8	46	\$51.1	\$3,000	75,795	Bond funds; county match
n/a	n/a	\$19.6	n/a	39,846	Zero coupon bonds
\$5	n/a	\$128.6	\$1,346	261,164	State prog; local; state suppl.
\$4	27	\$87.5	\$4,000	103,667	Dedicated property tax

**Ranking by PDR/TDR acres**

1	Montgomery (MD)	47,787
2	Carroll (MD)	30,104
3	Harford (MD)	27,900
4	Sonoma (CA)	27,515
5	Lancaster (PA)	24,421
6	Howard (MD)	17,841
7	York (PA)	15,245
8	Baltimore (MD)	14,671
9	Calvert (MD)	13,572
10	Berks (PA)	13,136

*This ranking considers only acres preserved under currently funded, local PDR or TDR programs that meet criteria under the new survey method.*

**Local programs to watch**

Frederick (MD)	12,464
Salem (NJ)	10,009
Adams (PA)	8,873
Lehigh (PA)	8,656

*Acres include approved applicants not yet settled.*

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## Baltimore County moves up in ranking with land trust acres

*continued from page 3*

Sonoma Land Trust. District acres include scenic and open space lands that have helped to buy down density in agricultural areas, but publicly-owned lands have been excluded.

Big bucks and fast accumulation of acres has been a Sonoma County hallmark since 1991, after voters approved creation of the Agricultural Preservation and Open Space District as well as a 1/4 percent sales tax to fund it. The annual revenue is about \$11 million, all of which goes to the District, an incomparable local program fund. Build-up of these funds has the District sitting on a \$40 million cash stockpile.

Sonoma entered the nation's top 10 listing in 1996 when it moved straight into fifth place from nowhere – a hot shot program that had quietly racked up enough acreage in five years to achieve what established programs in the east had taken 10 to 20 years to reach. Last year Sonoma climbed to third place in the FPR ranking, using District acreage only. The District's acreage count was helped by a few big ranches – with 8,000 acres or greater – entering the program.

But racking up preserved acres at a dizzying pace can strain an organization. Recognizing a need for an independent assessment of District operations, the Open Space Authority, which oversees the District, had management consultants working last year to determine, among other issues, whether the District's original mandate was being carried out, whether the organization and management structures were effective, and whether the acquisition process needed revamping.

In an analysis of the District's project selection and acquisition process, consultants said there was "considerable dissatisfaction" with the acquisition process "voiced by a broad cross-section of the constituency," concerning what lands were being protected, the length of time to complete projects, and how much landowners were paid.

Recommendations pointed out a need for a project tracking system and a clear set of acquisition criteria. Also, the consulting team recommended clarifying priorities, using project leaders on all projects and identifying characteristics of

successful and unsuccessful projects.

While calling some of the recommendations "pretty grandiose," District manager Steve Sharpe said his office is working on an update of the acquisition plan and changes to the process.

"For the acquisition process itself, we've taken it apart and are putting it back together." The county's legislative body, the Board of Supervisors, is the District's board of directors, and they "want early input," Sharpe said, about priorities for land acquisition.

Sharpe also said the landowner negotiation process had been too open, and had had a negative impact on sensitive projects. "Everything we've done so far is very public. Negotiations need to be done behind closed doors," he said. Efforts to retool the program also target the appraisal process.

### Baltimore County

This year's survey changes the ranking status of Baltimore County, one of the most urban-influenced counties in the listing. Because of the survey's new methodology of including agricultural and related lands under easement by any entity, Baltimore County's considerable acreage in this category moves it from 10th to 7th place. The Maryland Environmental Trust (MET) holds easements negotiated by the county's well-established and experienced land trusts, with holdings now at 9,728 acres comprised of 151 properties throughout the county. Most of these properties, according to Wally Lippincott of the Department of Environmental Protection and Resource Management, are agricultural properties that would have qualified for farmland protection programs.

Baltimore County has progressive planning and zoning with substantial environmental protections but development pressure takes a heavy toll. A mix of zoning throughout semi-rural regions can put major subdivisions in prime farmland preservation areas. The success of the county's renown 1-50 density has been undermined by pockets of 1-5 zoning that threaten the integrity of traditional agriculture.

The problem, however, has not gone completely unaddressed. In 1996 the County Council

*please continue to next page*

downzoned a 9,000-acre area to specifically correct the mixed-bag effect, but the action only affected the one area.

Baltimore County has authorized \$2.5 million for its four Rural Legacy Program applications in addition to its commitment to farmland preservation over the current two-year budget cycle – \$3 million in bond funds and \$800,000 from general appropriations. Lippincott, who assisted all of the Rural Legacy applications, also applied for ISTEAF funds for a farm adjacent to I-83.

Lippincott has on file 38 applicants to the state program and eight applicants for the county's locally funded program.

One problem Baltimore County has had in the past is farmers asking per-acre easement prices that were too high to win offers from the state program. That has changed.

The Maryland program is based on competitive bidding. If farmers want an offer, they must be willing to compete with their fellow applicants, and ask for less than the appraised easement value.

"We've always had the dilemma of the ratio," Lippincott said, that is, farmers not willing to accept less than 80 percent of appraised easement value. "This year, farmers stepped up to bat and accepted .65 and .54. That's a 46 percent discount," he said. That has helped bring in some of the county's better farms.

Baltimore County's number of applicants has also improved – from about 25 five years ago to the current 46 total. Since last June, 22 state program districts have been formed.

"All across the board, there's just a lot going on," Lippincott said.

### Howard County

Wedged between Baltimore and Washington, D.C., Howard County's land values put it out of reach of the Maryland farmland preservation program as early as 1988.

"We have zero acreage under a purchase program under negotiation," said program administrator Bill Pickens. But, the county pays out about \$4 million each year on its 30-year installment payments to farmers, covered by zero coupon bonds that are serviced by a one percent local real estate transfer tax.

Following preservation of 7,578 acres with state and county funds between 1980 and 1988, Howard

County inaugurated the nation's first installment purchase program and proceeded to purchase development rights on an additional 9,282 acres through 1996. Then the program reached \$55 million in debt – the highest obligation it could safely incur in zero coupon bonds to cover installment payments. That won't change until the year 2018. The average per-acre cost was \$5,800, the highest in Maryland.

Since 1996, the county has operated a "density exchange option" program, a transfer of development rights that preserves acreage through a dedication process after developers use their unit allowances.

Where developers are paying between \$6000 and \$10,000 per right, PDR can't compete, Pickens said. The average easement value is \$7,700 per acre, "three times the cap of what the state is allowed to pay. We've been told that since 1988."

"Our developers will outbid the state for PDR. They need development rights. We're facing build-out countywide."

### York County

York County's preservation efforts put it into the Top 10 for the first time in 1997, with 11,139 acres at that time. Its total acreage this year was helped considerably by the 2,969 acres protected by the Farm and Natural Lands Trust of York County, and in the new ranking the county moves from 10th to 9th place.

The Trust has done two joint easements with the county PDR program, helping to raise the point scores of farms by excluding woodland acres, which also lowers the capital gains tax.

### Burlington County

Burlington County, N.J., was listed last year as an up-and-coming program with lots of potential to rocket into the Top 10 due to significant new funding – \$4 million annually in revenue from a dedicated portion of the property tax approved by voters two years ago. Added to that is the local program's use of installment purchase which allows for substantial leveraging of funds. Burlington becomes the first New Jersey county to enter the Top 10 ranking.

While working with the state program and its

*continued from page 7*

newly committed \$500 million, Burlington also benefits from the Pinelands Transfer of Development Credit (TDC) program, which has preserved 4,276 acres in the county. Most of those acres are in active agricultural use, according to John Ross, executive director of the Pinelands Development Credit Bank. Throughout the Pinelands region, the TDC program has preserved close to 20,000 acres, he said.

Burlington has a habit of being out ahead of other New Jersey counties when it comes to planning and zoning matters, beginning 10 years ago with the legislature's approval of the Burlington County Transfer of Development Rights Demonstration Act. Three townships analyzed their potential for a TDR program, but after a decade only one has successfully established a program.

But even with adequate levels of funding, Burlington County has its challenges in attracting good farms when appraised values come out too low.

Under state law, governments cannot pay more than appraised value for easements, and lack of comparable sales in areas Burlington would like to target for preservation means development pressure will have to increase before easement values are acceptable to farmers.

"We're trying to preserve land that is not under imminent threat. But we don't see a lot of comparable sales - you have to wait until the developer is on the doorstep before you can make an offer the farmer is willing to accept," said Susan Craft, director of the county's land use office. "We want to pay more."

The only way to pay more, she said, is for programs to do away with appraisals and adopt point scoring systems, or formulas. A formula would assign points for "public good" factors such as water resource protection or scenic values. Localities using formulas include Montgomery and Harford Counties in Maryland.

Cindy Gilman, Craft's colleague, said a formula would allow them to pay more for an easement now - such as 25 percent above the typical appraised value - rather than waiting until development pressure pushes landowner expectations far higher.

Craft said the low appraised value problem is responsible for rejected offers from half of 20 applicants in the last round.

The county is paying between \$3000 and \$4000 per acre for easements currently. Craft said \$5500 per acre would attract many of the farms that rejected offers this year.

With all the money soon to come from the state from the recently passed referendum, the problem will no longer be getting enough money, Craft said. The problem "will be finding willing sellers."

## resources ...

### CONFERENCES, WORKSHOPS

June 16 - 18, Richmond, VA: *Virginia's Sustainable Future ~ Solutions for the Environment, Business, and Communities*. See web site at [www.deq.state.va.us](http://www.deq.state.va.us). To register call (804) 360-1500 or email [malloymsm@aol.com](mailto:malloymsm@aol.com).

June 23, Columbia, MD: Smart Growth: The Next Steps, sponsored by the Homebuilders Assn. of Maryland and featuring Dick Moe, Joel Garreau, Ben Wattenberg and others. Fee \$95. Adjourns at 3 p.m. Call (410)265-7400.

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# farmland preservation report

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that save farmland and open space

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## Homebuilders conference

### Smart growth means less government, panelists say

COLUMBIA, MD – The way to achieve smart growth is for cities to attract development and build a “new economy,” not to add more regulations, according to Joel Kotkin of Pepperdine University. Kotkin was lead speaker at a conference on smart growth sponsored by Maryland homebuilders in June.

More regulations under the guise of smart growth will result in crowding and high priced housing, Kotkin said, using Portland, Ore., as an example. Since Portland put its urban growth boundaries and other growth measures in place, “the price of land has gone up 300 percent and the

price of housing has gone up 40 to 50 percent,” he said. “I think they’re going to get very crowded and very, very expensive.”

Kotkin said Washington, D.C. has benefitted from an emerging new economy that can save cities. The D.C. area has become fifth in the nation in high-tech job concentration, he said.

“The way to combat growth is not to regulate ourselves back to the past but to move ahead into the future.”

Kotkin’s sentiments were echoed by other featured speakers at the one-day conference held suitably in Columbia, a “new town” built by the

*please turn to page 2*

### Michigan Farm Bureau nonprofit to pursue farmland issue

LANSING, MI – The Michigan Farm Bureau has established a nonprofit entity whose goals include preserving large contiguous blocks of farmland, increasing ag profitability and encouraging sustainable development and smart growth principles.

The Michigan Farmland and Community Alliance will be affiliated with, and is housed within, the Michigan Farm Bureau. The group, whose board of directors is half filled, has recently applied for 501(c)3 status, according to executive director Jim Furstenau. The organization has been in the planning stages since last November.

The group will focus on building a network of

“land use partnerships,” providing technical assistance and building a constituency to support better growth management.

*please turn to page 3*

Volume 9, Number 9 July – Aug. 1999

#### inside this issue ...

Homebuilders have own spin on smart growth .....	p. 2
Illinois airport fight enters new phase .....	p. 5
Maine voters to decide on \$50 million bond .....	p. 5
Programs respond to latest FPR ranking .....	p. 5
Legislative briefs .....	p. 6,7

## Commentator warns of federal involvement in land use

*continued from page 1*

James Rouse Company in the 1960s.

Following an overview of Vice President Al Gore's Livable Communities program by Gore aide Jonathan Weiss, national print and broadcast commentator Ben Wattenberg wailed against federal involvement in land use.

"It's no longer big government, it's 'I'm the government and I want to be your partner,'" Wattenberg said. "If there really will be local control [under new federal programs] why do we need the federal government?"

Wattenberg remarked that the 200 local referenda mentioned as part of the impetus for the Livable Communities proposal did not necessarily call for federal action.

"It seems to me in spite of the denials, this is a big step toward federal zoning of local communities. Not only federal, but idiotic zoning as well. Zoning should be kept closest to the governed. How can we judge the mindset of those who will enforce the [Livable Communities] guidelines?"

Wattenberg, host of the PBS show *Think Tank* and a contributing editor to *U.S. News and World Report*, went on to say that sprawl is "the greatest residential pattern the world has ever seen," that environmentalists have made a career of campaigning "against the single family home ethic," and that the smart growth movement is "the new form of 'burb bashing.'"

"It's very unfair to call this just an environmental movement," countered Gore aide Jonathan Weiss. "It's much broader than that. The federal government has helped to build highways and those highways helped to fuel growth. For the first time communities are recognizing that growth is something you can influence, and that's very exciting."

Weiss said federal involvement in land use would not mean interference with local decisions.

"The opposite is true. We're recognizing the federal government has played a role in the past, albeit inadvertently. We're recognizing this is indeed a local issue but the federal government

can rectify what has happened in the past."

The Livability agenda includes Better America Bonds, which Weiss called the "BABs" proposal, which will provide \$700 million in tax credits for state and local bonds to make new development provide features that add to livability. But according to Weiss, how communities achieve livability will be left to local officials.

"We're letting each community decide for themselves. There's no cookie cutter formula. There's much in our budget in general that creates more incentive for reinvestment in existing areas."

Baltimore County Executive C.A. Dutch Ruppertsberger, another featured panelist, said Maryland's Smart Growth law "promotes infill development and high density, yet both are very unpopular with communities. What can be done? I think there are lots of things we can do in the development process. Density is not the most important component of smart growth. The most important is keeping existing communities livable so that people want to stay there."

Ruppertsberger said Baltimore County was undergoing massive rebuilding of infrastructure.

"We've invested tens of millions of dollars. We have put more money into infrastructure in the last four years than in the last 20 combined. When we talk about smart growth we are talking about saving our existing homes and communities."

### REPORT AND COMMENTARY

## Homebuilders put their own spin on smart growth: more and more housing is good

The National Association of Homebuilders has responded to smart growth the way a politician running for office would do - it has molded the issue in its own image.

Smart growth means economic growth, the NAHB says in a super-glossy, 20-page booklet

*please continue to page 3*

*Homebuilders, continued from page 2*

titled "Smart Growth: Building Better Places to Live, Work and Play." And economic growth means more new homes which produce "wave after wave of economic impact that benefits local citizens, businesses and governments in the community where the homes are built."

One gets the feeling that the NAHB has not seen any of the fiscal impact studies conducted over the last decade that clearly demonstrate this is not true.

Further, the group defines smart growth as meeting the demand for housing, and understanding and accepting that "the strong desire to live in single-family homes will continue to encourage growth in suburbia."

A section within the smart growth booklet tells readers to "Cancel the Crisis: Farmland is Not Disappearing," and outlines the findings of the USDA Economic Research Service (ERS) that there has been no net loss of croplands and that the rate of development has not increased.

But according to Ralph Heimlich of the ERS, author of several of the studies produced by the agency on the farmland loss issue, the NAHB has drawn convenient conclusions based on bare numbers without looking at the larger issue of local land use.

Farmland loss "may actually be a national issue, but not of food and fiber production. There are plenty of good reasons to preserve land in local situations." Heimlich added that certain unique regions under tremendous development pressure, such as California's Central Valley, are of significant national importance.

Farmland preservation programs have always been established in response to farmland loss at the local and regional level, where loss of prime farmland has been more than noticeable and has had dramatic economic impact.

The ERS studies have been a response to the claim made by the National Agricultural Lands Study of 1981 that the loss of farmland in time would result in a national food crisis. The theme has been carried on by the American Farmland

Trust, yet the issue of food production affected by farmland loss has been clearly demonstrated as a local and regional, not a national issue. Some regions, such as the greater Boston area, have lost their capability to produce food and are dependent on other regions for fresh produce and common items like dairy products.

The NAHB's "Statement of Policy on Smart Growth" calls for "anticipating and planning for economic development and growth in a timely, orderly and predictable manner," and "establishing a long-term comprehensive plan in each local jurisdiction that makes available an ample supply of land for residential, commercial, recreational and industrial uses."

The organization promotes local decision making as the proper opposite of federal involvement, yet zoning is not mentioned except in terms of rezoning to, (surprise) "assure that an ample supply of land is available for residential development."

— Deborah Bowers

## Michigan Farm Bureau seeks big changes to state farmland program

*continued from page 1*

One of the group's objectives is to develop a land conservancy dedicated to farmland preservation, Furstenau said.

The move by the Michigan Farm Bureau points up its discontent with the state's farmland preservation program, operating since 1996. Administered by the Department of Natural Resources, Real Estate Division, about 2,400 acres are now under easement through purchase and donation, with 14 offers pending completion, comprising 2,444 acres. Two more donations and 35 offers approved from 1998 but not yet funded,

*please continue to next page*

## Move farmland program out of DNR, into ag department, farm bureau says

*continued from page 3*

would bring the total of approved and pending acres to 13,246.

Funding, which comes from repayment of tax credits when landowners terminate farmland preservation agreements under the state's PA 116, stands at about \$12 million, with \$17 million in outstanding payments due. The bureau considers the amount and the source of funds inadequate to the task.

But funding is just one of the farm bureau's dissatisfactions with the program. More fundamental is the bureau's contention that the program should be moved from DNR to the Department of Agriculture and decision making on farm selection moved to the local level. Two bus tours the bureau sponsored to Maryland and Pennsylvania to show farm bureau members and associates how PDR works, clearly indicated the bureau's enthusiasm for how those state programs are structured. Both states operate their programs in conjunction with local governments and both programs are run by agriculture departments. The bureau is sponsoring another tour in September, according to David Skaerlund of the Michigan Rural Development Council, possibly to include a bus group from Indiana.

Michigan Farm Bureau policy calls for a trust fund to provide up to 75 percent cost sharing to localities, the ability to petition for ballot questions on PDR establishment at the local level, county farmland preservation boards, as well as the creation of a separate farmland preservation division in the Department of Agriculture to administer all farmland preservation programs.

As for funding, the bureau calls for an agricultural real estate transfer tax, or conversion fee, like Maryland's, and consideration of a restaurant meal tax.

Rich Harlow, director of DNR's real estate

division, said DNR's mission to protect land resources, along with its track record of handling land transactions make it the ideal agency for managing an easement program.

"Our primary concern is the preservation of farmland. Where we do that, may not be as critical as doing it. Saying that, we think the purchase of development rights program has an excellent support structure in the Department of Natural Resources because of the department's expertise in land transactions."

While the Department of Natural Resources may not have expertise in agriculture, Harlow said farmland preservation's first mission is to protect the resource, not to be involved with the economics or operations of agriculture.

The farm bureau's active stance on farmland preservation is in response to the state's almost singular neglect of agriculture's unique status as a land-dependent industry, demonstrated most clearly in the absence of a use value assessment of farmland for tax purposes. Michigan is one of only two states in the nation that does not tax farmland at current use rather than for "highest and best use" or for development. This means high taxes for farmers, particularly for farms in urbanizing areas.

The farm bureau is also pushing for an agricultural security area program, urban revitalization, TDR enabling legislation, and economic development programs for agriculture. Some of these proposals have been introduced as legislation.

The new organization will serve as an advocacy central for these issues and is already at work on a hot button topic in Ottawa County, where state highway officials want to build a bypass for U.S. 31.

"Our DOT came out with a recommendation to run it through the heart of agriculture in the number-one agricultural county in the state," said Jim Furstenau. "It's unique and prime farmland, from nursery stock to fruit to dairy - it's all there along the corridor they've selected."

Furstenau said he has already been busy helping a coalition of interest groups get organ-

*please continue to next page*

## etcetera ...

### Illinois airport fight enters new phase

*Chicago, Ill.* - The long, drawn-out saga of a proposed third major airport for the Chicago region that would convert as much as 25 square miles of Will County farmland, has entered a new phase - a new, scaled-back version submitted to the Federal Aviation Administration calls for building a smaller airport with a 12-gate terminal and one 12,000-foot runway.

But the plan calls for incremental expansion, and opponents say Chicago already has a third regional airport - in Gary, Ind. The Gary airport has plans for a \$30 million expansion and even now can accommodate any plane flying into Chicago's Midway Airport, according to Scott King, mayor of Gary.

The airport plans are governed by a regional transportation authority created by Chicago Mayor Richard Daley, who contends the Gary airport won't be able to expand enough to accommodate the region's needs.

But opponents say backers, financed by deep-pocketed development interests, lack dependable projections and point to facilities such as the Denver airport, built to serve burgeoning air traffic projections, but where service is well under capacity.

### Maine puts \$50 million bond on ballot

*Augusta, Maine* - Gov. Angus King signed legislation that will place a \$50 million bond proposal before voters in November. The bill says "up to 10 percent must be made available to protect farmland," throwing into confusion exactly how much will be appropriated for the Land for Maine's Future Program.

"I'm not happy with the language," said Mark Desmeules, program director. "The intent was to send 10 percent to the farmland program." The confusing language "probably never got looked at" prior to printing, he said, and could be interpreted as meaning "anywhere from zero to 10 percent" will be appropriated if the bond passes.

The Land for Maine's Future Program has preserved about 2,000 acres.

"I think there is a high level of support throughout the state for what we do ... the chances [for passage] are good."

*continued from page 4*

ized against the highway construction.

"Here's an opportunity for the state of Michigan to really show its colors. Does it really support agriculture?"

According to the 1997 Census of Agriculture, Michigan has one-fifth fewer farmers than 15 years ago, with one million acres of farmland lost during that period. Michigan's value of farm products sold is \$3.5 billion annually.

According to Scott Everett, legislative counsel for the farm bureau, it's time for the Michigan legislature to act on the proposals of a 1994 task force on how to stem the loss of farmland.

"Michigan's economy is good right now, but from an economic standpoint, the state has always relied on agriculture for stability," Everett said.

"If the land base continues to erode, agriculture will no longer be able to stabilize the state's economy."

In addition to farmland preservation Maryland style, Everett would like to see Maryland's Smart Growth law imported to Michigan. "We need to save farmland with smart growth."

### SURVEY FOLLOW-UP

## Marin objects to exclusion, Chester County beams

A change in criteria used for the annual national survey of local farmland programs by *Farmland Preservation Report* in June pleased some localities and displeased others.

The Marin Agricultural Land Trust of Marin County, Ca. objected to its first-time exclusion from the survey, while Chester County, Pa. Commissioners hailed their second place ranking with releases to local media.

For the first time since the ranking began in 1995, the survey allowed the inclusion of acres preserved by other entities in localities that qualified for the ranking. Qualifications included, in addition to high number of preserved acres, commitment of significant funds and strong

*please turn to page 6*

## Local programs respond to new survey

*continued from page 5*

leadership and administrative skills.

Use of the new qualifications, according to publisher Deborah Bowers, resulted in Marin's exclusion from the survey due to lack of significant funds as compared to other programs. The most notable change caused by the new criteria was the entrance of Chester County into the ranking due to a high number of acres preserved by the Brandywine Conservancy (see June issue).

"The end of Prop. 70 money is not the end of the world," said Bob Berner of the Marin Agricultural Land Trust, following publication of the survey.

While the survey used commitment of funds as a qualifying factor, no minimum amount was indicated, but localities in the ranking had on hand between \$2.7 million and \$40 million. MALT received from the 1988 voter-approved Proposition 70 \$15 million spread over 10 years and now has on hand \$870,000 in its acquisition fund.

"And we are in the early phases of a \$10 million, three-year, capital fundraising campaign to provide funds for our easement program," Berner said.

The MALT program has ranked in the survey each year, beginning in the number two slot in 1995 and descending gradually to fifth place last year as lack of funding made the organization unable to compete with other programs. Late last year MALT purchased an easement and is about to close on another. MALT now holds ag easements on 25,904 acres and the county holds another two ag easements on 860 acres.

"We won't catch Sonoma in this life, but we certainly should be counted [in the survey]," Berner said. "We are alive, in business, preserving ag land, raising money, doing deals."

In Chester County, Pa., where the work of the Brandywine Conservancy pulled the county solidly into the ranking with 33,320 acres, local officials were beaming over the survey results.

"It's an honor, certainly," Chester County Commissioner Andrew Dinniman told the *Daily Local News*. "It's a tribute to our public-private partnership approach. It's one that is working very well for us and is a model for other counties around the nation."

In fourth-ranking Lancaster County, program director June Mengel said the new criteria are fair.

"I think the survey was fine and I'm glad it included private preservation efforts. That is such an important component," she said. "I certainly wish we were up there a little bit more, but the numbers are the numbers. We'll keep plugging away."

### legislative and program briefs ...

**In California ...** Disappointment would be putting it lightly when it comes to the state budget allocation for the Agricultural Land Stewardship Program. Just \$2 million for the program was in the budget released July 1. Last year's allocation was \$13.6 million.

**In Pennsylvania ...** The Millersville University Department of Economics is conducting a benefit-cost analysis of farmland preservation programs in southeastern Pennsylvania counties, according to Mike Gumpfer. "We are trying to elicit a monetary value to some of the benefits of farmland preservation... what are the factors of the willingness of taxpayers to pay for it?" The study will be completed by the end of the year.

Gov. Tom Ridge signed into law a measure urging Congress to add Pennsylvania to the Northeast Interstate Dairy Compact. The Compact, currently operating in the New England states, provides a price stability and predictability for dairy farmers, who saw a 30 percent drop in milk prices this year as well as in 1997. Pennsylvania has 10,000 dairy farms and is the nation's fourth-ranking in milk production.

The state program's latest round will approve 28 farms, comprising 3,300 acres for a new state total of 139,400 acres.

**In Maine ...** TLD 1921, to be taken up again in the January session, would permit counties to impose a local transfer tax for acquiring park lands; LD 1344, which would have put 45 percent of all receipts from the state real estate transfer tax into the Land for Maine's Future, was defeated.

**In Massachusetts ...** The state's Agricultural Restriction Program is about to conclude negotiations on nine farms,

which will add substantial acreage to the current total of 42,666 acres as of the end of May.

**In New York ...** Localities have until Aug. 18 to respond to the RFP for implementation of agricultural and farmland protection plans. Because New York is, as usual, very late on passing a budget, it is unknown how much will be appropriated. If no appropriation is made, the amount will be the same as last year, \$7.7 million, according to program director Bob Somers, who said he expects a higher number of applicants this year.

**In Virginia ...** The American Farmland Trust Mid-Atlantic office submitted a proposal for a Virginia Rural Lands Program to the Joint Subcommittee on Land Development Patterns. The proposal calls for \$30 million in dedicated funds for a purchase of development rights program. Virginia is the only mid-Atlantic state without a statewide PDR program. The proposal also calls for statewide mapping of strategic farmland and a legal definition of farmland in the state code.

**In Michigan ...** The Michigan Farm Bureau and the Michigan Rural Development Council will sponsor another Ultimate Farmland Preservation Tour to Md. and Penn. Sept. 10 - 12.

**In Vermont...** During the past year the Housing and Conservation Board has preserved 27 farms/7,200 acres to bring the state total to 243 farms and 80,600 acres. "We are beginning to see some large contiguous blocks," said Ethan Parke.

**In Congress ...** A bill to allow tax credits for holders of Better America Bonds was introduced in the House as H.R.2446 on July 1. Sponsored by Rep. Robert Matsui (D-CA), it has 55 co-sponsors. The bill responds to the Clinton administration's proposals for land conservation and redevelopment programs.

The Better America Bonds, called BABs, would provide up to \$9.5 billion to improve neighborhoods.

### Farmland threatened

## Oregon land use laws under attack

SALEM, OR - For more than 25 years Oregon has had in place land use laws stronger than any other state, and for 25 years those laws have been the target of development interests that annually issue an assault on the state legislature to overturn or weaken the legendary Senate Bill 100, Oregon's statewide planning program.

A number of bills now before the legislature threaten several aspects of that program, particularly its ability to protect farmland from new home allowances.

What Senate Bill 100 did, was to put urban growth boundaries around every city and town and considerable restrictions on new home construction in farming areas, zoned exclusively for agriculture and called Exclusive Farm Use zones.

The law put forth a series of goals to be met and created a commission and agency to oversee and administer the law.

1000 Friends of Oregon says there is statistical proof that Oregon's law has worked when compared to what has happened in other states. The most dramatic example is a comparison of the Atlanta region with the Portland region. According to the group, the Portland area's density since the 1960s has climbed slightly from 3,412 to 3,885 people per square mile in 1995. In the Atlanta region density fell from 3,122 to 1,898 people per square mile. 1000 Friends calculates that had Atlanta "grown as efficiently as Portland in the early 1990s, then Georgia would have saved 93,000 acres of rural land."

The economic advantage is obvious to most - thriving cities whose suburbs limit how many big box retailers and strip malls are allowed to draw commerce from established retail districts, and tax revenues that are used for maintenance and improvements rather than continued outward expansion and brand new infrastructure.

But the development industry is relentless in its desire for unfettered growth. A plethora of bills seek to weaken the laws, and focus particularly on chipping away at farmland protections.

SB 99, which passed the Senate and was sent to the House July 1, would establish criteria for identifying marginal or "secondary" farmlands and direct the DLCD to inventory those lands for possible future development.

At least SB 127, which would allow homes to be built on lots in EFU zones if they were allowed at the time of purchase, failed in the Senate. It was strongly opposed by the farm bureau and 1000 Friends of Oregon.

HB 2449, limiting the definition of high-value farmland and likely increasing new homes in EFU zones, is in committee.

*For updates on legislation, call legislative reference at (503) 986-1187.*

## professional resources ...

### BOOKS

#### **Holding Our Ground ~ Protecting America's Farms and Farmland**

By Tom Daniels and Deborah Bowers

Island Press, 334 pp. \$34.95 + \$5.75 s&h

AVAILABLE TO SUBSCRIBERS AT \$29 POSTPAID

#### **When City and Country Collide ~ Managing Growth in the Metropolitan Fringe**

By Tom Daniels

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### JOB ANNOUNCEMENTS

#### **Land Protection Specialist**

#### **The Trustees of Reservations, Beverly, MA**

Immediate opening to assist with land protection work of statewide conservation and historic preservation organization; provide information and technical assistance to landowners and cooperating organizations in selected project areas; recruit, organize, and train conservation volunteers. Qualifications: Master's degree in natural resource management, historic preservation or related field, with two years related work experience, specific expertise in conservation and preservation methods, computer and cartographic skills and demonstrated communication (writing and public speaking), negotiation, leadership, interpersonal, and teamwork skills. Background in both natural and cultural resources is desirable. Ability to travel within Massachusetts, attend frequent evening and weekend meetings and events is essential. Competitive salary/excellent benefits package. Send cover letter with salary requirements, resume, writing sample and three references to: Specialist Search, The Trustees of Reservations, 572 Essex St., Beverly, MA 01915. Email: landcons@ttor.org. Fax: 978-921-1948. No phone calls please; closed when filled. Equal opportunity employer. (Posted 7/2/99)

#### **Conservation Lands Manager**

#### **Coastal Mountains Land Trust, Rockport, ME**

Tasks for this new position include a broad range of activities necessary to coordinate the stewardship program and to manage the GIS. Preferred qualifications include: Education and experience in conservation planning, management of conservation lands, and the work of land trusts; ability to work independently and as part of a team; experience in working successfully with people of all ages and backgrounds; good knowledge of coastal Maine and the people who live here; excellent writing and verbal communication skills; good field project skills and physical fitness; strong working knowledge of ArcView GIS software, GPS hardware and software, other computer software, and personal computers and peripheral devices. Full-time (40 hours/week) position with a salary range of \$22,000 to \$25,000 dependent on qualifications and experience. Applications should be sent to: Coastal Mountains Land Trust, P. O. Box 101, Rockport ME 04856. (Posted 6/25/99)

*For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org).*

### CONFERENCES

**Sept. 25 - 28, Dallas, TX: Dynamics of Change ~ Rail-Volution '99 ~ Building Livable Communities with Transit.** Call 800-788-7077. Focuses include Integrating Transportation and Land Use, Partnering for Success: Unexpected Coalitions Yield Results and Making it Work in Your Hometown.

**October 14 - 17, Snowmass, CO: National Land Trust Rally '99.** See LTA's website at [www.lta.org](http://www.lta.org) or call (202) 638-4725 for rally information.

**October 17 - 19, Memphis, TN: Crossing the Line ~ National Conference on Regional Strategies,** sponsored by Partners for Livable Communities. Call (202) 887-5990 for brochure or see website at [www.livable.com](http://www.livable.com).

**October 19 - 24, Washington, D.C.: Saving America's Treasures,** the annual conference of the National Trust for Historic Preservation. Preliminary programs now available. Call 800-944-6847.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## New Jersey to encourage targeting of contiguous blocks

TRENTON, NJ – A new program in New Jersey will encourage localities to preserve farmland in large, contiguous or nearly contiguous blocks, rewarding strategic planning and reaching beyond preservation on a farm by farm basis, according to Gregory Romano, executive director of the State Agriculture Development Committee.

Signed into law by the Gov. Christine Todd Whitman Aug. 12, the Planning Incentive Grant Program will “enable us to get large blocks of farmland instead of a farm here and a farm there,” Romano said. Both counties and municipalities will be eligible. Funding has already been allocated at \$5 million for this year, he said, with the state picking up 60 to 80 percent of project costs.

Guidelines released Aug. 26, pending regulations, call the program “a powerful, new tool” for farmland preservation in the state, which has 55,376 acres under easement in a program with a goal to preserve 500,000 acres over the next 10 years with a committed \$500 million in bond allocations.

“The program places an emphasis on careful planning of project areas and not the mere collection of easement purchase applications,” guidelines state.

To be eligible for a grant, local governments “must identify project areas of multiple farms that are reasonably contiguous and located in an agriculture development area (ADA),” according

*please turn to page 2*

## Carroll officials snub smart growth, rezone farmland

WESTMINSTER, MD – Ignoring strong recommendations from planners, Carroll County Commissioners in late August granted a farmer’s rezoning request that has the potential to result in more than 100 homes and to generate other rezoning petitions. Planners say the action damages Carroll’s nationally renown farmland preservation program, and spurns the state’s smart growth law.

Two of three county commissioners openly berated the state for attempting to influence a local zoning decision.

A plan presented to the commissioners calls for a golf course and 50 homes, but the new zoning allowance is for one-acre lots, and no

contract purchaser was presented, according to Bill Powel, administrator for the county’s farmland preservation program.

*please turn to page 2*

Volume 9, Number 10

Sept. 1999

### inside this issue ...

Vermont’s Dolan to head Catskills program.....	p. 3
Michigan court affirms right to farm law .....	p. 4
MALT awarded \$2.5 million grant .....	p. 4
Montana program will be run by DNR, not Ag.....	p. 5
Legislative briefs .....	p. 6,7

## New program encourages localities to target project areas

*continued from page 1*

to the guidelines. ADAs in the program are determined by localities using local criteria including soils and contiguity and acreage minimums. Project areas can include farms already preserved. The state will use its definition of "reasonably contiguous", being farms located within one-half mile of each other.

Counties may submit Planning Incentive Grant applications that include farms that have been submitted individually.

The new grants program is part of a huge boost to farmland preservation resulting from voter approval last November of what is believed to be the nation's largest single bond issue for land preservation – about \$1.4 billion – for combined farmland and open space preservation.

The farmland preservation program has been allocated \$30 million for FY 2000, with \$11 million slated to clear up the backlog of easement applications and \$10 million for the program's fee simple option, which purchases threatened farms outright and resells them at auction with easement restrictions.

With the program flush with cash, Romano said his staff is growing by leaps and bounds.

"We hired an ag retention program manager and we're interviewing for a public information specialist," he said. Recent hires include two ag resource specialists – those who handle easement drafting and negotiations, a data analyst and a GIS specialist.

Funds also include \$2 million for a new non-profit grants program, and funding increased from \$100,000 to \$300,000 to administer the right-to-farm program, which provides a conflict resolution process and a standard for state agencies to follow when activities may impact agricultural operations.

Tim Brill, formerly of Cumberland County where he served as farmland preservation administrator, was hired as the ag retention program manager. In 1991, Brill devised a comprehensive local agricultural economic development plan for Cumberland County, one of the first such at-

tempts in the nation, to supplement farmland preservation. It focused on creating agricultural enterprise districts modeled on urban enterprise zones.

## Rezoning in Carroll will impact preservation efforts, planners say

*continued from page 1*

"They don't have to stick with the golf course plan," he said.

The decision marked the county's largest upzoning in 30 years, planners said.

Carroll has preserved more acres through a government-operated purchase of development rights program than any locality in the nation. More than 30,000 acres are permanently protected. About 1,000 of those acres are in the southwest corner of the county where the 180-acre rezoned parcel is located.

The commissioners' decision threatens the integrity of the farmland preservation program, say state and local planners, as it indicates to farmers and to developers that agriculture is not necessarily a priority land use and that local government is not totally committed to farmland preservation. In particular, those with land nearby now have reason to believe they, too, can, and perhaps should, try for a rezoning.

In Maryland, landowners can seek a rezoning by proving either a change in the character of the neighborhood, or a mistake was made in determining their current zoning.

"There has been a group of landowners [in southwestern Carroll] who have the psychology of impermanence ... this was a test case in my opinion," said Bill Powel.

Between the rezoned farm and the nearest public water and sewer are just a few farms still

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**Carroll County**, *continued from page 2*

zoned for ag that may now fall like dominoes, Powel believes.

Ronald Kreitner, director of the Maryland Office of Planning, wrote to the commissioners urging them to reject the rezoning request but his advice, too, was ignored. Kreitner said his office more often comments on the comprehensive rezoning process and usually doesn't get involved in individual rezoning cases, but this case, he said, was far out of sync with the state's smart growth mandate.

"It's not that frequent we have a rezoning that is contradictory to a comprehensive plan," Kreitner said. "This was very piecemeal and out of area. I think this particular rezoning both undermines the future of agriculture in Carroll County and calls into question their comprehensive plan generally. Anything tied to their comprehensive plan is in jeopardy," such as investment decisions about infrastructure or use of property, he said.

Powel believes the rezoning decision will affect how farmers think about the farmland preservation program. Instead of deciding between their current density and preservation, they now will have to consider whether they, too, could be successful in obtaining increased density and greater return through development.

Powel recalls one farmer who debated whether to enter the program or to subdivide. The farmer expressed the idea of rezoning, since his farm was close to a town. Until now, rezoning seemed improbable. "Now there is evidence their farm *could* be rezoned," Powel said.

Even for farmers who will still opt for preservation, "it has to affect people's thinking about how much to accept for an easement offer."

This was the first time a large farm has petitioned for a rezoning in the county, according to Powel.

Agricultural zoning in the county allows one building right per 20 acres, plus two additional lots, yielding seven lots per 100 acres. The rezoning increased density to one unit per two acres. *Contact: Bill Powel, (410) 386-2145.*

WATERSHED AND FARMLAND PROTECTION**Vermont's Dolan to head Catskills watershed easement program**

WALTON, NY —The nonprofit Watershed Agricultural Council has hired David Dolan, formerly of the Vermont Housing and Conservation Board, to implement its long-awaited \$10 million easement program as part of New York City's massive effort to protect its Catskills drinking water supply from pollution and overdevelopment.

Dolan, who served as director of conservation, project specialist and stewardship coordinator for the Vermont program since 1989, will begin Oct. 12.

"We have gotten one of the best people in the entire country to come and work with us. With his experience and expertise, this is a fabulous opportunity for us," said Jean Parenteau, Council director.

The Council's Whole Farm Easement Program, which puts watershed protection practices into development restricted easements, has been planned since the early part of the decade, but the long-promised funding, coming through the New York City Department of Environmental Protection (DEP), was allocated only this spring.

The Council has selected 11 farms for easement purchase from a pool of 60 that signed up to implement best management practices under the group's watershed protection program begun in 1990.

"We tried to move forward to the extent possible without a program manager," Parenteau said. Now, it will be Dolan's job to fully implement the program.

The Watershed Agricultural Council is made up of 19 farmer and agribusiness leaders from an eight-county area. The region encompasses 2,000

*please continue to page 4*

New York**Watershed Ag Council will begin \$10 million program***continued from page 3*

square miles and makes up the nation's largest unfiltered surface water system, supplying drinking water to about eight million people in New York City and its suburbs. The Council's mission is to assist landowners in reaching economic and environmental sustainability through water quality protection and other practices. The costs of installing water quality practices are paid by the DEP.

For years, the Watershed Agricultural Council's working relationship with DEP was strained, as environmental managers were unenthusiastic about cooperating with agricultural operations blamed for water pollution. The Council's plan to work with the agricultural community was a new and untested approach in New York.

But strained relations could be a thing of the past, according to Charles Laing, new liaison for DEP to the Council.

Laing, who works under DEP's Land Acquisition and Stewardship Program in the Division of Watershed Planning and Community Affairs, last worked at Albany County's planning department and served on the county's Agriculture and Farmland Protection Board. His experience with the farm community has helped relations between the Council and DEP. But differing perspectives on how to best protect the watershed will remain, according to Laing, with DEP geared up to preserve forest and wetland, not farmland.

"DEP comes at it from a slightly different perspective from WAC. It's not hard to see that DEP's focus at times will be at odds with farming practices."

Even so, funding for the farmland easement program makes preserving farmland a bona fide watershed protection element, Laing said, and he expects the program to run smoothly.

"I am here to facilitate communication," he said.

**etcetera ...****Michigan court affirms right-to-farm law**

*Lansing, MI* – A Michigan judge awarded more than \$77,000 in court costs to a cattle operation after deciding in its favor in a nuisance lawsuit. The decision upholds the constitutionality of the Michigan Right-to-Farm Act.

Neighbors claimed the 3,000-head cattle farm created a nuisance from flies, increased traffic and odor, despite a new state-of-the-art steer barn the family constructed following meetings with public officials and neighbors.

The right-to-farm law provides for farmers winning lawsuits to be reimbursed for fees, costs and obligations during the period of the lawsuit.

The farmer, Dave Stoneman, said he has faith in the law, and was following guidelines spelled out in the law for generally accepted management practices. The award, he said, does not cover all the costs his family incurred, amounting to \$95,000, "but it sure helps."

"This further strengthens Michigan's right-to-farm law, said Bob Boehm of the Michigan Farm Bureau. "It sets a precedent that for right-to-farm litigation, people are going to have to think twice if it's unjustified."

The Michigan ruling follows a decision last January by the Iowa Supreme Court, ruling that state's right-to-farm law unconstitutional. That decision was not based on an actual nuisance claim, but concluded that the Iowa legislature exceeded its authority by allowing property to be used in a way that infringed upon the rights of others without just compensation. The Iowa law's nuisance protection was invalidated by the ruling. (*See FPR, Jan. 1999*).  
*For more information, contact Bob Boehm, 800 292-2680.*

**California bills would boost protections**

*Sacramento, CA* – Two bills promoted by the California Farm Bureau Federation were nearing a final outcome in the legislature at press time.

SB 985 would curb abuse of Williamson Act protections by developers and local governments, according to John Gamper of the farm bureau. The bill would prohibit residential subdivision on Wil-

Williamson Act contract lands into parcels "too small to sustain agricultural use or that will result in residential subdivision," he said. The bill would also require local governments to notify the Department of Conservation before, not after, it files an environmental impact statement and commits funds to purchase a Williamson Act contracted property.

The bill "is looking pretty good," Gamper said. "The only wild card is how much moderate Democrats will listen to Realtors."

Another farm bureau sponsored measure, SB 649, would provide reimbursements to local governments for lost revenues when Williamson Act lands convert from 10-year to 20-year contracts under the new Farmland Security Zone program.

The governor's office has marked SB 649 as a priority bill, and is lobbying to have it pulled out of the plethora of unfunded bills left hanging in the Assembly Appropriations file.

The Farmland Security Zone program was created last year to allow farmers receiving tax breaks under the Williamson Act to extend their contracts to 20 years. Tax benefits are increased under extended contracts, and local governments had resisted approving them due to lost revenues. Reimbursements from the state should boost participation. *Contact: John Gamper, (916) 446-4647.*

### **MALT awarded \$2.5 million grant**

*Pt. Reyes Station, CA* – The Marin Agricultural Land Trust received a \$2.5 million grant, the largest private gift in its history, in July from the Marin Community Foundation. The gift was also one of the largest grants ever made by the local foundation.

"It signals our enduring commitment to the community and our complete confidence in MALT," said Thomas Peters, president of the foundation.

MALT must raise \$5 million – \$2 for every \$1 – as a condition of the grant. According to executive director Bob Berner, the resulting \$7.5 million will help garner an additional \$2.5 million in government grants over the next five years, enabling the preservation of another 10,000 acres. MALT currently has 26,605 acres under easement, placing it among the top five counties in the nation for number of acres preserved through purchase of easements. Marin was deleted from FPR's latest ranking conducted in June because of lack of significant funding. *Contact: Bob Berner, (415) 663-1158.*

## **Montana program will be administered by DNR; term easements allowed**

HELENA, MT – Montana's new Agricultural Heritage Program will be administered by the state Department of Natural Resources, not the Department of Agriculture, as set down in the legislation creating the program, according to Ray Beck, administrator of DNR's Conservation Resource Development Division.

The decision met with little complaint from the Department of Agriculture, which will do little more than receive reports and attend meetings, according to Lee Boyer, bureau chief for rural development. The Agricultural Heritage Program is essentially a DNR program, Boyer confirmed.

"Legally it's not, but in reality it is," Boyer said. During discussions between the two agencies, everyone seemed to agree that DNR was the proper administrator for the program because of its experience in real property, administering loans and grants for land conservation. A memorandum of understanding was executed.

The newly created and appointed Montana Agricultural Heritage Commission will approve easement acquisitions, focusing on conservation of family farms, rural landscapes and native wildlife habitat.

While Gov. Marc Racicot asked the legislature for \$4 million over the biennium for the program, it appropriated only \$1 million.

The Montana Agricultural Heritage Act, signed into law in April, grew from a failed effort in the 1997 legislature. It creates a 12-member commission, authorizes the state and approved nonprofit organizations to acquire and hold agricultural easements, and provides criteria for acquiring easements, among other provisions.

The law also authorizes use of term easements, an option that worries some conservationists, according to Janet Ellis, executive director of Montana Audubon, who participated in developing the legislation.

## Term easements, low funding, concerns for new Montana program

*continued from page 5*

"Yes, it is a concern," Ellis said. "Montana conservation easement laws allow term easements as one way to do them. They are generally used to warm up a landowner if they are not sure... it's like a courtship period. But ultimately they're just not worth it."

Under Montana law, term easements must last a minimum of 15 years. The majority of the nation's conservation organizations or land trusts accept only perpetual easements, and federal tax deductions do not apply to term easements. Other states vary in term easement allowances, according to the Land Trust Alliance. Virginia allows five-year easements and Michigan and California allow 10-year easements.

But because term easements in Montana have a history and there has been some indication from past experience that term easements will convert to permanent easements, "we were willing to keep it in," the legislation without opposition, Ellis said.

The Montana law also provides for negotiating lump-sum or annual cash payments, and allows for "retention of limited residential development rights ... consistent with the specific conditions of the agricultural easement agreement" and with the core objectives of the program.

The legislation set forth criteria the Commission must consider in acquiring easements. Those include "important natural or public values, found within family farms, ranches, and forest lands;" the threat of conversion; and "cooperation and support among neighboring property owners and protection of individual property rights." While positive impacts on long-term productivity is addressed, soil quality is not.

Montana has 59.7 million acres of farmland, ranking second in the nation. The average size of its 22,000 farms is 2,714 acres. Sixty-six percent of farmland is in rangeland or pasture, 29.3 percent cropland, and 3.3 percent woodland.

The Conservation Resource Development Division will be hiring an executive director who will work with the Commission, according to Beck, who said he hoped to have someone on board in a month. That person will be charged with administering the program as well as looking for money beyond its current funding.

"One thing we are short of is money," Beck said. The legislation provides for seeking donations, grants and gifts, and the program will be looking for foundation and corporate support as well as hoping to "get our foot in the door" for federal funds, Beck said. *Contact: Ray Beck, (406) 444-6667.*

### legislative and program briefs ...

**In Delaware ...** The program has preserved 37,000 acres and is appraising 211 farms for its next acquisitions. Funds available: \$16 million. In the legislature, while a tax credit has been passed for properties under conservation easement, agricultural easements are not included.

**In New Jersey ...** Flush with cash, the program continues to hire for new positions, including an agriculture retention program manager specializing in agricultural economic development, filled by Timothy Brill from Cumberland County. The program is interviewing for a public information specialist, and the governor's contingency fund has awarded \$45,000 to the program to produce a promotional video.

**In Maryland ...** Gov. Parris Glendening announced in August a massive land preservation deal, the largest in the state's history, to permanently protect 58,000 acres of forest lands on Maryland's Eastern Shore. The lands will be purchased from the Virginia-based Chesapeake Forest Products Co. for \$16.5 million, funded through Program Open Space.

Grant awards through the Rural Legacy Program, also funded through Program Open Space, will likely not be announced until later this month, according to Grant Dehart, director of Program Open Space. The Rural Legacy Advisory Committee recommendations have been drafted, but not released, he said, and the governor had not chosen a date for the announcement of grant awards as of press time.

**In Virginia ...** The American Farmland Trust Mid-Atlantic office will conduct a workshop on PDR for local and state legislators Sept. 16. The workshop follows a presentation given before a

legislative commission in August.

**In Michigan ...** About 135 people, including local elected officials, state legislators, and most of the state farm bureau board of directors will tour three counties in Maryland and locations in Pa. and NJ to learn how localities are preserving farmland, Sept. 9 - 13.

**In Indiana ...** Gov. Frank O'Bannon has not yet appointed members of the newly formed Indiana Land Resources Council, whose creation was recommended by the Hoosier Farmland Preservation Task Force last January. The eight appointments are expected in the next month. The Council will be funded at \$249,000 for two years, and will focus on providing information and facilitating coordination among local governments and interest groups on land use issues.

**In New York ...** Although the Agricultural Protection Unit of the Dept. of Agriculture and Markets received grant requests totaling \$46 million where likely only \$7 - \$10 million will be available, "we were expecting more," said Bob Somers, unit chief. Twenty-one local governments applied for funds, some for the first time, including Cortland, Sullivan and Ulster Counties. First-time applicants, however, do not always indicate enthusiastic local leaders. Cortland County Planning Director David Casciotti said local elected officials there are not interested in starting a program or hiring an agricultural specialist. Nevertheless, the local Agricultural and Farmland Protection Board supported three conservation easement applications and is requesting \$2.3 million.

**In Pennsylvania ...** The program has now preserved 142,015 acres at a cost to the state and counties of \$284.6 million. Consultants have recently begun exploring the feasibility for direct producer retailing of value-added dairy products in Union County.

**In Congress ...** S. 333 and H.R. 1950, companion bills that would reauthorize the Farmland Protection Program at \$55 million annually, are awaiting committee hearings.

## professional resources ...

### JOB ANNOUNCEMENTS

**Valley Conservation Council, (Va.) Executive Director** — Manage all programs to meet annual and long term objectives. Responsibilities include developing and implementing short and long range plans, raising capital and operating funds, carrying out land protection objectives, and supervising staff to accomplish these objectives. *Work cooperatively and effectively with Board of Directors, committees, volunteers, natural resource organizations, units of government, and any other group connected with the VCC's land conservation mission.* Requirements: Strong leadership skills and ability to work with people both one-on-one and in groups to build consensus; a strong and demonstrated commitment to land conservation; a bachelor's degree and experience preferably in one or more of the following areas: non-profit administration, fund raising, natural science, law or business; demonstrated ability to raise program and operational funds; excellent writing and oral communication skills; ability to organize and manage an enterprise and attention to detail; willingness to work occasionally on week nights and weekends and to travel within the VCC's service area and to functions outside the service area on occasion. Send materials to VCC, PO Box 2335, Staunton, VA 24402; e-mail to vcc@cfw.com; or fax, 540-886-1380. Equal opportunity employer (Posted 9/7/99)

**Scenic Hudson (NY), Sprawl Project Coordinator** — Seek experienced planner to coordinate sprawl initiative. The sprawl issue (and its antidote, "Smart Growth") will have a substantial regional, national impact. Responsibilities: Hudson Valley Sprawl Index; public education; planning models, design guidelines; assist with policy implementation support; coordinate with Scenic Hudson Land Trust and Environmental programs. Qualifications: Experiences, highly-skilled problem solver and team player. Minimum includes BA or master's degree in regional planning, landscape architecture or related field, 3-5 years of experience in community/participatory planning, AICP preferred. GIS applications experience a plus. Commitment to environmental principles. Excellent oral, written communications skills; multi-task environment; some evenings, weekends. Letter, resume, writing sample to Riverfront Director, 9 Vassar St., Poughkeepsie, NY 12601 or ddewan@scenichudson.org. (Posted 9/3/99)

**Scenic Hudson (NY), Senior Urban Planner** — Seek experienced urban planner for Riverfront Communities Program's redevelopment issues in Lower-Mid-Hudson River waterfront communities. Responsibilities: Evaluate planning, zoning, development proposals and plans; liaison with community officials, groups, developers and others; identify, coordinate technical experts for proposal evaluation; strategize, assist with waterfront redevelopment, implementation; devise redevelopment, implementation strategies incorporating technical assistance and design principles; and project management. Qualifications: BA/MA in land use/environmental planning/architecture or related field. Experience with urban redevelopment, adaptive reuse, brownfields; knowledge of environmental permitting, SEQRA; experience in waterfront redevelopment, community-based planning public participation, census

*please continue to page 8*

*continued from page 7*

building; familiarity with TOD, new urbanism, smart growth principles; commitment to environmental, sound-planning principles; excellent communications skills; flexible; familiar with Hudson River Valley Communities. Letter, resume, writing sample to Scenic Hudson, Inc., Riverfront Director, 9 Vassar St., Poughkeepsie, NY 12601 or [ddewan@scenichudson.org](mailto:ddewan@scenichudson.org). (Posted 9/3/99)

**New Jersey Conservation Foundation, Land Acquisition Specialist** — Seeks highly organized individual to focus land preservation activities in southern New Jersey. We offer a competitive salary, retirement plan, excellent benefits, great work environment. Responsibilities include project acquisition, planning, landowner outreach, real estate negotiation, working with public agencies (municipalities, counties, Green Acres, Farmland Preservation Program), and working directly with regional land trusts in southern New Jersey and NJCF's Delaware Bay Watershed outreach program, communications with key constituents, and assistance with grant writing and other fundraising for the southern NJ land preservation program. Will be based either in Far Hills with frequent travel to southern NJ (3+ days/week) or based at the candidate's home office in southern NJ with regular travel to Far Hills (up to 1 day/week). Seek someone with land acquisition experience, knowledge of natural resources, and comfort with public speaking, planning, finance and computers (ideally including GIS). Send resume, and salary requirements to: Susan Currie, Land Program Administrator, New Jersey Conservation Foundation, 170 Longview Rd., Far Hills, NJ 07931, via e-mail to [susanc@njconservation.org](mailto:susanc@njconservation.org), or Fax 908-234-1189 For more information: [www.njconservation.org](http://www.njconservation.org), Phone: 908-234-1225. (Posted 8/19/99)

*For further job listings involving land trusts, see the Land Trust Alliance web*

*site at [www.lta.org](http://www.lta.org). Positions in farmland preservation may be available and not yet advertised. Subscribers may call the editor at (410) 692-2708 for information in confidence.*

## CONFERENCES, EVENTS

**Sept. 28, State College, PA:** *Fall Workshop of the Pennsylvania Farmland Preservation Association.* Topics: Changes to the Clean and Green law, municipalities and farmland preservation. For registration info., call Betty Reefer at (412) 837-5271.

**Oct. 14 - 17, Snowmass, CO:** *National Land Trust Rally '99.* This is the nation's incomparable land conservation conference, attracting over 1,000 people. Registration begins in June. Cost is \$250 for LTA members and \$350 for others. See LTA's website at [www.lta.org](http://www.lta.org) or call (202) 638-4725 for rally information.

**Oct. 17 - 19, Memphis, TN:** *Crossing the Line ~ National Conference on Regional Strategies,* sponsored by Partners for Livable Communities. "Will challenge attendees to broaden their views on the possibilities of regional cooperation, and provide them with the tools, models, resources and network to help achieve it in their own regions." Call (202) 887-5990 for brochure or see website at [www.livable.com](http://www.livable.com).

**Oct. 19 - 23, Washington, D.C.:** *The Crossroads of Power and Influence,* the Urban Land Institute Fall Meeting. For registration materials, call 800 321-5011. Register by fax through Oct. 5.

**Oct. 19 - 24, Washington, D.C.:** *Saving America's Treasures,* the annual conference of the National Trust for Historic Preservation. Focus areas for workshops as well as field sessions include growth management, downtown revitalization, public policy and legal issues, transportation issues and new trends and hot issues. Preliminary programs now

available. Call 800-944-6847.

**Nov. 1-3, Seattle:** *Housing Washington, Join Forces, Increase Choices,* sponsored by the Washington State Department of Community, Trade & Economic Development. Presenters include Bruce Katz and David Rusk. For information call 800 767-4663 or write [conference@bombar.com](mailto:conference@bombar.com). Website: [www.wshfc.org](http://www.wshfc.org).

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## BATTLE OF THE BUDGETS

### New Jersey, Pennsylvania, lead nation in program funding

If state farmland preservation programs were competing with each other, a "battle of the budgets" would be underway between New Jersey and Pennsylvania, and Maryland, long renown as the nation's leader in preserved acres, would be calling in for reinforcements.

In New Jersey, the State Agriculture Development Committee (SADC), which administers the farmland preservation program, is just starting out in a new cash flow season – \$500 million to be spent from more than \$1 billion approved by voters last year for farmland and open space protection.

The New Jersey farmland program has been funded through a series of bond acts that dedicated \$50 million to farmland preservation four times between 1981 and 1995 – \$200 million used through 1998. With the recent bond dedication to the program, New Jersey has now committed a total of \$700 million for farmland preservation since the program began.

So far, the legislature has approved for FY 2000 \$30 million from the new funds "just to get us up and going," said Rob Baumley, SADC assistant director. Along with the boosted funding, the legislature established a new oversight

*please turn to page 4*

### Maryland Rural Legacy announces \$25 million in grants

MONKTON, MD – Standing on a rail-trail bridge over the Gunpowder River in Baltimore County, Maryland Gov. Parris Glendening Oct. 6 announced grant recipients of \$25 million in the state's Rural Legacy Program. The governor designated seven new Rural Legacy areas and announced continued funding for 13 areas designated last year in the program's inaugural cycle.

"With today's additions, our Rural Legacy has saved 26,200 acres of Maryland's most treasured land in just two years," Glendening said. "We will continue to strengthen our partnerships with local governments and communities and ensure a lasting legacy of green infrastructure and open

spaces."

New Rural Legacy areas are: Long Green Valley (\$500,000) and Gunpowder River (\$750,000)

*please turn to page 2*

Volume 10, Number 1      October 1999

#### inside this issue ...

Sierra Club's smart growth award .....	p. 4
Calvert County downzoning unchallenged .....	p. 4
AFT opens Texas office .....	p. 5
"Agriminium" concept explored for ag retention .....	p. 5
Legislative briefs .....	p. 6,7

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## Maryland group calls for more Rural Legacy funding

*continued from page 1*

in Baltimore County, Lower Deer Creek in Harford County (\$1.7 million), Fair Hill in Cecil County (\$500,000), Anne Arundel South in Anne Arundel County (\$1.2 million), Upper Patuxent in Howard County (\$1.5 million) and an expansion of Parker's Creek and Battle Creek areas in Calvert County (\$2 million).

The Rural Legacy Program, established in 1997, is funded at \$138.6 million through 2002. The program goal is to preserve, through easement and fee purchase, up to 200,000 acres by 2011.

With joggers and bicyclists passing by on the state's most popular hike and bike trail, Glendening spoke before a crowd of conservationists involved in nearly a dozen Rural Legacy applications from 10 counties in central Maryland and the Eastern Shore. He made one additional announcement stop in Frederick County.

Glendening said sprawl is eating up too much land in Maryland and that the state's smart growth effort seeks ways to change development patterns.

"If we continue to develop over the next 25 years the way we have developed over the last 25, we will consume an area of land equal to the size of Baltimore County and Baltimore City combined. That's unacceptable," he said.

The governor displayed a copy of a recently released Sierra Club report that ranked Maryland first in the nation in the protection of open space. The state cannot, however, rest on its laurels, he said.

That is the point made in a review of the Rural Legacy Program by the Chesapeake Bay Foundation, the state's largest environmental advocacy group. While the distribution of \$25 million in grants can be heartening to the public, conservationists around the state point out it isn't enough to accomplish the program's goals. In the current round alone, applicants requested \$90.6 million to preserve lands for which landowners have signified willingness to participate in the program.

Theresa Pierno, executive director of the

Chesapeake Bay Foundation's Maryland office and formerly with the Department of Natural Resources, said the group is urging the governor to find new and additional funding for the program.

"The program has had modest success, but the state won't be able to meet its own land protection goals at current levels of funding." The group had not yet identified possible sources of new funds, she said.

While participants would like to see additional funds, many feel that how the money is dispersed also affects the program's ability to have an impact. Some applicants expressed disappointment that the program is not, as initially envisioned, selecting plans based on merit through a ranking procedure. Many feel the original intent of the program, to designate a few areas of statewide importance and award significant amounts of money to those plans to create large protected areas, was dismissed as politically infeasible.

Instead, the funds are being spread out to each participating region so that each region, and indeed almost each county that applied, gets some of the funding. As a result, many awards represent only one-quarter to one-third or less of the requested amount. Only one applicant, Calvert County, was granted its full request of \$2 million. Other applicants received half or greater of their requests: the Worcester County plan for its Coastal Bays area asked for \$3 million and received \$2 million. Frederick County requested \$2.6 million and received \$2 million. Six of the 23 applicants received no awards.

In some plans where owners of thousands of acres are ready to begin negotiations, only a few hundred acres will actually be preserved through this year's awards.

But other applicants feel that spreading out the money generates preservation activity statewide and keeps projects going, encouraging the leveraging of funds from other public and private sources and keeping preservation options on the minds of landowners.

*continue to page 3*

## Maryland Rural Legacy Program Awards, FY 2000, By County

County	State award	County match	Total funds	Project area
Baltimore	\$3 million	\$3.5 million	\$6.5 million	Piney Run; Long Green; Gunpowder
Caroline/Tal/Dor	\$2.5 million	\$146,500	\$2.6 million	Tuckahoe; Marshyhope
Calvert	\$2 million	\$1.1 million	\$3 million	Parker's Creek/Battle Creek
Montgomery	\$2 million	\$1.55 million	\$3.5 million	western county ag area
Worcester	\$2 million	\$1 million	\$3 million	Coastal Bays
Frederick	\$2 million	\$543,823	\$2.5 million	South Mountain/Catoctin Creek
Harford	\$1.7 million	\$1.1 million	\$2.8 million	Lower Deer Creek
Howard	\$1.5 million	\$202,777	\$1.7 million	Upper Patuxent
St. Mary's	\$1.5 million	\$1 million	\$2.5 million	Huntersville
Prince George's	\$1.5 million	\$0	\$1.5 million	Patuxent
Cecil/Kent	\$1.5 million	\$70,000	\$1.5 million	Sassafras; Fair Hill
Washington	\$1.3 million	\$2 million	\$3.3 million	Antietam Battlefield area
Anne Arundel	\$1.2 million	\$177,137	\$1.3 million	south county ag area
Carroll	\$750,000	\$1.1 million	\$1.8 million	Little Pipe Creek
Charles	\$500,000	\$128,175	\$628,175	Zekiah Swamp

Sources: Maryland Dept. of Natural Resources; FPR

*continued from page 2*

In Baltimore County, for example, four Rural Legacy areas vie for funding, putting pressure on the county to come up with matching funds, which it did: Baltimore County Executive C.A. Dutch Ruppersberger, speaking after the governor, announced he had dedicated \$3.5 million in matching funds for the four plans, boosting the Rural Legacy pot for the county to \$6.5 million. Private grants are also in the wings for several of the plans based on the successful state grants.

Harford County, which received no funding in the program's first year, requested \$5.4 million and was awarded \$1.7 million for its Lower Deer Creek plan, which incorporates a large historic district within a 16,000-acre project area. Harford County, which has preserved about 30,000 acres in

its farmland preservation program, has committed \$1.1 million in matching funds for the Rural Legacy plan.

Last year, award announcements were made in June, with the following January set as the application deadline for the second cycle. But this year, with awards not announced until October, January will likely not be the next deadline, according to Grant Dehart, director of Program Open Space.

"We'll be going over that with the board in the next couple of weeks. My recommendation to the board will be to delay the application deadline until sometime in March or April," Dehart said.

Recommendations from the Rural Legacy Board were based on reviews by a volunteer advisory committee appointed by the governor. The committee met 11 times between February and August.

BATTLE OF THE BUDGETS**NJ bond issues and Pa. line item keep programs rolling***continued from page 1*

entity called the Garden State Preservation Trust. Under new procedures, SADC will identify properties it seeks to preserve through its direct acquisition program – easements to be held by the state rather than by a locality, as well as recipients of its nonprofit grants and planning incentive grants, Baumley said.

But the \$30 million is just a starting point for FY 2000 – another appropriation is immediately pending, according to Baumley. The program expects \$60 million annually as an average under the new funding, “with possibly more in the first couple of years,” he said.

One thing is certain regarding the New Jersey program’s budget: it has the largest administrative budget - by far - of any state program nationally. For FY 2000 staff salaries and office expenditures are budgeted at \$1.89 million. About 17 employees are currently on staff, with eight full-time and part-time positions vacant.

The program has four divisions: farmland preservation, which operates the purchase of development rights and has six employees, now with two vacancies; appraisal review, with one full-time appraiser and four part-time reviewers; the Right to Farm section, which provides a conflict resolution process and directs state agencies in handling activities that affect agriculture - three positions slated, with one currently filled; the State Transfer of Development Rights Bank, with one employee; and an information processing division for GIS and data processing. The executive director’s office has five employees, including a legal specialist and a public information specialist.

The New Jersey program has been progressive in guidelines and incentives to localities, which hold nearly all easements. More than 55,000 acres

*please continue to page 5***etcetera ...****Sierra Club: Maryland top smart growth state**

In a national ranking released Oct. 4, the Sierra Club rated states in their efforts, or non-efforts to contain sprawl, placing Maryland in the top spot for its new law that directs state infrastructure spending only to designated growth areas. Oregon and Vermont were also noted for state planning laws and implementation successes.

The Sierra Club report ranked states for open space preservation, state land use planning, transportation planning, and urban revitalization.

Even with newly structured federal transportation spending, the report said that 21 states were still spending more than half of their federal share on new road construction in the 1996-97 allocations. New provisions in the federal program allow for greater portions to be spent in highway maintenance and enhancements for alternative transportation such as bicycle paths, and mass transit.

Vermont’s affordable housing program, which is linked to its farmland protection program, received kudos in the report. Vermont’s farmland and open space efforts have saved 165,000 acres and provided affordable housing, often refurbished units in town centers, to 10,000 residents.

The report pointed out that most states have no laws on the books that restrict where development occurs, and many existing laws are not enforced.

**Calvert County, Md. downzoning unchallenged**

*Prince Frederick, MD* – After reducing the county’s overall density by half five months ago, Calvert County Commissioners continued their efforts to manage growth by increasing the county’s recordation tax from \$3.33 to \$5 in September.

The Commissioners’ acted in April to downzone all zoning categories in the county, reducing build-out density from an estimated 54,000 dwelling units to 37,000, changing zoning allowances from one unit per five acres to one unit per 10.

According to Greg Bowen, no lawsuits have been filed challenging the commissioners’ action, even though they allowed for no grandfathering. A “huge rush” to obtain preliminary approval of subdivision

plans occurred prior to passage of the downzoning.

"We were getting 15-20 subdivision plans a month, but a lot of them never made it through. A few have gone through and gotten back development rights, but not many," Bowen said. Since then, "there's been a real decline in activity."

Under the rezoning, landowners can buy back development rights at the going market rate influenced by the county's TDR program. The average cost of a TDR in Calvert in 1998 was \$2,416. Five TDRs are required for construction of one unit.

#### **Planner: "agriminum" idea could help local ag**

Where farmland preservation is not a popular theme with local elected officials, other ideas about how to help local agriculture sustain itself can find the light of day, if only in the department of planning.

David Casciotti, director of planning in Cortland County, New York, has been exploring the idea of a program that would purchase large farms or groups of farms, in fee, subdivide into locally affordable smaller farms and resell to local farmers who would establish a farming "membership corporation", in which members would share the costs of owning and maintaining equipment. Casciotti calls this the "agriminum" concept "because of its similarity to a condominium in that it includes commonly owned and used improvements and equipment."

Casciotti, who said the idea is in its formative stages, has gotten input from HUD and from James R. Lyons, undersecretary for Natural Resources and Environment at USDA.

Meanwhile, Casciotti has applied for \$2.3 million to preserve three farms under New York's farmland preservation program.

#### **American Farmland Trust opens Texas office**

*San Marcos, TX* – The American Farmland Trust opened its first office in Texas last month, saying Texas is losing more of its "best farmland" to development than any other state. Julie Shackelford, formerly with the Texas Parks and Wildlife Department, will be directing the new field office, based in San Marcos.

Shackelford will work with agricultural, wildlife conservation and environmental groups. As its first collaboration, AFT holds a seat on the Texas Land Trust Council, formed to discuss statewide policies and issues related to land conservation.

*continued from page 4*

are under easement, with average easement cost statewide, shared by counties, of \$4,414 per acre. The program plans to preserve 500,000 acres over the next 10 years with the recently dedicated funding. The program's most recent innovation is in providing incentives to localities to target contiguous blocks of farmland for preservation (see FPR, Sept. 99).

#### **Pennsylvania**

Next door in Pennsylvania, legislators have been envying the New Jersey bond act, and are calling for a bond bill identical to their neighbor's: two separate bills call for a \$1 billion package to be split between farmland preservation and open space and parks spending.

Other bills want to boost funding for farmland beyond this year's special allocations that brought the year's fund to \$71 million to end a long-standing applicant backlog. The program had usually been funded at about \$25 million. While farmland preservation is now a line item in the general budget, it isn't certain what the level of booster funding will be. Meanwhile, three bills have been introduced in the House calling for bond issues in the amounts of \$100 million or \$150 million for the farmland program exclusively.

The Pennsylvania program is operated by eight employees in the Bureau of Farmland Protection within the Department of Agriculture. The administrative budget is through the department's general fund at \$434,000, according to bureau chief Ray Pickering.

Meanwhile, the Pennsylvania program is preserving close to 20,000 acres per year – a rapid succession that makes it the fastest growing program in the nation. During its last reporting period, from April 1997 to April 1998, in its ninth full year, the program preserved 18,576 acres in 25 counties at an easement cost, shared by the counties, of \$1,890 per acre, or \$35.1 million. The program's total preserved acres is now at 142,015, rapidly gaining on Maryland's lead.

## Maryland lags in funds, administration

*continued from page 5*

### Maryland

Maryland's long-standing status as a national leader in preserved farmland acres could be coming to a close, as its funding lags well behind Pennsylvania, where per-acre easement cost is comparable. According to Doug Wilson, director of administration in the Maryland Department of Agriculture, \$21 million "is pretty close for what we have available for easement offers for FY 2000."

As a comparison, even in tiny Delaware, roughly one-quarter the size of Maryland, funding for the current round is at \$15.7 million and the program staff, the same size as Maryland's, well exceeds Maryland's in terms of professional qualifications and responsibilities. Delaware's disadvantage is that it currently has no dedicated, long-term source of funds.

In FY 1998, with an administrative budget of \$1.05 million, Maryland's five person staff including director Paul Schiedt processed 84 easements covering 12,470 acres, little more than half of that acquired in Pennsylvania. The average per-acre easement cost is \$1,634. Appraisals are handled by the state's Department of General Services.

While the farmland preservation program itself lags in funding and administration, the state's Rural Legacy Program has taken up some of the slack. While not strictly a farmland preservation program, many of the 27,000 acres in the process of easement negotiation would qualify for the farmland program.

The Maryland program is funded through two dedicated sources, the Agricultural Land Transfer Tax, imposed on transfers that involve farmland conversion, and a portion of the state's real estate transfer tax, assessed on all property transfers. These sources are expected to generate \$25.5 million in FY 2000.

## legislative and program briefs ...

**In Ohio ...** EcoCity Cleveland, a nonprofit group, released a regional plan last month covering seven counties and a population of 2.7 million. The plan uses GIS analysis and presents mapping that shows zoning, development trends and options for the future. The group's website is [ecocleveland.org](http://ecocleveland.org).

**In Oregon ...** The annual barrage of legislation targeting the state's land use laws landed in the trash heap of failed bills, sparing the nationally renown state planning program from weakening amendments.

**In Montana ...** The Agricultural Heritage Commission will be reviewing candidates for administrator of the state's Agricultural Heritage Program over the next several weeks.

**In Maryland ...** A meeting of smart growth advocates in Baltimore, coordinated by the Chesapeake Bay Foundation, explored possible next steps for the state's smart growth law.

Harford County will announce this month establishment of a comprehensive agricultural economic development program, with the goals of increasing on-farm income, retaining and increasing the number of producers in the county. Identifying new products and new markets and emphasizing sustainability are key elements.

Gov. Parris Glendening continues strong opposition to construction of the Intercounty Connector, a \$1.1 billion highway that would connect I-270 in Montgomery County to I-95 in Prince George's County. His opposition has put him at odds with the Greater Washington Board of Trade and other heavy-hitting business groups.

**In Pennsylvania ...** U.S. Sen. Rick Santorum, a member of the Senate Agri-

## professional resources ...

### BOOKS

**Holding Our Ground ~ Protecting America's Farms and Farmland**

By Tom Daniels and Deborah Bowers

Island Press, 334 pp. \$34.95 + s & h

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culture Committee, hosted Pennsylvania farmers at his Washington office Oct. 7. Participants discussed ag issues with USDA officials.

Bills HB 1614 (Bunt) and HB 1607 (McIlhinny) call for \$1 billion in bonds split between the farmland preservation program and the Keystone Recreation, Park and Conservation Fund. The bond issue would have to be put to referendum. HB 350 (Maitland) calls for a referendum for voter approval of \$100 million for the farmland program. HB 1284 (Bunt) provides for a referendum for voter approval of \$150 million also for farmland.

Sen. Jim Gerlach has introduced an amendment to the state planning code that would grant, under certain conditions, the power to municipalities to require adequate public facilities be in place prior to development. For more information, call Lauren Muglia at (717) 787-3044.

The Senate Environmental Matters Committee, chaired by Sen. Mary Jo White, has been working on the Growing Greener Initiative for stronger *environmental cleanup and enhancements*. It will not include bond funding, according to staff for Sen. White.

The Pa. Farm Link Program has found that six percent of 300 participants have transferred their farms to successors within the past year and 94 percent were involved with other activities that will make farm transfer easier.

**In California ...** SB 985, to curb abuse of the Williamson Act, and SB 649, to reimburse local governments for 20-year Williamson Act contracts (see FPR Sept. 99), were enrolled on Sept. 27 and await the governor's signatures.

**In USDA ...** Fen Hunt resigned from *her position as administrator for the Farmland Protection Program*. Tom Heisler of Maryland NRCS is filling in two days a week, according to Carl Bouchard. Hunt has taken the position of National Research Coordinator for the NRCS at Beltsville, Md. She can be reached at (301) 504-4787.

### **When City and Country Collide ~ Managing Growth in the Metropolitan Fringe**

**By Tom Daniels**

**Island Press, 363 pp., \$32.50 + s & h**

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### **JOB ANNOUNCEMENTS**

**CorLands (IL), Executive Director** — The 21-year-old nonprofit land conservation affiliate of Openlands Project, based in downtown Chicago, is seeking an executive director. The organization works in partnership with governments, non-profits and individuals to acquire appropriate parcels of land as they become available or obtains conservation easements to protect land. Salary range is \$75,000 to \$90,000 depending upon experience. Resumes with a writing sample should be sent to the following: Search Committee - CorLands Executive Director P.O. Box 0725, Chicago, IL 60690-0725. (Posted 10/1/99)

**The Jackson Hole Land Trust (WY), Director of Protection (Search re-opened)** — The position is responsible for and oversees all land protection projects. This includes identifying, designing and negotiating complex land transactions. Qualifications: Law degree and land trust experience preferable. A qualified candidate must have considerable experience negotiating and carrying out land conservation projects and real estate transactions. Excellent written and oral communication skills are required. Please send resume and cover letter to P.O. Box 2897, Jackson, WY 83001. Deadline: Nov. 1. (Posted 10/1/99)

**The Trust for Public Land (NJ), Field Office Director** — Manage all aspects of TPL's New Jersey State Program including marketing, fund raising, land preservation work, and staff and project oversight. Requirements: 5-8 years of related experience with at least 4 years directly project related and 1-2 years of management experience; experience with real estate principles, practices and non-profit land acquisition; proven ability to negotiate successful transactions; excellent communication and organizational skills; knowledge of non-profit fund raising techniques and commitment to land preservation issues. EOE. For more information: [www.tpl.org](http://www.tpl.org). Please send resume to The Trust for Public Land, 666 Broadway, New York, NY 10012; or fax: 212-353-2052. (Posted 9/24/99)

**The Trust for Public Land (WA), Project Manager** — Seeks two senior project managers for Seattle office. Responsible for identifying and negotiating the acquisition of key resource lands (open space, parks, scenic areas, habitat) and their conveyance into public ownership. Requires five years of real estate transaction experience, including expert knowledge of appraisals (and government appraisal review process) and good working knowledge of EA's and title issues;

*continue to page 8*

## professional resources ...continued

high level familiarity with public agency land acquisition departments; excellent working knowledge of the processes for obtaining public funding for land acquisition; ability to generate grassroots community support for public land acquisition; computer proficiency. The successful candidate will be expected to work collaboratively with legal, finance and development staff; be responsible for developing and adhering to individual project budgets; and play a major role in generating revenues for the organization through real estate transactions and fundraising. EOE. Send resume/letter to: The Trust for Public Land, Suite 605, 1011 Western Ave., Seattle, WA 98104 attn: Daniel Wilson. (Posted 9/20/99)

For further job listings involving land trusts, see the Land Trust Alliance web site at [www.lta.org](http://www.lta.org). Positions in farmland preservation may be available and not yet advertised. Subscribers may call the editor at (410) 692-2708 for information in confidence.

### CONFERENCES, EVENTS

**Oct. 22, Linthicum Heights, MD:** Land Use Institute, sponsored by the Md. Inst. for Continuing Professional Education of Lawyers Inc. Features discussions on the most current topics facing the land use community, including takings, smart growth, environmental issues, adequate public facilities, subdivision and zoning practice. Call 1-800-787-0068.

**Dec. 2 - 3, Philadelphia:** The Future of Our Food and Farms ~ A Regional Summit to Promote Agriculture, Learn about Trends in Food Distribution and Find Ways to Reduce Hunger. To be held at the Radisson, Phila. Int'l Airport. Learn about how the mid-Atlantic region's food system works today and where it is going; about farming trends, consumer buying patterns, promoting local agriculture, food distribution, food processing, food advertising, niche marketing, food access in the inner city, farmers against hunger, urban agriculture, and more. Fee: \$95, \$85 if postmarked by Oct. 30. Dinner extra. For registration info. call 1-800-417-9499, ext. 13 or email [foodfarm@libertynet.org](mailto:foodfarm@libertynet.org).

**Nov. 1 - 3, Seattle:** *Housing Washington, Join Forces, Increase Choices*, sponsored by the Washington State Department of Community, Trade & Economic Development. Presenters include Bruce Katz and David Rusk. For information call 800 767-4663 or write [conference@bombar.com](mailto:conference@bombar.com). Website: [www.wshfc.org](http://www.wshfc.org).

**Nov - March 2000, Southeastern MN:** Farm Beginnings, an educational training and support program, helps prospective or new farmers plan and manage their sustainable farming enterprises. Sponsored by the Minnesota based Land Stewardship Project. Fee: \$200. Held twice monthly beginning in Nov. Contact Karen Stettler, (507) 523-3366 or email [stettler@landstewardshipproject.org](mailto:stettler@landstewardshipproject.org)

**April 8 - 10, East Windsor, NJ:** PACE 2000: Foundations for the Future, the 13th

annual conference on agricultural conservation easements (aka purchase of development rights) organized by the American Farmland Trust. The 2000 conference will be sponsored by the New Jersey State Agriculture Development Committee. A call for workshop proposals has been posted, due Oct. 15. Call (413) 586-9330.

### SUBSCRIBER SERVICES

#### Farmland Preservation Hotline

Need to know who is doing what? Where certain policies are in place? Who you can call to learn more? Call the editor at (410) 692-2708 or email us. We're faster, friendlier, and smarter than the web.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Virginia coalition seeks \$40 million for land preservation

WARRENTON, VA – A coalition of land conservation groups in Virginia is urging Gov. Jim Gilmore to dedicate \$40 million annually to land conservation, with 25 percent of the fund earmarked for farmland preservation. The Coalition, with a steering committee including The Nature Conservancy, the Chesapeake Bay Foundation and other regional groups, is urging town and county officials to support the initiative.

"We are going to every city and county and asking them to consider resolutions of endorsement," said Robert Riordan, director of communications of the Virginia Chapter of The Nature Conservancy.

The Conservation Land Coalition is looking

for a long-term funding source and has targeted the state recordation, or real estate transfer tax, the source of funds used in Maryland for open space and farmland preservation. The recordation tax revenue currently goes to the general fund.

### Farmland preservation in a conservative state

Virginia is the only state on the east coast without a dedicated funding source for land conservation. It is virtually impossible to create a new tax in Virginia, a conservative state where localities have limited authority to control land use. Transfer of development rights, for example, is disallowed by the legislature, and municipalities have more options in finance than counties.

*please turn to page 2*

## Kentucky legislature to consider statewide planning bill

LOUISVILLE, KY – A Kentucky legislative subcommittee released the outline of a statewide planning proposal Oct. 27 that will require the creation of local planning commissions and prohibit state agencies from investing in projects that convert farmland unless such projects conform to a locality's comprehensive plan.

The Subcommittee on Planning and Land Use released a sketch of its Blueprint for a New Century of Growth in Kentucky after two years of work sessions. Legislation is being finalized.

Localities that respond with comprehensive plans that reflect prescribed smart growth guidelines will be rewarded with technical assistance

and "extra bonuses for state projects, such as road funding," said Rep. Jim Wayne, subcommittee co-chair.

*please turn to page 4*

Volume 10, No. 2      Nov. – Dec. 1999

### inside this issue ...

Historic preservation highlights smart growth ..... p. 5  
Administrators define critical mass ..... p. 7

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## Fiscal conservatism is obstacle for Va. preservation agenda

*continued from page 1*

According to the Coalition, the average value of farmland in Virginia is \$1,925 per acre. Purchasing easements on two percent of the state's 170,000 acres of farmland at 30 percent of fair market value would cost \$100 million.

The only established farmland preservation program in the state, in Virginia Beach, spends \$3.5 million per year in an installment purchase program. According to program director Louis Cullipher, the city has 4,200 acres under easement, with 1,000 acres approved for easement purchase "and another 1,500 acres in the pipeline."

Albemarle County, surrounding the city of Charlottesville, will soon consider a purchase of development rights program with \$1 million in proposed funding, according to Sherry Buttrick of the Virginia Outdoors Foundation, who is working with local officials to develop the program.

"One million is less than one percent of [Albemarle's] budget. We have a fairly enlightened and sophisticated leadership, and lots of development pressure compared to the rest of the state," she said.

In Albemarle, while no farmland preservation program with ag criteria has been at work, the Virginia Outdoors Foundation holds easements on more than 20,000 acres, much in grazing lands. Other localities interested in starting a farmland preservation program include Loudoun County and James City County.

The proposed \$40 million fund would operate as a grant program administered by the Virginia Land Conservation Foundation, a state agency, a structure that is "vigorously debated," according to Riordan.

"We suggested the Foundation fund the local ag protection programs, and let them determine the ranking, but the Foundation wants to make grants for specific tracts." Riordan acknowledges that local programs will object to state involvement in project selection.

Louis Cullipher of Virginia Beach agrees. "It would be prudent to let localities determine the needs and criteria ... each locality is unique, and

land use has historically been local. Within certain guidelines, that should be respected."

Not only does the Foundation want to control fund distribution, but it has developed guidelines that indicate public access would be part of easement agreements.

The idea of public access onto preserved farmland is a good indication of the work that needs to be done to establish a viable farmland preservation program in Virginia, said Mary Heinrich of the American Farmland Trust's mid-Atlantic office.

Heinrich's work in Virginia over the past year has been a frustrating experience, she said. In a series of presentations on agricultural conservation easements to groups such as the Virginia Farm Bureau, farmers "were very polite" but are concerned about property rights and retaining speculative value. Still, she feels she has garnered strong local support.

While the Virginia Outdoors Foundation easements give farmland preservation a leg up in the state in terms of acres preserved, "the bulk of their easements are on grazing lands, and they focus on visual character," Heinrich said.

The success of the \$40 million quest seems like a long shot to most, as Gov. Gilmore has made it clear he favors incentives for easement donation, and thinks that purchasing easements, or purchasing land outright for recreation or historic preservation is not needed. And, the entire Virginia General Assembly is running for re-election, making it impossible to gauge what type of support there will be from state legislators.

Meanwhile, the state is losing about 45,000 acres of farmland annually, according to USDA figures. The state's reluctance to preserve land is impacting historic preservation as well, as lands surrounding important historic sites such as Mount Vernon, Monticello and Washington's boyhood home, are threatened with development, according to the Coalition.

*please continue to next page*

*Virginia, continued from page 1*

### **Fauquier County in preservation lead**

Entering Fauquier County, Va. along rural Route 29, a visitor sees black angus grazing alongside horses on broad hillsides, and polled Herefords in wide pastures where a sign proclaims "Fauquier County ~ Preserving Agriculture in a Business Community."

On a tour bus arranged by the National Trust for Historic Preservation during its national conference in October, 16 individuals were heading for historic Warrenton in northern Virginia to see and hear about its Main Street Program, which has spurred \$7.5 million in private investment in its downtown and created 94 new businesses since 1989.

While neither Fauquier County or Virginia operate a farmland preservation program, 34,220 acres have been preserved in Fauquier – far more than any other Virginia county – by landowners who donated easements to the Virginia Outdoors Foundation.

Warrenton, the county's only large town, is one of 16 designated Main Street communities in Virginia, established following the National Trust's Main Street initiative, which seeks to curb the loss of historic architecture due to economic decline in the nation's smaller downtowns. The program focuses on economic development that takes advantage of tax credits available for rehabilitation of historic buildings.

Gathering in the town council chambers in a former hotel where Union Gen. George B. McClellan bid farewell to his officers, the tour group heard from Cheryl Shepard, chairman of the town's Architectural Review Board. Shepard described the town's fight to stop construction of a county prison whose height and scale would have "destroyed the historic character of Warrenton."

### **Building up Main Street**

Shepard said the Main Street Program spurs true economic development, not just pleasing architecture, and that authenticity is the town's strength.

"This is a [real] traditional neighborhood development. We don't have to fake it," she said.

Anne-Marie Walsh, executive director of the Partnership for Warrenton Foundation, led the group on a walking tour of Main Street, describing many of the buildings and how the owners pulled off aging 20th-century facades to discover transoms, brick exteriors, and wavy-glass windows. The group visited thriving retail businesses that had located in buildings dating to 1808 and 1820.

Walsh described her success in persuading a renown hairdresser with a large clientele in the Washington, D.C. community of Georgetown to relocate to Warrenton. The business' loyal clientele followed despite the 45-minute drive, bringing retail business activity to the street's shops and restaurants.

Following lunch at a restaurant in a restored railroad depot that served as an important supply center during the Civil War, the group heard from Warrenton Town Councilman David Norden about his fight to stop Wal-Mart from locating in the town. Prior to his election, Norden founded the Friends of Warrenton to oppose the demolition of historic buildings, and later to stop Wal-Mart.

### **Wal-Mart Wars**

"Wal-Mart was exactly the kind of thing we didn't want in Warrenton. It was quite a blood bath," Norden said.

Norden described a two-phase Wal-Mart scheme, in which the company withdrew its plans following planning commission opposition. The town council then passed a big-box ordinance prohibiting buildings larger than 50,000 square feet without a variance. Fauquier County followed with a similar bill, but allowing up to 75,000 square feet. Wal-Mart responded by working with a property that straddled the town and county boundaries, proposing the maximum allowed footage in each jurisdiction. Wal-Mart won, and then convinced the town council to extend water

*please continue to next page*

## Town to look beyond Wal-Mart, focus on Main Street

*continued from page 3*

and sewer, espousing the environmental benefits. Wal-Mart opened its doors in early October.

Meanwhile, according to Walsh, several businesses that would have located on Warrenton's Main Street, have rejected available sites because of Wal-Mart, including a sport shop and a knitting goods shop.

Looking beyond the Wal-Mart and Main Street efforts, Norden said the town is working on an update of its comprehensive plan, and that he is looking into downzoning one-acre lots in the town because 6,000-square foot lots are currently allowed. Norden is also working on a gateway protection plan for the town.

## Kentucky to consider smart growth legislation, use tobacco funds for PACE

The Blueprint is incentive-based, Wayne said, and will provide funds for "itinerant planners", technical support for floodplains, tax incentives for farmers and infill development, as well as incentives for smart growth oriented residential and commercial development, he said.

Local planning commissions will be required to submit comprehensive plans to the state within three years of the proposed law and will adopt guidelines for citizen participation, including an appeals process.

State review and approval of comprehensive plans and coordination with state financed projects would be carried out by the governor's cabinet, which under current law is charged with regional planning functions.

While the state will provide bonus funding for construction projects to smart growth plan areas, it will not withhold funding from those areas

without such plans, as Maryland has done, Rep. Wayne said.

"I believe in the principal of subsidiaries - the delegation of power to localities."

The subcommittee reviewed the laws of a number of states including Maryland, Tennessee, and Georgia, and rejected the withholding of funds as a course of action for Kentucky, he said.

### Boost for farmland preservation

The Blueprint will propose increased funding for the state's farmland preservation program as well as property tax relief for farmers who agree to forgo development for 10 years. Family farm

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#### Kentucky agriculture:

- Dominated by small family farms
  - \$3 billion in sales; \$15 billion impact
  - Best known for horses, tobacco, beef cattle
- 

exemption from inheritance tax and state matching funds for local farmers markets are proposed, as well as an exemption from state income tax of the first \$30,000 in net farm income for first-time family farms.

The state's Purchase of Agricultural Conservation Easement (PACE) program was created in 1994 but has been unfunded except for one allocation of \$400,000 as a matching fund for a grant under the federal Farmland Protection Program. With those funds, 645 acres on six farms were preserved. According to Bill Burnette of the Department of Agriculture, the program will likely request just \$1 million in funds from the upcoming session of the legislature, which only meets every two years.

Meanwhile, Kentucky's take of tobacco settlement money could net funding for the program well beyond its modest request - the Department of Agriculture could receive \$85 million under current proposals. Part of that money could be earmarked for the PACE program, but the amount is not yet determined.

"That's being debated right now," said Rep. Wayne. "There are all kinds of forces pulling at that money."

Preservation advocate Chafee's last address

## National Trust conference spotlights smart growth, land preservation

WASHINGTON, D.C. - Historic preservation advocates have put themselves "on the cutting edge of the environmental movement," by creating programs to revitalize communities and publicizing the effects of sprawl, said Sen. John Chafee of Rhode Island before the annual conference of the National Trust for Historic Preservation Oct. 21.

It was to be Chafee's last major public address. A longtime friend of environmental and preservation efforts and chairman of the Senate Environmental and Public Works Committee, Chafee died Oct. 24 of heart failure. He was 77.

Chafee was the primary sponsor of the Historic Homeownership Assistance Act, legislation that would create a 20 percent federal income tax credit or optional mortgage buy-down certificate for homeowners restoring deteriorated housing. The bill was part of a tax package vetoed by the president. It has been reintroduced and its passage is a top priority of the National Trust.

"Hopefully next year we can get it done," Chafee said.

Looking frail but speaking with enthusiasm, Chafee spoke before an audience of several hundred at the Washington National Cathedral during the conference's opening plenary.

"Clearly, open space conservation and historic preservation go hand in hand," Chafee said, mentioning the National Resource Preservation Act, a bill that would set aside \$150 million annually for open space and encourage states to set aside funds.

Chafee urged those present to "do all you can to make the federal government a leader in historic preservation."

About 2,500 people attended the six-day event that included 70 workshops and 40 field trips. Interior Secretary Bruce Babbitt and First Lady

Hillary Rodham Clinton spoke at opening events. Many workshops focused on topics related to land use, with particular attention to "smart growth." Maryland Gov. Parris Glendening was a featured luncheon speaker.

### Forcing the issue

Interior Secretary Bruce Babbitt, introduced as "the first interior secretary to demolish dams and restore fire to its natural role in the wild," revealed his plans to protect "the cultural landscape" and viewshed of Palm Springs' Mt. San Jacinto from rampant golf course development and to urge the president to use his powers through the Antiquities Act to create "areas of scientific and historic interest" when creation of a national park or wilderness area is infeasible. In Palm Springs, adjacent to the Joshua Tree National Park in southern California, citizens support a landscape protection effort, Babbitt said.

If the president is willing - and Babbitt thinks he is - other means of protecting significant sites in or around urbanizing areas such as Phoenix and Tucson, must be used, he said.

"If Phoenix can't think about an urban boundary, maybe we can do it for them." The Tucson area contains artifacts and archeological sites "from pre-Columbian to 19th century - the entire landscape is reeking with history." Babbitt said he was working on a statutory plan for multiple management.

Babbitt may find broader support for his efforts in Arizona. There, petitions are circulating to place on the Nov. 2000 ballot the Citizens Growth Management Initiative, which will require urban growth boundaries, impact fees and open space preservation.

### Maryland's "smart code" effort

At a luncheon, National Trust president Richard Moe introduced Gov. Parris Glendening as having "a number of landmark successes mobilizing public and political support for his initiatives," and said Glendening had made Maryland the "best state in the nation for preservation," creating "common sense models for other

## Smart growth, historic preservation find common ground

*continued from page 5*

Maryland the "best state in the nation for preservation," creating "common sense models for other states as well." Moe presented the governor with an award for the state's Program Open Space and Rural Legacy initiatives.

Glendening has been persistent in pursuing land preservation deals well beyond program norms for farmland or open space. This year alone, the administration has preserved more than 50,000 acres in deals not related to the farmland preservation program and pursued specifically to thwart development.

On the other end of the smart growth spectrum, Glendening said his administration was working with Baltimore's expected mayor-elect "to get West Baltimore off the endangered list and listed as a model for adaptive re-use."

West Baltimore has been slated for redevelopment which includes demolition of a number of historic buildings. The National Trust last year listed the area among its 11 Most Endangered Historic Places.

Glendening said he had created a task force to develop model "smart codes" to "gain the tools needed to re-create the best parts of successful towns and cities like Annapolis or downtown Frederick." Among the task force's first actions will be to recommend a "re-hab code" to make re-use of older buildings more feasible.

"I am pleased with the progress, but we have much more to do. We are concerned about building codes in Maryland that discourage reinvestment - our smart code effort will change that."

Glendening indicated that local governments would be required to be concurrent with the smart code. He mentioned infill development and setbacks on new lots as among the things that would be affected.

Glendening has been in the lead on smart growth among the nation's governors. Recently the National Governors' Association adopted a set of principles regarding better land use. It was the first time the organization had adopted a land use

policy.

### Federal role in smart growth

Keith Laughlin, associate director for sustainable development with the Council on Environmental Quality, said he serves on a task force that is "looking at what type of initiatives we could propose for inclusion in the 2001 budget and what type of administrative action can be taken," that will help forward the smart growth agenda from the federal level.

Smart growth "has really become very big - something we can't ignore."

Laughlin said the question of a federal role is "not a matter of leading or following," as the name of the session indicated, but "a matter of becoming a partner. We have no interest in assuming responsibility for land use decisions. That doesn't mean we have no involvement in this set of issues, however."

Laughlin said creating incentives, such as the Better America Bonds initiative, was a key element of the federal role in smart growth.

Co-panelist Geoffrey Brown, senior legislative assistant for Sen. James M. Jeffords of Vermont, said there was "general reluctance to be the leader on this," and that Congress is more comfortable seeing what localities do on smart growth.

Brown and Laughlin, along with co-panelist Roy Kienitz, executive director of the Surface Transportation Policy Project, spoke before a packed audience of about 150 whose questions revealed a sophisticated knowledge of planning, land use and farmland preservation issues.

Laughlin said he felt historic preservation professionals and activists were in the forefront of the smart growth movement and that while the spectrum of issues was vast, he said, "this is an evolutionary process. We'll make incremental gains."

One session participant asked Laughlin if he thought housing starts could ever be de-empha-

*please continue to next page*

**National Trust, from page 6**

sized as a national economic indicator.

"We need a comparable indicator on the rehabilitation of housing stock. We're trying to push that internally," he said.

Many session topics at the conference involved smart growth, open space protection and planning issues. One session dealt solely with farmland preservation, focusing on the Maryland program. Smart growth-related work sessions were filled, with some attendees standing.

Many panelists said they felt the National Trust had taken the lead in addressing the issue of sprawl and in offering pragmatic solutions at the federal, state and local levels.

## **Administrators: To define critical mass, think regionally, act locally**

Increasingly diverse agriculture in urbanizing areas makes critical mass an ever elusive concept, according to farmland preservation administrators, who say those trying to define it better think regionally.

Critical mass is a recurring theme in farmland preservation - how to define it in a given locality, and, how to achieve it. In farmland preservation, critical mass refers to the supply and availability of agriculturally productive land in a locality or region - preserving a large enough supply of land to sustain agriculture economically over time.

While it would be desirable to have a standard to achieve, most farmland preservation professionals accept that a definition of critical mass, like farmland preservation itself, is local. Therefore, the burden of defining and understanding critical mass must be left to each locality.

FPR chose several experienced farmland preservation professionals and asked for responses to the following questions: 1) How would you define critical mass for your locality, and 2) Is it achievable considering programs in use?

### **Baltimore County: Regional perspective preferred**

In Baltimore County, Md., Wally Lippincott manages farmland preservation programs, including the state and local purchase of development rights programs and the state's Rural Legacy Program. The county, which surrounds Baltimore City, showed 75,795 acres in farms in the 1997 U.S. Ag Census, with a market value of ag products sold of \$51.1 million. Farmers who stated that farming is their principal occupation numbered 351, down from 390 in 1992.

Of the 75,795 acres reported as being in agricultural use, 24,399 acres are permanently preserved - about one-third of reported lands. These acres include forest lands that are part of farm parcels.

Lippincott said the critical mass question needs to go beyond the boundaries of a given locality, particularly in an urban region such as Baltimore.

"The question should be, does Baltimore County and the *area* have conditions that are conducive to retaining commercial agriculture?" The county's proximity to Lancaster County and the Eastern Shore of Maryland gives local agriculture a margin of safety in viability, according to Lippincott, as well as the Baltimore port for markets and equipment.

Lippincott added that sales and repair facilities, good soils, adequate rainfall (excepting the recent drought) and the length of growing season help Baltimore County, as well as effective agricultural zoning (1-50), and diversity of farming activities. The county's horse breeding and the needs it creates, such as plentiful and high quality hay, is the backbone of agriculture for this highly urbanized region.

### **Regional perspective, part II**

The necessity of looking beyond a locality's borders for survival in the critical mass equation was echoed by Donna Mennitto of the American

*please continue to page 8*

## Critical mass: defining, achieving it

Farmland Trust's Mid-Atlantic office. Mennitto responded regarding Howard County, where she operated the farmland preservation program for four years following five years as a planner there. Howard does not have a critical mass of farmland, she said.

"It never has. However, historically, it has been part of a much larger critical mass that includes Carroll, Frederick, and Montgomery counties."

Unfortunately, Mennitto said, fragmentation in these counties has weakened farmland preservation efforts in terms of retaining commercial agriculture. A lack of regional planning to retain agriculture as a state industry has vastly affected each county's local efforts, she said. The AFT's Farms for the Future mapping, which identifies the state's most valuable farmland, "represents the beginning, finally, of mapping the farmland of the entire state and identifying intrinsic, valuable characteristics."

This type of regional, strategic perspective should help localities see beyond their borders, in regards to the critical mass question, Mennitto said.

"I'd hate to think that, at the end of the day, the state of Maryland, which led the nation in protecting farmland for so long, becomes an example of what happens when you do everything right, except have a strategic approach."

Ending, Mennitto said the amount of land needed "has so much to do with what type of farming is being done. The critical mass for wheat or dairy may be gone, but as ag transitions to 'new' types of enterprises, the definition of critical mass may change as well."

### Diversity complicates critical mass concept

In Skagit County, Wa., "we don't have a specific definition," of critical mass, said Rich Doenges, administrator of the county's Farmland Legacy Program.

"What complicates attempts to better define critical mass is the varied nature of agriculture in Skagit County."

Skagit has significant production of flower bulbs, which attract thousands of tourists from the greater Seattle area, especially for tulips, each spring. The county also sees substantial production of vegetable seeds, potatoes, pea and corn crops, dairy, and ornamental plants.

"Many farmers grow a combination of crops over time or area and are leasing land back and forth from each other ... what is necessary in terms of farm-related business to support the floriculture industry, may not be sufficient for the potato growers ... I don't think we can afford to convert more farmland without irretrievably losing the commercial agriculture."

Skagit County's farmland preservation program has preserved about 400 acres, and "we should break 1,000 acres by the end of the year," Doenges said.

The program is funded through a property tax of 6.25-cent per \$1000 assessed value, which yields about \$425,000 annually.

"Initially, we planned to bond and get a \$10 million [fund]. We haven't needed to because of a \$450,000 FPP grant from NRCS, and, lower than expected demand from landowners," Doenges said.

## resources ...

### JOB ANNOUNCEMENTS

**Lancaster Farmland Trust (PA), Director of Land Preservation** — The position is responsible for all farmland preservation projects. Cultivate and negotiate conservation easement donations and bargain sales. Bachelor's degrees, 5-8 years land trust exp. preferred or real estate, sales, marketing, fundraising or similar experience; commitment to farmland preservation; outstanding communication skills. Competitive salary, excellent benefits. For a complete position description send email to [Gayle@savelancasterfarms.org](mailto:Gayle@savelancasterfarms.org). Send cover letter and resume to: Thomas Stouffer, Ex. Dir., Lancaster Farmland Trust, 128 East Marion St., Lancaster, PA 17602 or call (717) 293-0707. (Posted 10/22/99)

### CONFERENCES, EVENTS

**Nov. 12, Indianapolis:** Indiana Agricultural Forum, featuring Sen. Richard Lugar, chairman, Senate Agriculture Committee. Fee. \$35. Call (317) 745-0947.

**Nov. 3 - Dec. 15, Baltimore:** Smart Growth Breakfast Series, sponsored by Urban Land Institute, Baltimore District Council. Single session, \$50, \$200 full series (4 sessions). Call 1-800-321-5011.

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# farmland preservation report

*Covering the policies, practices and initiatives  
that save farmland and open space*

*Since 1990 • Deborah Bowers, Editor*

## Gore calls for funding boost

### Rate of nation's farmland loss doubled during past decade

WASHINGTON, D.C. – From 1992 to 1997, the United States lost 16 million acres of forest, cropland and open space to development, a rate of 3.2 million acres per year, according to the National Resources Inventory, conducted by the USDA and released Dec. 7.

Conducted every five years, the latest data portrays a national building frenzy that knows no bounds, and its result: a loss of farmland and open space occurring at more than twice the annual rate of the 10 preceding years. From 1982-1992 the annual loss was 1.3 million acres.

Vice President Al Gore used the figures to

announce the administration's plan to boost funding for the Farmland Protection Program in the FY 2001 budget, and to promote the administration's Livable Communities initiative.

Gore said the FY 2001 budget would propose a "significant increase" for the Farmland Protection Program, administered by the Natural Resources Conservation Service.

"This voluntary program is enormously popular... yet Congress has repeatedly denied the administration's requests for increased funding," Gore said. No figures have been released on the amount of funding that will be proposed.

*please turn to page 2*

### Pennsylvania's current year funding is highest in nation

HARRISBURG, PA – Farmland preservation in Pennsylvania will receive a \$20 million boost this year and annually through 2005 from the Environmental Stewardship Act, passed by the legislature in December. The new funding brings current available dollars for farmland easements to \$101 million, according to Ray Pickering, director of the Bureau of Farmland Protection. Additional funding from counties could reach \$20 million, he said.

Passage came within days of release of the National Resources Inventory (NRI), performed every five years, that shows Pennsylvania lost 1.1 million acres between 1992 and 1997, the second highest loss in the nation, following Texas.

But for this year at least, the new funding puts Pennsylvania in the lead nationally for state farmland preservation funds, well ahead of Mary-

*please turn to page 3*

**Volume 10, Number 3      January 2000**

#### **inside this issue ...**

Michigan initiatives on a roll .....	p. 3
MALPF seeks reduction in lot allowances .....	p. 4
Rural Legacy policy changes irk grantees .....	p. 5
Ohio completes first easement .....	p. 5
Legislative briefs .....	p. 6,7

## NRI data establishes nation's top states for farmland loss

*continued from page 1*

The National Resources Inventory (NRI) was announced by USDA Secretary Dan Glickman at Iowa State University, which assists in conducting the inventory. Glickman said at the USDA's National Conservation Summit that the inventory demonstrates "we must redouble our efforts to preserve farm and forest lands."

Glickman specifically pointed out the dramatic loss of forest cover in the Chesapeake Bay region where tree canopy has declined from 51 percent to 37 percent in the last 25 years.

The NRI covers non-federal land, which makes up 75 percent of the nation's land base, capturing data from 800,000 statistically selected locations on land cover, land use, soil erosion, prime farmland, wetlands, habitat diversity, selected conservation practices and other natural resource information. Land conversion information is derived by comparing data to past surveys.

A ranking of states based on number of acres lost to development shows a possible correlation to land area for some in the ranking - Texas, for example, leads the nation for number of acres lost, with 1.2 million acres converted from 1992 to 1997.

Others in the top-10 ranking, however, are less likely a result of size, and some may surprise observers: Pennsylvania ranked number two, with a loss of 1.1 million acres, followed by Georgia, Florida, North Carolina, California, Tennessee, Michigan, South Carolina and Ohio. And, while it is small by comparison, Maryland ranked 28th, with a loss of 222,300 acres.

The NRI indicates how non-federal lands are being used, the condition of natural resources, and how land use patterns have changed over time. The NRI was conducted in 1977, 1982, 1987, 1992 and 1997, the latest completed. Data on developed land is collected to identify which lands have been permanently removed from the rural land base and includes large tracts of built-up land as well as tracts of less than 10 acres. Included is land consumed by roads, railways and rights-of-way.

The NRI numbers sound familiar to observers of land use trends, in that past surveys indicated

### Cropland acres for selected states

State	1982	1987	1992	1997
California	10.5	10.2	10.0	9.56
Pennsylvania	5.89	5.74	5.59	5.24
New York	5.9	5.7	5.6	5.3
New Jersey	809.5	688.0	649.6	574.0
Maryland	1.795	1.740	1.673	1.597
Delaware	518.6	510.8	499.2	471.5
Florida	3,556.3	3,184.2	2,997.5	2,719.2
Michigan	9.44	9.30	8.98	8.43
Ohio	12.44	12.34	11.92	11.50
Montana	17.1	16.2	15.0	15.0
Washington	7.79	7.29	6.74	6.68
Massachusetts	296.9	288.0	272.5	270.7

Source: USDA - NRCS, 1997 National Resources Inventory

the nation could be losing about three million acres per year going back farther than the 1990s.

"The three million acres a year loss rate is what the National Agricultural Lands Study Reported in 1981 for the period 1967-1977," said Tom Daniels, an agricultural economist and planning professor at The State University of New York. "These figures also pretty well refute the USDA Economic Research Service report of 1994 that said only 400,000 acres of farmland a year were being lost to development."

The National Agricultural Lands Study was initiated in 1979 during the Carter administration. It was charged with determining the nature, rate, extent, and causes of farmland conversion, evaluating the consequences and recommending action. Among the recommendations was federal assistance to state and local farmland protection programs as well as an overall review of the tax code.

The NRI is available on the internet at [www.nrcs.usda.gov](http://www.nrcs.usda.gov).

**Pennsylvania, from page 1**

land and even New Jersey, where \$80 million has been appropriated for FY 2000. Maryland's farmland funding stands at just \$21 million this year.

Pennsylvania's five-year, \$645.8 million environmental program will boost the budgets of four agencies that handle environmental mandates from sewage disposal to forest conservation. The program will depend on general fund appropriations but "requires funds as part of the governor's annual budget submission" according to Patrick Henderson, executive director of the Senate Environmental Resources and Energy Committee. The act "includes language reflecting the General Assembly's intent to appropriate funds," he said.

Gov. Tom Ridge signed the act Dec. 15 in a ceremony at a Chester County farm slated for preservation.

In addition to \$100 million in annual general funds, the act also taps transfers of monies from the Recycling Fund and the Hazardous Sites Cleanup Fund, of up to \$30 million annually.

Last May the legislature approved a line item of \$43 million as a special allocation to help the farmland preservation program clear a backlog of approved farms. The money was in addition to regular funding of \$28 million.

The state has preserved, as of mid-December, 147,643 acres at an average per-acre cost, shared by counties, of \$1,890. Fifty of 66 counties are now eligible to participate. The program started in 1989 and has had dedicated funding since 1993 from two cents of the state's cigarette tax, with revenues of about \$20 million annually.

"Over the next five years we will have \$40-\$43 million annually, plus maybe supplemental funds," Pickering said. "Then there's county bond issues - they will want to put in additional money since there's more state money." Pickering expects \$20 million in county and township funds this year, and "it may continue at that level."

Lancaster County is a startling case in point. County commissioners last month approved \$25 million in funds, the largest amount yet, for the farmland program, to be spent within two years, according to June Mengel, director of the Agricultural Preserve Board. The boost is meant to clear a

backlog of 166 farms, encompassing 13,000 acres, all approved, with some farms waiting for offers since 1994. The goal is to complete these, and to "get to a point when we can process them as they come in," Mengel said.

Mengel said a big decision is determining how much of the funding to use for leveraging state money and how much to use in the separate county program. To speed the process, the Board is exploring use of a points-based valuation method for determining easement value, she said, a method used extensively in Maryland.

Lancaster ranks fourth in the nation for number of acres preserved, at over 30,000.

The Environmental Stewardship Act, referred to as the "Growing Greener" plan, is a broad funding measure that will include grants for acquisition and improvements to state parks and forests, greenways, river corridors and natural areas. Grants will be available to conservation districts as well as nonprofits.

The Growing Greener initiative competed in the legislature with several bond bills that had been introduced, calling for voter approval of between \$100 million and \$1 billion for farmland preservation, parks and open space. Those bills are now unlikely to be taken up.

"It's fair to say they are not on the agenda," said Patrick Henderson. *Contact: Ray Pickering, (717) 783-3167.*

## Michigan initiatives focus on use value assessment, TDR

LANSGING, MI - A number of legislative initiatives in Michigan will seek to improve economic conditions and land use protections for agriculture. Transfer of development rights and use value assessment of agricultural land are a key focus.

Legislation that would authorize localities to establish transfer of development rights programs is the hope of one legislator who was part of the Ultimate Farmland Preservation Tour last year, sponsored by the Michigan Farm Bureau, that

*please continue to page 4*

## Michigan to consider use value assessment, transfer of development rights

*continued from page 3*

visited programs in the mid-Atlantic. Rep. Patty Birkholz said she is working to bring together a group of legislators that will support the concept of transferable development rights.

"I haven't introduced it yet. I want to make sure we have everybody at the table."

The Birkholz bill, as yet undrafted, would authorize localities to enact TDR programs, "that will give them control over the process," she said.

Transferable development rights is new in Michigan and an idea that the state's building industry sees as a threat to business, she said.

### Scrapping highest and best use taxation

Other legislation in the drafting stages will introduce use value assessment to Michigan – one of only two states, the other being Nebraska, that does not tax farmland based on its current use, but on its "highest and best use." Its tax rate on farmland is among the highest in the nation. Changing the taxation method will require a constitutional amendment as well as amendments to the tax code, according to David Skjaerlund of the Rural Development Council of Michigan, who is writing the legislation.

According to Skjaerlund, currently Michigan's real property taxes "are based on the property's millage rate and assessed value. The assessment is a percentage of the property's highest and best use."

In 1994 a task force appointed by the governor recommended switching to assessments based on current use.

Michigan farmers do receive tax relief if they enroll in the state's Farmland and Open Space Preservation Act, a 10-year agreement to forgo development. The tax credit is equal to that portion of property taxes that exceeds seven percent

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## etcetera ...

### Maryland may reduce allowed lots on easement farms

*Annapolis, MD* – The Maryland Agricultural Land Preservation Foundation will ask the legislature to reduce the number of family lot rights a landowner can request following sale of an easement to one right per 50 full acres, and a maximum of four lots per property. The current density is one per 20 acres or portion thereof, with a cap of 10 per farm.

The Foundation states that the current law "may result in too many houses being constructed on agricultural properties in the preservation program, and negatively impact on the agricultural use of the land." Administrators support the bill, which would take effect Oct. 1. The bill had not yet been introduced at press time.

Legislation dealing with pre-existing dwellings has been put off until next year, according to Patrick McMillan of the Department of Agriculture.

"On that one, time ran out. We decided we weren't ready," he said.

However, Carroll County delegates will introduce a bill that will allow an easement farm with no existing dwelling to build one home, according to Del. Joe Getty.

Carroll program administrator Bill Powel said he has urged this change for many years.

"I have whole farms that have no dwellings. I feel those owners have relinquished far more value on their properties, not only the resale value, but the ability to borrow on it," Powel said.

Powel said Carroll delegates will also seek authority for the county to use Rural Legacy funds and annual bond money to finance installment purchase agreements. The county currently completes about six easements per year strictly with county money. *Powel: (410) 386-2145.*

### Arendt forms consulting firm, moves to RI

*Media, PA* – Randall Arendt, author of *Rural By Design* and *Conservation Design for Subdivisions*, has established Greener Prospects, a conservation planning and design firm, in Narragansett, RI. Arendt leaves his post as vice president for conservation planning for the Natural Lands Trust, a regional group based in Media, Pa.

Arendt's work with localities in revising zoning ordinances to promote open space protection and compact growth has been in demand nationally over the past decade.

The Natural Lands Trust produced the Growing Greener program that focused efforts on Pennsylvania, in conjunction with the state's Department of Conservation and Natural Resources. A Growing Greener manual was published by Island Press in December.

Arendt is now senior conservation advisor to the Natural Lands Trust and will continue to oversee Growing Greener. He can be reached at (401) 792-8200.

### Ohio program completes first easement

*Reynoldsburg, OH* – The Ohio Farmland Preservation Office has done its first easement, even without funding from the legislature. Mr. and Mrs. Robert McClester, owners of a 254-acre historic farm in Carroll County, donated a conservation easement, as provided for in the Ohio law, to the Department of Agriculture on Dec. 30, according to Howard Wise, director of the farmland preservation office.

"It was a good learning experience. It showed us what we have to do, and it's not easy," Wise said.

The Ohio office recently hired Joe Daubenmire as assistant manager. Daubenmire was formerly with the Ohio State University Extension for Medina County where he focused on initiating farmland preservation efforts at the county and state levels. *Contact: Wise, (614) 466-2732.*

### Easement must accompany substandard lot

*Mt. Vernon, WA* – Landowners in Skagit County, Wa. who want to create a substandard lot must agree to place a conservation easement on the remaining land, according to Rich Doenges, manager of the Farmland Legacy Program.

"For example, a farmer has a 35-acre parcel with an existing house and wants to sell the house but keep farming the land. He can segregate out no more than one acre around the house and then place a conservation easement on the remaining 34 acres. So far, we've protected about 125 acres under this code provision," Doenges said. Doenges can be reached at (360) 336-9365.

### Montgomery plan targets 4,000 acres

*Silver Spring, MD* – Montgomery County, Md. will build on its nationally acclaimed park system with a 10-year, \$100 million plan to acquire more than 4,000 acres of open space and farmland.

The Board will ask the county for \$36 million in FY 2001-02 as a start-up measure, and will recommend sale of \$18 million in park bonds.

The plan is to connect new and existing open space to form a 100-mile greenway that encompasses parts of the Potomac and Patuxent river corridors.

*Michigan, from preceding page*

of the farm family's household income. An initiative underway would bring that threshold down to three and a half percent, according to Skjaerlund. Currently, 45 percent of Michigan's farmland is enrolled under the act.

A bill calling for voluntary agricultural districts that would provide right to farm protections for farmers is in the Senate Finance Committee.

### Eighth in nation for acres lost

Farmland preservation remains a key issue in Michigan, which ranks eighth in the nation for number of acres lost to development from 1992 to 1997. According to the recently released USDA National Resources Inventory, Michigan lost 550,800 acres during the five-year period.

Meanwhile the state's farmland preservation program operates on extremely limited funds derived from penalties from premature withdrawal of 10-year agreements. The program has preserved just 3,463 acres at a cost of \$12.5 million since 1994. Thirty-four easements are pending that would bring the total acres to 9,268, with an additional 618 acres preserved through donation. *Skjaerlund, (517) 373-4550.*

*Maryland*

## Rural Legacy policies draw fire from local sponsors

Local governments and land trusts in Maryland that have won grants under the state's Rural Legacy Program are protesting proposed policies they say will make the program inflexible and wreck havoc on landowner negotiations already underway. They contend the proposed restrictions jeopardize preservation of many properties and undermine the credibility of the program.

The Rural Legacy Program was created in 1997 as part of Maryland's Smart Growth initiative and has projected funding of \$70 – \$140 million over five years. In its first two years \$53 million has been allocated and \$35-\$40 million is expected for

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## Proposed rules irk program grantees

*continued from page 5*

FY 2001. The program targets large contiguous areas of farm or natural lands and was designed to allow land trust participation. The program has been praised for its flexibility.

In December the Rural Legacy Board proposed policies for valuing development rights landowners seek to retain. The proposal restricts allowances to one right per full 50 acres, restricts use of the right to first-generation family members, and prohibits transfer of lot rights on the open market.

Under the proposal, a standard is prescribed for deducting the "proportional value" of lot rights from the easement offer, based on independent appraisals. As an alternative, landowners are allowed to purchase the reserved lot right when a building permit is approved. But sponsors, some working with grant funds for over a year, had already devised their own methods of valuing and deducting lot rights based on local conditions, previous treatment through other programs, or existing policy.

In addition, grant recipients say landowners who give up a substantial portion of their easement offer in order to retain a lot right, cannot then be prohibited from selling that lot on the open market.

Some sponsors set flat-rate penalties for reserving lot rights, with other sponsors, under later grant agreements, planning to follow this lead. The Valleys Planning Council (VPC), which received first and second-year grants for preserving the Piney Run area in Baltimore County, used lot sales data to determine the amount that should be subtracted from the easement purchase price for each development right retained. Under VPC's policy, these lots are intended to be transferable, not restricted to family members as proposed by the Rural Legacy Board.

"In Piney Run, we reduce the easement value paid by \$70,000 for each development right retained," said Ann Jones, of the Valleys Planning Council. "As a result only two property owners have elected to retain a development right." And, because of the large penalty, "we would allow the right to create a lot to transfer with the property."

The Eastern Shore Land Conservancy (ESLC), which ranks third for number of Rural Legacy easements completed to date, told Natural Resources Secretary Sarah Taylor-Rogers by letter that it has nine contracts with landowners approved or pending that "exceed the maximum allowable density standard proposed" by the Rural Legacy Board.

While the ESLC supports a strict density standard of 1-50 and even suggested that the allowance decrease to 1-100 after two allowances are

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### legislative and program briefs ...

**In New Jersey ...** Boosted by the \$1 billion Garden State Preservation Trust, approved by voters last year, the farmland program has \$80 million to spend this fiscal year on easements. Over the next decade, the program will likely average \$60 million annually. It currently has 54,078 acres under easement, but that will increase to 76,899 acres in short order with acres approved and pending.

**In Wisconsin ...** The state's 35-acre minimum parcel size needed to build a residence within the exclusive agricultural zoning district has been repealed. The revision requires local governments to set new minimum lot sizes. The law goes into effect Jan. 1, 2001.

**In Ohio ...** Medina County Commissioners recently approved for the upcoming March ballot a referendum for a one-quarter cent sales tax to be dedicated to purchase of farmland easements. The tax would raise an estimated \$3.5 million annually for 10 years.

**In Pennsylvania ...** IA pilot program that provides grants to land trusts has awarded its first grant. The program provides up to \$5000 for incidental costs per easement. The state program as of mid-Dec. has preserved 147,643 acres, rapidly gaining on Maryland, which had preserved 166,529 as of June 1999.

**In Maryland ...** Cecil County Del. David Rudolph will introduce a package of bills dealing with farmland preservation and farming. One of the bills will call for a task force to review the state program. Other bills would provide tax incentives for preservation and additional funding for the program. Carroll County delegates will introduce a bill to allow one house on preserved farms that do not have existing dwellings, a change that would apply statewide (see story this issue). In

another bill, Carroll County will seek to authorize use of Rural Legacy funds for installment purchases of easements in Carroll County. The legislature will also consider this session creation of an agricultural economic development authority, according to Donna Mennitto of the American Farmland Trust.

**In Kentucky ...** Legislation is being introduced that will request \$6 million for the farmland preservation program from the state's tobacco settlement money, according to Rep. Jim Wayne. Also, the state's smart growth initiative, called Blueprint for a New Century, has been drafted into legislation that calls for state assistance to local planning and creation of local planning commissions. Gov. Paul Patton has expressed strong support for farmland preservation.

**In Virginia ...** The General Assembly will consider two bills that would provide \$40 million for land conservation and use of easements for farmland and other lands. A budget amendment bill would provide \$30 million to the Virginia Land Conservancy and \$10 million to the Virginia Outdoors Foundation for easement purchases. Another bill would provide \$40 million all to go to the Virginia Land Conservancy.

**In New York ...** The farmland protection program will receive \$11.6 million for PDR projects - \$7.5 million from the 1996 Clean Water/Clean Air Bond Act and \$4.1 million from the state's Environmental Protection Fund. The amount is the largest the program has received to date, up from \$7.7 million. In a state where natural lands are the focus of land conservation efforts, the increase is significant, according to Jerry Cosgrove of the American Farmland Trust New York field office. "There's a growing recognition in the farming and environmental communities that farmland preservation money needs to be increased ... more conservation groups are weighing in on ag preservation" Cosgrove warned however that the state's bond act runs out of money next year. The state needs at least \$20- \$25 million annually, he said.

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used, the organization said its Rural Legacy sponsor entities, comprised of five county governments, strongly oppose restricting lot exclusions for use by family members only. Such a policy, as used in the state's farmland preservation program, "will create significant problems for enforcement of the easements [and] is a major flaw and point of abuse of the current [farmland preservation] program."

"We have found that our existing valuation system, valuing development rights at approximately 10 times the fair market value for each right, has proven to be a strong disincentive to reservation of additional development rights in contracts negotiated to date," said Todd Vigland, agriculture programs manager for ESLC.

"Change in the valuation policies of the nature proposed at this time would significantly affect the completion of these easement purchases within our grant agreement period and potentially undermine our credibility in negotiating with these landowners."

Both Carroll and Harford Counties noted in their comments that restricting lot exclusions to use by family members only, would likely prevent home construction from occurring.

"As far as I am aware, there is no bank that would finance a loan for home construction without the ability to foreclose and sell on the open market," wrote Bill Amoss, of Harford County. Harford's plan for implementation of the program sets lot exclusions at one per 50 acres with no more than two lots per farm with upfront deductions.

Under Carroll County's implementation of the Rural Legacy Program, each participating property is allowed to reserve one building right, at the cost of \$28,000, "and there is no restriction regarding who could use the lot."

Bill Powel, Carroll County administrator for farmland preservation, as well as other Rural Legacy sponsors, said that specific properties under negotiation were in jeopardy of being lost as a result of the proposed lot exclusion policies.

The proposed rules were instigated after the program received notice from Montgomery County that an 800-acre property was seeking Rural Legacy participation but desired to retain 20 development rights. Under the Montgomery valuation system, the landowner would pay back \$4400 per right for lots said to be worth \$120,000 each.

"It was the first case we thought was questionable because of the values," said Grant Dehart, director of Program Open Space. "It was bound to raise questions at the Board of Public Works. What's distressing is that the point system has been used in Montgomery County successfully for so many years."

A workshop is planned for February, Dehart said.

## professional resources ...

### Job Postings

**Eastern Shore Land Conservancy (MD), Conservation Easement Program Manager** — Seeking an experienced professional to manage gift conservation easement program. Duties include targeted outreach, cultivation, negotiation, and processing of all gift conservation easements. Candidate should have experience with conservation transactions, ability to work within teams and close partnerships, and a commitment to rural landscapes, small towns, and clean rivers. Gift conservation easements comprise 10 to 15 projects per year on approximately 2,500 acres. ESLC also manages a purchased conservation easement program, owns land in fee, and is launching a series of regional planning and education programs. Please send resume before Jan. 28 to Nina White, Administrator, Eastern Shore Land Conservancy, P.O. Box 169, Queenstown, MD 21658, fax: 410-827-9039, or e-mail: [eslcnina@usa.net](mailto:eslcnina@usa.net). (posted 1/7/2000)

**The Grand Traverse Regional Land Conservancy (MI), Land Protection Specialist** — Full-time land protection specialist to promote programs to acquire land and conservation easements. Also responsible for land protection in the Boardman River watershed protection partnership. Qualifications: Undergraduate degree in a natural resources related field and/or 3-5 years of experience in land trust, grassroots organizing work. Candidate must have excellent communication skills and be able to work independently. Send résumé to Grand Traverse Regional Land Conservancy, 3860 North Long Lake Rd., Suite D, Traverse City, MI 49684. Closing date: February 7. (posted 1/7/2000)

See [www.lta.org](http://www.lta.org) for additional job postings.

### Conferences & Workshops

**Feb. 9, Your Office:** Audio conference on TDR, sponsored by the APA and Lincoln Institute on Land Policy. Delivered by speaker telephone. Each registration site receives reading materials, an agenda, and instructions on joining the program and asking questions of the speakers. Tapes and transcripts of each program optional. Fee: \$80. Learn where TDR fits in as an incentive program. Panelists will assess how well TDR has worked over time, in what situations it is most useful and its potential for preserving resources. Call Jerieshia Jones, 312 431-9100 or [jjones@planning.org](mailto:jjones@planning.org).

**Feb. 28 -29, East Lansing, MI:** Ultimate Land Use Conference: Creating a Millennium Legacy in Your Community, statewide sponsorship by 28 organizations, slated at the Kellogg Center. Farmland preservation, urban reinvestment among topics. Contact Stacey Sheridin, (517) 241-4084.

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**April 8 - 10, East Windsor, NJ:** PACE 2000: Foundations for the Future, sponsored by American Farmland Trust, hosted by the NJ State Agriculture Development Committee. For information, contact Lynn Johnson, (413) 586-9330.

### Publications

**Challenging Sprawl: Organizational Responses to a National Problem**  
National Trust for Historic Preservation  
120 pp; \$14

This newly released guide offers "a lucid introduction to the issue and a survey of what national and regional groups are doing to discourage sprawl and promote smart growth." Call (202) 588-6296.

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# farmland preservation report

*Covering the policies, practices and initiatives  
that save farmland and open space*

*Since 1990 • Deborah Bowers, Editor*

## Clinton budget includes \$65 million for farmland program

WASHINGTON, D.C. – The federal Farmland Protection Program, out of money since 1998, will be rejuvenated with \$65 million if Congress approves the Clinton administration's proposed FY 2001 budget for conservation programs in the U.S. Department of Agriculture.

Agriculture Secretary Dan Glickman, outlining the budget released Feb. 7, said it also includes \$230 million for the president's Lands Legacy Initiative. Of these funds, \$130 million will be used to acquire lands for recreation, wildlife habitat, and watershed protection; \$60 million will be used to fund the Forest Legacy Program; and \$40 million will be used to provide grants to states and localities to establish, expand, or main-

tain urban and community forests and open spaces.

The budget also proposes an increase of \$284 million for USDA's Clean Water Action Plan for a total funding level of more than \$1 billion. It provides \$325 million for the Environmental Quality Incentives Program (EQIP), an increase of \$151 million, and \$10 million to fund a new competitive partnership grants program to help coordinate locally-led conservation efforts and direct technical assistance to landowners.

The centerpiece of the budget, Glickman said, is a "long term safety net" for farmers affected by low commodity prices and natural disasters. Glickman said in an announcement about the

*please turn to page 2*

## California ballot to include \$25 million boost for farmland

SACRAMENTO, CA – If California voters approve a \$2.1 billion parks and open space bond on March 7, the first park bond on the ballot in 12 years, the state's farmland preservation program will get a \$25 million boost – a figure almost double its appropriations to date. The program received just \$1 million in its first year, followed by \$13.6 million in the 1998-99 budget cycle.

Land conservationists throughout the state are working for passage of Propositions 12 and 13.

"We're urging our members to support [the measures] and we're participating in the local effort," said Bob Berner, executive director of the Marin Agricultural Land Trust. "I think it's going

to be close. We feel it's worth supporting and it's worth investing in."

Now called the California Farmland Conser-

*please turn to page 2*

**Volume 10, Number 4 February 2000**

### inside this issue ...

Connecticut gov sits on bond money .....	p. 3
Rural Legacy Board steps back from density rules .....	p. 4
Ag analyst questions NRI data .....	p. 4
Illinois airport scheme lives on "booster fantasy" .....	p. 6
Legislative briefs .....	p. 6,7

## Long term income support for farmers key component in FY 2000 ag budget

*continued from page 1*

budget several days before that the nation had a "half century of farm policy that lacks income support for farmers in times of need," and that floods and disastrous weather have taken a toll on farmers nationwide.

"We are now in a third year of plunging commodity prices and who knows what mother nature has in store."

The Farmland Protection Program was last funded in 1998 when Vice President Gore announced \$17.2 million would be distributed to 19 states. The funds were the last of a \$35 million appropriation from the 1996 farm bill. The Natural Resources Conservation Service received 54 proposals from 20 states in 1998 alone, with requests for FPP funds totaling \$61 million.

Last year's administration budget called for \$50 million for the program, and a bill sponsored by Sen. Patrick Leahy of Vermont called for \$55 million annually. Neither requests saw passage, but SB 333 is still pending.

"Mr. Leahy is pleased with the budget requests – they would provide record funding for the FPP and for Forest Legacy, both Leahy initiatives," said the senator's assistant David Carle.

Under the Farmland Protection Program, local and state farmland preservation programs as well as land trusts with farmland protection goals,

## California voters to decide on funding for farmland

*continue from page 1*

vancy Program (CFCP) after legislative changes last fall, the state program provides grants to localities and land trusts for the purchase of agricultural conservation easements. It also awards planning grants. While the program was

created in 1995, it did not begin purchasing easements until 1998.

So far, \$8.6 million has been allocated to about a dozen entities, including the American Farmland Trust, the Yolo (County) Land Trust, The Nature Conservancy, and the Land Trust of Santa Barbara County. When the California Rangeland Trust weighed in, it boosted the program's total preserved acreage by 17,000 acres with a conserved ranch in Monterey and Fresno Counties. Only \$835,175 in CFCP funds were used for the project, along with \$3.2 million in other funds.

Land preservation is often done in a big way in California, where large holdings are common, and a state program can be supplemented by private deals on a regular basis. In November, The Nature Conservancy placed under easement a 36,000-acre ranch as part of a larger effort to protect the Lassen Foothills, adjacent to the Lassen National Forest, north of Sacramento.

Local efforts also add significantly to the effort to save California's farmland – notable among them, the Marin Agricultural Land Trust (MALT). Launched in 1980, it began purchasing easements in 1988 with state bond money. Funds lagged by the mid-1990s, but a \$2.5 million matching grant from a local foundation last July buoyed MALT and set it on a \$10 million fundraising campaign. So far, MALT has raised \$1.25 million in private contributions in addition to a recent \$330,000 grant from the California Coastal Conservancy.

Making use of the state program, The Nature Conservancy used \$1.2 million in CFCP funds and \$106,000 in matching funds to protect 1,086 acres used for row crops and hay in Merced and Sacramento Counties. The American Farmland Trust won \$1.03 million in CFCP funds and used \$1.1 million in other funds to protect 203 acres of tree crops and vineyards in Fresno and Merced Counties. Sacramento, Merced and Fresno Counties each have significant lands in the Central Valley, California's top producing region.

Other legislative changes (AB 1229) to the program allow resource conservation districts and regional park and open space districts to apply for

*please continue to page 3*

**California ballot, continued from page 1**

funds if the entity "has the conservation of farmland among its stated purposes." Easements in such cases may also be more restrictive than the act provides. Another amendment allows the Department of Conservation, which administers the CFCP, to accept monetary donations for use in purchasing easements.

Planning grants totaling \$373,457 have been awarded to local governments and land trusts for projects including estate planning workshops, GIS work, development of easement programs, outreach and marketing, and development of a state farm link program, which facilitates farm transfers. Matching funds brought these and other project totals to \$806,845.

California agricultural production was valued at \$27 billion in 1998. Most of this production occurs in the state's Central Valley, a basin 50 miles wide that stretches 450 miles through the state's core. While making up only one-half of one percent of the nation's farmland, the Central Valley puts out a full eight percent of U.S. total farm production, providing 15 percent of its vegetables and 38 percent of its fruits.

Experts warn that continued development and population growth in this region will weaken the nation's food system.

A study conducted in 1996 by urban planner Rudy Platzek projects that 60 percent of the Central Valley's irrigated farmland will be converted to urban uses over the next 80 years with current development trends. So far, about 12 percent of the valley's fertile floor has been lost to development, according to Platzek.

**Connecticut****Governor refuses to allocate program's bond money**

HARTFORD, CT – Tired of watching authorized funds for farmland preservation sit unallocated by a State Bond Commission that ignores program requests, a coalition of groups is pressing the

Connecticut legislature to act, and to allocate \$50 million over the next five years to the state's 22-year-old farmland preservation program.

The group, the Working Lands Alliance, is also seeking a way for funds to flow to the program as needed, and not be held up, according to Mark Winne of the Hartford Food System, a member of the coalition.

The State Bond Commission is headed by Gov. John Rowland, who has never supported the program. Rowland in the second year of his second term.

"We have a Republican governor that doesn't care about farmland," said Mark Winne of the Working Lands Alliance, a 35-group coalition hosted by the Hartford Food System, a nonprofit that establishes farmers markets and operates a community supported agriculture (CSA) farm near Hartford.

Winne said that \$7 million remains unallocated from the state's last bond authorization for the program and that the State Bond Commission has prevented the program from being effective. About 200 farms and 20,000 acres await protection on the program's waiting list.

"The state has been moving at a snail's pace in preserving farmland, so we need to focus the state policy makers' attention on the problem we have with farmland decline."

The Connecticut program began in 1978 with a goal of preserving 130,000 acres. Twenty-two years later, just 26,000 acres and 172 farms are preserved, with spent funds at \$76.5 million.

"The bottom line is, we have \$7.3 million in bond authorization, but the governor won't give it to us," said Steve Reviczky, assistant program administrator.

Over the last several years the governor and the State Bond Commission have supported funding for open space acquisition and watershed protection. But the importance of farmland protection hasn't hit home for state leaders, according to Reviczky.

"They think that's enough, but they're missing the whole point of the working landscape."

Connecticut**Coalition working to free bond money from contrary commission, governor***continued from page 3*

Meanwhile, Connecticut is losing 8,000 acres every year, about 80 farms, according to Winne. The Working Lands Alliance is in the midst of a public education campaign and has hired a lobbyist to make its case at the state capitol.

The effort may have a leg up. The House Democrats posted their agenda for the 2000 session, mentioning increased funding for farmland preservation among its goals.

"Connecticut vies for first or second place in New England for agricultural production," Winne said. "Its still a very valuable industry." A study by the University of Connecticut showed the value of agriculture in the state, with the "multiplier effect," as \$2 billion annually.

Winne, who jumped into the farmland loss issue last year when he participated in a "Save the Land" conference, said the short term goal of the coalition is to get the farmland preservation program rolling like it should; the long term goal is to "increase resources available and also the capacity of all sectors to preserve farmland." Winne: (860) 296-9325; Reviczky: (860)713-2511.

**Rural Legacy Board steps back from density rules**

ANNAPOLIS, MD – The Maryland Rural Legacy Board, responding to an outcry from local program sponsors, made a u-turn on a policy proposed at its last meeting to set a standard density restriction of 1-50 on all properties to be preserved and to restrict lot allowances to family members.

Staff told the three-member board at its meeting Feb. 2 that "too rigid policies will work against acquiring large contiguous blocks of protected

*continue to page 5***etcetera ...****Farmland loss data questionable, analyst says**

*Ithaca, NY* – The National Resources Inventory (NRI), recently released by the USDA, contains figures that raise questions about farmland conversion rates, according to Cornell University agricultural economist Nelson Bills.

Bills said in an interview that in reviewing the data from older surveys, he found that numbers reported in prior years had been changed, possibly to make adjustments for procedural changes.

"The USDA has had some changes in inventory procedures that have led to some unfortunate conclusions regarding the conversion of land."

The conclusions that surfaced for New York were striking, he said.

"The issue for me is that the 1997 preliminary results highlight a four-fold increase for New York compared to the 82 to 92 figures. The implication is that conversion has skyrocketed," during a period, according to Bills, when New York experienced far less development than other states.

"The average computed rate has accelerated. The 1992 average conversion rate was adjusted in connection to the 1997 figure, so the base year moved." Bills said that 25 or 30 percent of the increase of New York's conversion rate was "attributable to the arithmetic of the numbers." Bills, who said his task "is to broker information as clearly and as dispassionately as I can," said he contacted NRI technicians about the figures.

Bills said the NRI is a valuable source of information that uses procedures "that are sound and carefully constructed." But for now, he and his colleagues are "more comfortable with the ag census figures."

The NRI, produced every five years, depicts the status of farm, forest and other natural lands, its condition and its conversion to urban uses. The data is compiled using randomly selected sample points across the nation. The most recent data, gathered in 1997, shows changes since the last survey in 1992. The NRI is available online from the USDA website.

**NRI local data has limitations, tech says**

*Washington, D.C.* – County-level data from the National Resources Inventory (NRI), available online by mid-February, should only be used with caution, according to data technician Darryl Lund of the Natural Resources Conservation Service.

"The data generated may not contain the statistical reliability required for a particular project," Lund said. "The NRI is national in scope and the survey was designed to primarily provide accurate and statistically reliable data at a national or state level of detail."

The limitations have to do with how the data is generated. Sample points do not cover the entire country, and some counties may be missed entirely, according to Marlow Vesterby of the USDA Economic Research Service, a primary user of the data.

"When running county-level queries, it is always important to look at the error estimate information that accompanies the query results," Lund said.

### **Maryland bills would boost program funding**

*Annapolis, Md.* – Maryland localities with farmland preservation programs would get funding boosts if either of two bills are passed by the General Assembly this session. One bill, HB 186, would provide one-time grants of up to \$1 million to match funding increases counties make in FY 2001 over FY 2000. Under another bill, SB 443, the state would return to counties a portion of the state's share of property tax revenues to use for farmland and open space.

Under SB 443, sponsored by Sen. Larry Haines of Carroll County, two cents of the 21 cent-portion of property tax revenues counties send to state coffers would be returned and distributed through a formula based on a county's proportion of agriculturally assessed land.

Under HB 186, introduced by two Harford County delegates, only counties with state-certified programs would qualify for the one-time, 50-50 matching grant. Counties could establish a certified program in time to qualify. Grant monies would be distributed in FY 2002 and the law would sunset in two years. It was unclear at press time whether a county's matching funds for Rural Legacy plans would count toward the match.

In other legislation, a bill introduced by Del. Joe Getty of Carroll County, HB 434, would amend the state farmland preservation program to allow for dwellings to be constructed on preserved properties where no dwelling exists if the property contains 50 acres or more and has not previously been subdivided. Such dwellings could not be subdivided from the property.

The bill was introduced at the urging of Carroll County program administrator Bill Powel, who said many Carroll easements are held on properties that have no houses on them, making the properties undesirable on the open market and too much of a sacrifice for some farm families.

*Any of the legislators can be reached within Maryland at 800 492-7122. Bill Powel can be contacted at (410) 386-2145.*

*continued from page 4*

lands," the primary goal of the program. More than 11 program sponsors, including local governments and land trusts, formally opposed the restrictions (see Jan. FPR).

Grant Dehart, director of Program Open Space and lead administrator for the Rural Legacy Program, told the board it was clear from the variety of zoning densities throughout the state and sponsor policies that "to have a one-size-fits-all density really doesn't work."

Most sponsors opposed the 1-50 density restriction, saying it would hamper negotiations and jeopardize participation by owners of smaller parcels. Nearly all sponsors opposed restricting lot allowances to family members only, saying it would hamper negotiations, was unenforceable and would jeopardize mortgage financing. Some sponsors pointed out that an identical restriction in the state's farmland preservation program has proved a disincentive to participate.

Revised policies now call on sponsors to use their own established standards for lot exclusions, and guidelines have shifted primarily to the issue of valuation, requiring that the easement value reflect retained lot rights, and that buildable lots not adversely affect rural character, agricultural use or natural resources. It is left up to sponsors to determine how lot rights will be valued, either by appraisals or other method, following guidelines.

The board's chief aim is to ensure the state doesn't pay for rights retained by the landowner, that the rights are declared prior to settlement, and that the amount withheld accurately reflects a lot's value.

However, it was clear from comments made by board members that they will look more favorably at projects that retain no or very few development rights.

"I would be inclined to favor applications that minimize lots," said Ron Kreitner, director of the Maryland Office of Planning and member of the board. A motion to add language that the board will "give priority to those applications that minimize retained rights" was approved.

CHICAGO REGION**Big money keeps airport scheme alive; ag interests work to make sure its dead**

JOLIET, IL – Two years ago, Will County Farm Bureau president Jerry Davidson told the Illinois Department of Transportation (IDOT) that a proposed international airport on 23,000 acres of Will County farmland would put 170 farmers out of business and that “agricultural land is not just open space to be paved over.” Meanwhile, IDOT’s environmental assessment claims that the proposed airport, 35 miles south of the city of Chicago, would have no negative impacts.

As a gubernatorial candidate, Republican George Ryan proposed to buy farmland for the airport. Since his 1998 election, Ryan has allocated \$75 million for land banking but decided not to make any buys unless the Federal Aviation Administration approves funding for a formal environmental study.

In December, U.S. House Transportation Committee Chairman Bud Schuster (R-PA) said he didn’t “see it in the cards for a third airport” supplementing the city of Chicago-owned O’Hare and Midway. Schuster made his remarks during a tour of the Rockford Airport, which along with underutilized terminals in Milwaukee, Wisconsin and Gary, Indiana, is vying for the piece of the Chicago megalopolis’ air traffic pie.

Early this month, U.S. Department of Transportation Secretary Rodney Slater echoed Schuster’s view. At a meeting with U.S. Rep. Jesse Jackson, Jr. (D-Chicago) and other Third Airport boosters, Slater said the growing demand for additional airport capacity can be best met by improving existing airports and modernizing the air traffic system. Chicago Mayor Richard M. Daley, a new airport foe, has spearheaded the airline-funded multi-billion-dollar investment program for O’Hare and Midway.

Meanwhile, the new airport plan is on the shelf, but remains alive and well. Since 1985, the state has spent over \$40 million on airport “studies” that have served mainly to feed the hopes of local business leaders who believe a new airport is the only way to make the southern part of the Chicago region economically viable. Their self-interest coincides with a handful of elected officials who see the multi-billion-public works project– the airport, and the toll roads that are planned to serve it– as a patronage empire that could drive the demand for all kinds of real estate development.

This big-money scenario makes Will County agriculture seem like a non-issue. Its \$107 million in annual gross sales pales in comparison to the billions generated by a major airport, its related tollroads and

**legislative  
and program  
briefs ...**

**In Ohio...** Gov. Bob Taft has proposed that a \$200 million bond issue be placed on the Nov. ballot for environmental purposes including farmland preservation. He also is proposing another \$200 million for urban redevelopment purposes.

The Ohio Office of Farmland Preservation will sponsor a statewide conference March 25 for local planners that have won grants to develop farmland preservation plans. “They can exchange ideas between themselves as well as with the state,” said director Howard Wise.

**In Maryland ...** A bill submitted by the Maryland Agricultural Land Preservation Foundation (MALPF) calling for decreased density allowances on preserved farms is pending in the House Environmental Matters Committee. A hearing date was canceled and was not rescheduled as of press time. The bill, HB 162, calls for allowed density at 1-50. Current allowance is 1-20.

Carroll County delegates were prepared to draft legislation that would have assured the county could use Rural Legacy funds for installment purchase agreements (IPA), but it was found that the county “can do IPA with language we have inserted in our bond authorization bill,” said Bill Powel.

Gov. Glendening and former governor Harry R. Hughes announced the creation of the Maryland Center for Agro-Ecology Inc. Jan. 24. The center will be dedicated to land resource issues and finding common ground for agricultural and environmental goals. For information call (301) 314-5611.

For further legislative news from Maryland, see story this issue.

**In Minnesota ...** Washington County

*please turn to page 7*

voters will have the opportunity March 7 to create a purchase of development rights program funded through a property tax surcharge of \$18 per \$100,000 of assessed value. The tax would generate an estimated \$2 million annually.

**In Virginia ...** A budget amendment sponsored by Sen. Edd Houck and Del. E. Preston Bryant Jr. would create the Virginia Agricultural Vitality Program, setting up a task force to develop standards and a certification process for local PDR programs, as well as a farm link program. The sponsors are requesting \$40 million over the next two years. The program is supported by the Virginia Farm Bureau Federation. Mary Heinrich of the American Farmland Trust said an amendment has also been drafted that would include these programs in pending land conservation legislation. Heinrich said she is optimistic about creation of the farm link program and the task force. "The rural support is there, and very strong," she said. Funding is much less certain. One bill calls for the \$40 million fund to come from the state's recordation tax, which generates about \$100 million annually.

**In Utah ...** A coalition of organizations including the state chapter of The Nature Conservancy had been pursuing a bill that would use sales tax dollars for open space acquisition and easements to include farmland. But "the legislature feels they don't want to deal with this issue," said Amanda Eyre of The Nature Conservancy, Utah Chapter. "Even if we have a sponsor, it won't be drafted," she said. The group will consider the possibility of a signature drive to place a referendum on the ballot in November.

**In Kentucky ...** HB 523, a bill that would allocate \$6 million from the state's share of tobacco settlement monies to the farmland preservation program, was introduced Feb. 1 and assigned to the Agriculture and Small Business Committee. HB 524, a smart growth initiative, is in the Local Government Committee.

### *Airport, continued from page 6*

the real estate bonanzas that come after. Yet the airport doesn't seem to be going anywhere.

"State planning dollars and booster fantasy are the only things keeping this airport project alive," said Bob Heuer, a Chicago journalist and regional policy consultant who has helped non-profit groups fight tollway and airport plans. "The state of Illinois should look at more viable possibilities, including the evaluation of prospects for spurring the growth and development of the local ag economy."

On behalf of the Chicagoland Transportation and Air Quality Commission, a regionwide smart growth alliance, Heuer proposed that a state-funded planning council examine the premise that farming can remain the foundation for economic development in the vicinity of the proposed airport. Citing the Interstate 57 Council's own report that said "major portions" of the 41-mile planning area remain in farming, Heuer called for the funding of an agribusiness retention strategy.

The Council, which is administered by a pro-airport mayors association with a \$150,000 state grant, wasn't interested. In fact, its leadership claimed farmers were all moving out of Will County.

Development has indeed had an impact on Will County farmland and corn production: from 1992 to 1997, 32,000 acres were lost, much of that to urban uses, and corn production decreased from 18.5 million bushels to 17 million bushels. But agriculture is an essential part of a regional economy that includes a major river freighting system that depends on Will County corn, according to Will County Farm Bureau manager Mark Schneidewind, who says state funds should look at what's needed to encourage farmland owners to continue investing in their operations.

One area of study would be to look at agriculture's contribution to the river freight economy, according to Heuer and Schneidewind. Barges transport sand, mulch and other products north, then return south carrying grain. "The majority of grain at those terminals is from Will County," Schneidewind said.

As farm groups begin to call for a shift in state transportation and land use planning dollars, new airport boosters nervously watch Indiana's nearby Gary-Chicago Regional Airport which recently launched its first daily commercial service.

The Gary Airport enjoys the support of U.S. Senator Richard Lugar (R-IN), chairman of the Senate Agriculture Committee. Lugar's northwest Indiana field director, Tim Sanders, said: "To the extent that the Gary Airport is successful, we'll see less pressure on the farm fields of northeast Illinois."

Contact: Bob Heuer, (773) 274-1989; rjheuer@aol.com.

## professional resources ...

### Job Postings

**Peconic Land Trust (NY), Project Assistant** — Professional to manage and expedite multiple conservation projects and assistant in implementing municipal programs to protect farmland and open space. Candidate must have a strong planning and project coordination background, good organizational and communication skills and be a creative problem solver. B.A. or equivalent experience required. Knowledge of computers and real estate helpful. Full benefits package. EEO. Non-smoking office. Submit resume with cover letter to Peconic Land Trust, PO Box 1776, Southampton, NJ 11969, attn: Office Manager or fax to 631-283-0235. (posted 2/4/00)

**Albemarle County (VA), Senior Conservation Planner** — To conduct planning level research, develop policies and manage projects supporting the county's comprehensive plan. Assignments emphasize environmental conservation and rural preservation. Primary responsibilities include reviewing/implementing the rural area and the natural resources and cultural assets sections of the comprehensive plan; administering and promoting the county's proposed PDR and historic preservation program (pending county final approval); reviewing conservation easements under consideration by the county's easement holding body. Qualifications: expertise in comprehensive planning, environmental resource protection, open space planning, agricultural preservation, agricultural/forest districts, purchase of development rights, conservation easements, historic preservation/visual quality planning. Any combination of education/experience supplemented by a master's degree in urban/regional planning and a minimum of two years experience in professional planning work. Salary: \$31,552 - \$50,483, depending on experience and qualifications. Application deadline: Feb. 11. For a copy of job description/application, call Albemarle County's Human Resources Dept., (804) 296-5827.

### Conferences & Workshops

**Feb. 28 -29, East Lansing, MI:** Ultimate Land Use Conference: Creating a Millennium Legacy in Your Community, statewide sponsorship by 28 organizations, slated at the Kellogg Center. Farmland preservation, urban reinvestment among topics. Contact Stacey Sheridin, (517) 241-4084.

**March 10, Cambridge, MA:** Smart Growth: Form and Consequences, sponsored by Lincoln Institute and MIT. Explores the dimensions and principles of smart growth and its emergence as a movement. Will examine realistic approaches for implementation. Call 1 800 526-3873 or help@lincolninst.edu.

**March 23, Reynoldsburg, OH:** Local Growth and Farmland Preservation: In Search of a Balance, a statewide conference hosted by the state Office of Farmland Preservation. Panel discussion on new local tools to manage growth and open workshops. Call(614) 466-2732 for brochure.

**March 30 - Apr. 3:** The Ultimate Farmland Preservation Tour, 2000, open to participants in Michigan, Illinois, Indiana and Ohio to tour Md., Pa., and NJ, sponsored by the Michigan Farm Bureau, Indiana Farm Bureau, the Rural Development Council

of Michigan, the Michigan Farmland and Community Alliance and the Indiana Beef Cattle Assn. Contact David Skjaerlund, (517) 373-4550.

**April 8 - 10, East Windsor, NJ:** PACE 2000: Foundations for the Future, sponsored by American Farmland Trust, hosted by the NJ State Agriculture Development Committee. For information, contact Lynn Johnson, (413) 586-9330, or ljohnson@farmland.org.

**July 28 - 29, Minneapolis, MN:** Land Conservation Summit 2000. Among goals: To critically assess recent trends, identify problems and propose new directions in land conservation. Contact squir001@tc.umn.edu.

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# farmland preservation report

*Covering the policies, practices and initiatives  
that save farmland and open space*

*Since 1990 • Deborah Bowers, Editor*

## Nation's farmland programs vary widely in funding, politics

The nation's state-operated farmland preservation programs vary widely in political support, funding levels and administration. Following is an update of the nation's 15 states that have operating programs for the purchase of development rights. Analysis provided represents the opinion of the editor.

### CALIFORNIA

Year established: 1995

Acres preserved: 23,788 (as of 1-15-00)

Funds spent to date: \$8.6 million

Latest allocation amt: \$13.6 million, 98-99 budget

Current funds: \$30 million

Source of funds: General fund appropriations; bonds

**Outlook:** Voters approved March 7 a major bond authorization that will include \$25 million for farmland preservation, the largest amount to date. Now in its fifth year, funding began at a mere \$1 million and went to \$13 million last year, far less than eastern states much smaller than California are spending annually. Considering the importance of agriculture to the state's economy, \$25 million will still be severely inadequate. The Central Valley should be a major focus of state and national farmland protection dollars.

### CONNECTICUT

Year established: 1978

Acres preserved: 26,000 (as of 2-00)

Funds spent to date: \$76.5 million

Latest allocation amt: \$1 million, FY 2000

*please turn to page 2*

## California voters approve \$25 million to save farmland

SACRAMENTO, CA – California voters approved a ballot measure March 7 that will provide \$2.1 billion to environmental and open space projects, with millions funneled to individual land trusts and \$25 million to the California Farmland Conservancy Program, formerly the Agricultural Land Stewardship Program.

Called the Neighborhood Parks, Clean water, Clean Air and Coastal Protection Bond Act of 2000, it will "provide funds to protect land around lakes, rivers, and streams and the coast to improve water quality and ensure clean drinking water; to protect forests and plant trees to improve air quality; to preserve open space and farmland

threatened by unplanned development; to protect wildlife habitats; and to repair and improve the safety of state and neighborhood parks."

*please turn to page 3*

**Volume 10, Number 5    March 2000**

### inside this issue ...

Bouchard retires, new FPP director named ..... p. 4

Legislative briefs ..... p. 6,7

## State programs range from high to low in funding, politics

*continued from page 1*

**Current funds:** \$1 million

**Source of funds:** Bonds

**Outlook:** The State Bond Commission has allowed \$7 million to accumulate in unspent bond funds. A citizens' initiative seeks to free available funds and boost program funding by \$50 million. Status: legislation pending.

### DELAWARE

**Year established:** 1991

**Acres preserved:** 37,000

**Funds spent to date:** \$40.7 million

**Latest allocation:** \$10 - \$15 million

**Current funds:** \$15.7 million

**Source of funds:** Portion of escheat monies; appropriations

**Outlook:** Without a dedicated source of funds, the next appropriation is always in question and the program must maintain a self-advocacy mode, which it has performed well. The program is poised to add 14,000 more acres in short order. Program management is strong and capable of pooling political support, which it will need for funds beyond 2001.

### KENTUCKY

**Year established:** 1994

**Acres preserved:** 1,337

**Funds spent to date:** \$800,000

**Latest allocation:** \$400,000

**Current funds:** \$0

**Source of funds:** general fund appropriation

**Outlook:** Without a more appropriate level of funding, this program will remain in the "dead upon arrival" category for new programs. This program has so far survived only because of federal funding which brought its total funds up to \$1.5 million, but the incentive has not resulted in state allocations of any size. The governor's budget again calls for just \$400,000 for each of the next two years, barely enough to keep the program alive. And, no statewide grassroots support network has been built.

### MAINE

**Year established:** 1987

**Acres preserved:** 2,213

**Funds spent to date:** \$2.097 million

**Latest allocation amt:** \$1 million

**Current funds:** \$1 million

**Source of funds:** Up to 10% of a \$50 million bond authorization

**Outlook:** The Land for Maine's Future program concentrates on the state's wealth of natural lands. In a state where whole regions experience agriculture as the highest and best use, protecting farmland is a low priority. This was evidenced in the authorization of \$50 million for land protection last year with curious language calling for "up to 10 percent" being spent for farmland. The Land for Maine's Future board is sophisticated enough to customize its ranking system to reflect the state's particular agricultural character, but still has a lot to learn about easement principles and practice. Farmland protection is the new kid on the block for the foreseeable future.

### MARYLAND

**Year established:** 1977

**Acres preserved:** 166,529 (as of 2-00)

**Funds spent to date:** \$200.4 million

**Latest allocation amt:** \$21 million

**Current funds:** \$21 million

**Source of funds:** Dedicated ag land conversion tax; also a dedicated portion of the state's real estate transfer tax

**Outlook:** Long the leader in farmland preservation, Maryland will likely lose its top status for preserved acres this year to Pennsylvania. A long history of dependable, dedicated funds put this celebrated program on automatic pilot. Now it has a mounting applicant backlog and no initiatives afoot to increase program funds, even as the state is awash in surplus monies. Staff is insufficient, and compared to adjoining states lacks an advocacy function and expertise in a number of areas. By contrast, county-level program management is outstanding in expertise and innovations, but this can't help a state program with administrative and funding shortfalls.

### MASSACHUSETTS

**Year established:** 1977

**Acres preserved:** 44,500

**Funds spent to date:** \$109 million

**Latest allocation amt:** n/a

**Current funds:** \$7.2 million

*please continue to page 3*

**State program update, continued from page 2****Source of funds:** bonds

**Outlook:** The program's immediate future looks to passage of a \$12.8 million bond authorization now pending in the legislature. This is a top-down program that lacks the local advocacy other state programs enjoy. One of the nation's oldest programs, its strength lies in its ironclad legal framework and enforcement of restrictions.

**MICHIGAN**

**Year established:** 1994

**Acres preserved:** 3,463 (as of 1-10-00)

**Funds spent to date:** \$12.5 million

**Latest allocation amt:** n/a

**Current funds:** n/a

**Source of funds:** Penalty fees from premature cancellation of 10-year land protection agreements.

**Outlook:** A package of legislative initiatives, including a restructuring of the state's PDR program, has strong support from the governor. The legislation, expected to pass, will significantly improve farmland preservation prospects in Michigan and could pull the state out of its land use malaise. A strategic grassroots effort to build local support for PDR, led by the Michigan Farm Bureau and the Rural Development Council of Michigan, is unequalled nationally and will support a progressive program.

**MONTANA**

**Year established:** 1999

**Acres preserved:** 0

**Funds spent to date:** \$0

**Latest allocation:** \$1 million

**Current funds:** \$1 million

**Source of funds:** general funds

**Outlook:** With only \$1 million to spend over a two-year budget cycle, this fledgling grants-based program will barely learn the ropes of easement negotiation before it is battling for its fiscal survival.

**NEW JERSEY**

**Year established:** 1983

**Acres preserved:** 76,899 (some pending)

**Funds spent to date:** \$200 million +

**Latest allocation amt:** \$50 million

**Current funds:** \$80 million

**Source of funds:** Bonds

**Outlook:** Outstanding. Strong leadership from governor

and electorate. Passage in 1998 of a \$1 billion bond referendum, half of which goes to farmland preservation over next 10 years, is the nation's largest commitment to farmland. The program has set a goal of preserving 500,000 acres, half of all remaining farmland in the state. Highly exceptional level of expertise among state-level staff is equalled in many localities.

*Please turn to page 4.*

## California voters approve bonds for land conservation

*continued from page 1*

The California Farmland Conservancy Program, administered by the Department of Conservation, was established in 1995, and has received to date \$14.6 million. With the \$25 million appropriation, the program will have funds equal to some eastern states that are less than one-tenth the size of California and comparatively unimportant to the nation's food system.

Some of the bond funds will be directed to land trusts in amounts that exceed that given to the farmland program. The Santa Monica Mountains Conservancy will receive \$35 million; the San Joaquin River Conservancy, \$15 million; and the California Tahoe Conservancy, \$50 million. The State Coastal Conservancy will receive \$220.4 million to be directed to land conservation along the state's world famous coastline.

Total grants to local governments and non-profit groups for recreation and conservation projects is \$940 million.

State agency projects are funded at \$1.1 billion and include \$355 million to acquire and preserve natural areas; \$277.5 million to acquire and preserve fish and wildlife habitat and \$525 million to buy, improve or renovate recreational areas.

The California bond act is the voters' expression of good economic times – the amount of the authorization is slightly greater than all authorizations over the last 25 years combined.

## Some state programs flush with cash, others with none

*continued from page 3*

### NEW YORK

**Year established:** 1996

**Acres preserved:** 1,695 (as of 2-00)

**Funds spent to date:** \$6.4 million

**Latest allocation amt:** \$11.6 million

**Current funds:** \$11.6 million

**Source of funds:** Clean Air/Clean Water Bond Act; state Env. Protection Fund

**Outlook:** Begun in 1996, this program has consistently come up short on money, with its latest allocation the largest to date. While farmland preservation is gaining political clout, open space and forest land conservation receives stronger support. A positive is its grants-based structure, a good fit for the state's regionalism and varying levels of local farmland protection activity.

### OHIO

**Year established:** 1999

**Acres preserved:** 254

**Funds spent to date:** \$0

**Latest allocation:** n/a

**Current funds:** n/a

**Source of funds:** n/a

**Outlook:** This program was created under bad timing – too late for an appropriation from its legislature and too late to apply for federal funds. Gov. Taft is proposing a \$200 million bond issue on the Nov. ballot for environmental purposes including farmland preservation. Meanwhile the Ohio Office of Farmland Preservation, with two professional staff, is sponsoring a statewide conference this month and completed its first easement – a donation.

### PENNSYLVANIA

**Year established:** 1988

**Acres preserved:** 152,205 (as of 2-28-00)

**Funds spent to date:** \$238 million

**Latest allocation amt:** \$28 million and \$43 million

**Current funds:** \$101 million

**Source of funds:** Bonds and general fund allocations.

**Outlook:** Outstanding. Strong leadership from governor

*continue to page 5*

**etcetera ...**

### **Bouchard retires, new FPP manager named**

*Washington, D.C.* – Carl Bouchard of the Natural Resources Conservation Service, Community Assistance and Resource Development Division, retired effective Jan. 1. He was in charge of the Farmland Protection Program.

Bouchard will work as a consultant in land use, watershed planning, floodplain management and farmland preservation.

Melissa Hammond, a 20-year NRCS veteran, has been named Farmland Protection Program manager.

In September 1996, Bouchard oversaw the first request for proposals of the Farmland Protection Program, the first federal assistance to state and local purchase of development rights programs. He continued to oversee its implementation through its last funding in 1998. Currently out of money, the program would receive \$65 million under the president's proposed FY 2001 budget.

Before beginning her career at NRCS headquarters in Washington in 1992, Hammond worked at the field level in Illinois and in Maryland, and served as a legislative liaison for NRCS developing the 1996 farm bill, including creation of the Farmland Protection Program.

"I am really excited to be working in the farmland preservation field," Hammond said.

*Hammond: (202) 720-7671; Bouchard can be reached at (703) 425-8245 or cbouchar@erols.com.*

### **LTA publishes updated *Appraising Easements***

*Washington, D.C.* – The third edition of *Appraising Easements, Guidelines for Valuation of Land Conservation and Historic Preservation Easements*, was recently published by the Land Trust Alliance.

The book, first published in 1984, was last updated in 1990. The new edition contains an update on the special estate tax benefits for easements under the 1997 tax code changes, and revised information on substantiation of charitable contribution of appreciated property and donee reporting requirements. The book also outlines the latest legal cases regarding conservation easements and appraisals.

*Appraising Easements* is available from LTA for \$24, plus shipping and handling. To order, call (202) 638-4725 or see [www.lta.org](http://www.lta.org).

*continued from page 4*

and legislature. This program has strong professional state-level management as well as experienced professionals in localities that enjoy consistent political support. Pennsylvania will likely take top national status in preserved acreage by year's end, ending a sizeable applicant backlog and overtaking Maryland's long-standing lead.

#### **RHODE ISLAND**

**Year established:** 1981

**Acres preserved:**

**Funds spent to date:**

**Latest allocation:** \$2 million

**Current funds:** \$1 million

**Source of funds:** bonds

**Outlook:** The Rhode Island program has been slow moving and some would say has done far too little, and much too late. But the outlook is brighter since the governor announced he wants a \$50 million bond issue on the November ballot for open space and farmland. The Division of Agriculture has been at work with a series of workshops to garner support. And, in the last 10 years, the state's land trust community has matured and is better funded, providing a partnership role for farmland easements.

#### **VERMONT**

**Year established:** 1987

**Acres preserved:** 83,411 (through 12-99)

**Funds spent to date:** \$30.4 million

**Latest allocation:** \$3.1 million

**Current funds:** \$1.5 million

**Source of funds:** property transfer tax

**Outlook:** The structure of the Vermont program is as unique as it is sound – conservation applied equally to housing and land. The farmland preservation program is administered cooperatively with the Vermont Land Trust while affordable housing is constructed or restored in appropriate places statewide. The political strength of the arrangement is undeniable and its outlook healthy as long as funding is adequate for yearly activity.

\* *Funds spent to date reflects state funds only— excludes federal and local dollars.*

#### PRESERVATION AND PROFITABILITY

## Is PDR making a difference for northeast dairy farms?

Agriculture in the northeast is dominated by dairying, among the most troubled sectors of the ag industry, and while farmland preservation programs in states such as New York and Vermont aim to give farm viability a chance, dairy farms are struggling not only with low milk prices and unlucky weather, but with dynamic changes in the industry.

Can farmland preservation programs provide enough hope for the struggling industry?

According to Nelson Bills, an agricultural economist at Cornell University, the biggest problem for dairy farmers in the northeast is dairy farmers in the Midwest, where dairy business is big and getting bigger.

"Dairy is a rough and tumble business here in the northeast. It's undergoing continual change." Bills said the fluid milk business is moving to the Midwest and even the southwest, which is affecting the dairy industry in California. Bills doubts that farmland preservation programs can adequately stem the flow of dairy losses, particularly in New York, and throughout New England.

In Vermont, for example, long known for its dairy products, the number of dairy farms has dropped from 2,370 in 1990 to 1,659 as of Jan. 1, 2000. When the Northeast Dairy Compact was signed in July 1997, the state had 1,908 dairies. Since then, despite the protections the compact provides from competing milk prices, another 249 dairies have gone out of business. Price volatility is the primary reason, said Byron Moyer of the Vermont Department of Agriculture.

"Twice, in 1998 and in 1999, we went from a record high to a record low in a matter of months. In recent years peaks are much higher and valleys lower, with transitions much quicker," Moyer said. "Dairies can't survive that volatility."

Despite an attrition rate of 3.5 to 4 percent

*please turn to page 6*

## Can PDR help the northeast's dairies?

*continued from page 5*

annually in numbers of dairies, Moyer said Vermont's milk production is increasing. In 1995 the state produced 2.520 billion pounds of milk. In 1999 that had increased to 2.680 billion pounds.

But the issue of whether preserving farmland can also preserve agriculture at the local or regional level is "an open empirical question," according to economist Bills.

According to Bills, the American Farmland Trust's studies that show a high percentage of farmers putting easement funds back into their operations seems encouraging, but will one-time payments make a difference in the long term?

"The issue of sustainability of the farm still remains ... you have to renew investments to remain competitive. Other conditions have to be fulfilled for farming to survive."

The question, as Bills sees it, is how will northeast dairy operations fare in the face of new regional and even global competition?

"That provides the context we need to provide an assessment of where these farms are going. I'm not aware of any authoritative study that would put this question to rest, but at the end of the day, I am unwilling to say that separating development rights from a farm in the northeast is the route to salvation."

In New York, 55 percent of total receipts in agriculture is from fluid milk, Bills said, "so it's a big deal for us here."

Jerry Cosgrove, New York field director for the American Farmland Trust, said that despite federal ag policies that keep profitability low, "it's important for local, economic, and environmental reasons to protect farmland. Local farmland protection programs can be part of the solution. Ideally we want to improve federal policy, but in the interim we need to protect our farmland base."

There are good reasons at the local and the national level for using conservation easements, Cosgrove said.

"Profitability needs to be addressed at all levels." Cosgrove said northeast agriculture doesn't get much help from Congress, as it sends most assistance to larger Midwest farm states, and programs with environmental agendas, along with the Farmland Protection Program "are targeted and zeroed out by Appropriations. That's a challenge from a regional perspective."

New York's farmland preservation program receives plenty of applications from dairy farmers who are determined to stick it out. In January, in its fourth round of funding, about a dozen dairy farms are mentioned in grant applications from localities.

Is the farmland preservation program helping New York agricul-

### legislative and program briefs ...

**In Ohio ...** Medina County voters March 7 gave a thumbs down to a sales tax increase to fund farmland preservation. The 0.25 percent sales tax would have generated \$3.5 million annually for easement purchases over 10 years. It was defeated by 55 percent of the vote. According to Howard Wise of the Ohio Office of Farmland Preservation, proponents of the ballot measure didn't have enough time to campaign and chose a "slow growth" slogan that didn't help.

**In Wisconsin ...** Jefferson County has become the second locality in the state to host a PDR program, following the Town of Dunn in Dane County. The Jefferson County Land Trust announced in February a \$20,000 county grant to begin an application cycle. Six farmers met the Feb. 25 deadline, and the land trust is busy seeking private funds, according to board chairman Greg David.

**In Vermont ...** The Vermont Farm Bureau is urging passage of a bill that would limit conservation easements to 20-year terms. The bill is not expected to pass. The governor's budget is seeking \$2.4 million for "sprawl mitigation". It is uncertain what amount would be allocated to farmland. "We're waiting to see what strings will be attached to where we can spend it," said Ethan Parke of the Vermont Housing and Conservation Board. The money would come from state transportation funds, he said.

**In Maryland ...** Land trusts and local governments are working on grant applications for the state Rural Legacy Program, due April 3. Meanwhile, the legislature is eyeing the governor's proposed funding boost for the program since very little of its first-year funds have actually been disbursed, but rather

*please turn to page 7*

are bogged down with landowner negotiations and technical loose ends. Some sponsors are complaining about delays at the state level. Many sponsors are juggling first-year grant agreements with new grant applications for the coming fiscal year.

Legislation still pending: HB 740 - creates a task force to study the MALPF program; HB 661 - would allow exclusion from income tax the amount gained from easement sale to MALPF; HB 703 - would create an income tax return form check-off for voluntary contributions to the Maryland Agricultural Land Preservation Fund. HB 486 - would create commemorative license plates to honor state agriculture.

Baltimore County adopted a new master plan Feb. 22. Meanwhile, the county's quadrennial comprehensive zoning map process is underway with more than 160 zoning issues. One petition would downzone a 5,333-acre Rural Legacy Area along the Gunpowder River.

**In Kentucky ...** Efforts to funnel as much as \$6 million in tobacco settlement money to the farmland preservation program have failed, according to Bill Burnette of the Department of Agriculture. Once the dust settles over how to spend the monies, funds will likely go to agriculture, with two-thirds to tobacco-producing counties. Some counties may use the funds for easements, according to Burnette.

**In Delaware ...** Appraisals are underway on 200 farms, which will likely result in about 70 successful offers, according to staff. Preserved acreage stands at 37,000, but "by the time round five is over, we're looking at 50,000," said Stewart McKenzie.

**In Pennsylvania ...** Gov. Tom Ridge announced at the state farm show that 100 additional farms would be preserved by Earth Day, and the program is well on its way, approving a record 32 farms last month, comprising 4,562 acres. Program director Ray Pickering predicts 350 farms will be preserved in 2000.

*continued from page 6*

ture? Cosgrove thinks so. The state Department of Agriculture and Markets "is doing a good job," he said, choosing farms that "another farmer would want to buy."

Across the state line in Vermont, Louise Calderwood, deputy commissioner of agriculture in Vermont, agrees that farmland preservation is encouraging agriculture, at least at the community level. Vermont's program is 10 years older than New York's.

"Absolutely - [PDR] does stem the loss of dairies, for the obvious three reasons: restructuring of debt, capital improvements, and intergenerational transfers. It allows young individuals to purchase ag enterprises. I have seen that over and over again."

Calderwood, who sees a role for land conservation in securing the future for the dairy industry in Vermont, said that despite decreasing numbers, the program provides hope to farmers and the industry generally.

Young farmers starting new enterprises rejuvenate the farm community, Calderwood said, and provide hope for turning back the impermanence syndrome.

Local farmland preservation administrators south of New York say many dairy farmers that enroll in their programs use easement proceeds to retire debt. Others use the cash to enlarge or improve their operations, indicating that dairy has a future in the region even under adverse conditions.

Ag economics is part of farmland preservation every day for Bill Powel, program administrator in Carroll County, Md., one of the nation's top ranking programs with more than 30,000 acres preserved. The issue of agriculture's viability at the regional level is important, but on the front lines of farmland preservation, viability means smart financial planning one farm at a time.

Carroll County's Critical Farms Program helps beginning farmers buy farms and plan for their business success.

Selling an easement is a smart financial decision, Powel said. The local farm credit office has been sending applicants to him because farmers "need to get themselves in a better position."

Some farmers use the program "as the best alternative for continuing their operations," Powel said. Others have gone into the program "so they could go out of the business."

Increasingly, farmland preservation is including help with financial planning. In dairy-rich Lancaster County, Pa., three recent financial planning workshops brought out 205 farmers.

"I think the financial implications of preserving your farm are critical," said June Mengel, executive director of the Lancaster County Agricultural Preserve Board, sponsor of the workshops. "Easements should be seen as a springboard for sustaining the financial health of a farm beyond the easement payment."

## professional resources ...

### Job Postings

**Peninsula Open Space Trust (CA), Land Manager:** An outstanding opportunity to join one of the nation's most dynamic and successful land trusts. Responsibilities include oversight of conservation easements, management of 12,000 acres of land held in fee, coordination with government agencies and management of land related volunteer programs. Successful candidate will have experience in conservation techniques, land use laws and regulations, public speaking and the ability to motivate others, relevant graduate degree or equivalent background in natural resources. EOE. Competitive salary with excellent benefits package. Position open until filled. Please send resume and cover letter to: Summer Morlock, Land Associate, Peninsula Open Space Trust, 3000 Sand Hill Road, #4-135, Menlo Park, CA 94025; fax: (650) 854-7703; e-mail: smorlock@openspacetrust.org. (posted 3/3/00)

**Natural Land Institute (IL), Executive Director** — An established not-for-profit conservation organization seeks an experienced professional to lead fund development, marketing, planning, staffing, coordinating, reporting, and budgeting. Requirements: four-year degree or extensive experience in natural sciences, natural resources management, or a related field; and/or a four-year degree in business administration or proven experience in business, nonprofit management, fund raising, real estate, marketing, or a related field; proven ability to communicate verbally and in writing; and a strong commitment to the preservation of natural land, natural diversity, and open space. Send resume, three references and writing sample by *April 12* to: President, Natural Land Institute, 320 South Third St., Rockford, IL 61104 (posted 2/25/00)

**Land Trust Alliance, Field Program Director** — Oversees capacity building programs for land trusts in southeast and Mid-Atlantic states. Works with other staff/partners to provide training, conference, technical assistance, and oversight of grants programs. Frequent travel is required. minimum of five years experience in land conservation, non-profit management or fundraising. For additional information on this job and other listings, see LTA website at [www.lta.org](http://www.lta.org). Send resume to Attn: Ray Herndon, Land Trust Alliance, 1319 F Street NW, Suite 501, Washington DC 20004.

### Conferences & Workshops

**March 23, Reynoldsburg, OH:** Local Growth and Farmland Preservation: In Search of a Balance, a statewide conference sponsored by the Ohio Department of Agriculture. Contact the Office of Farmland Preservation at (614) 466-2732 or Howard Wise at [wise@odant.agri.state.oh.us](mailto:wise@odant.agri.state.oh.us)

**March 30 - Apr. 3:** The Ultimate Farmland Preservation Tour, 2000, open to participants in Michigan, Illinois, Indiana and Ohio to tour Md., Pa., and NJ, sponsored by the Michigan Farm Bureau, Indiana Farm Bureau, the Rural Development Council of Michigan, the Michigan Farmland and Community Alliance and the Indiana Beef Cattle Assn. Contact David Skjaerlund, (517) 373-4550.

**April 9 - 11, East Windsor, NJ:** PACE 2000: Foundations for the Future, sponsored by AFT, hosted by the NJ State Agriculture Development Committee. Call Lynn Johnson, (413) 586-9330, or [ljohnson@farmland.org](mailto:ljohnson@farmland.org).

**April 12 -14, Reading, PA:** Pennsylvania Historic Preservation & Heritage Partnerships Conference. Call (717) 234-2522.

**May 19 & 20, Shepherdstown, WV:** Mid-Atlantic Land Trust Staff Retreat and Conference. Informal meetings, discussions and training sessions for six-state region. Visit [www.lta.org](http://www.lta.org) or call 877-514-7900.

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# farmland preservation report

*Covering the policies, practices and initiatives  
that save farmland and open space*

*Since 1990 • Deborah Bowers, Editor*

## Virginia, West Virginia establish ag easement programs

New farmland preservation programs were established within days of each other last month in Virginia and West Virginia, states long considered by their neighbors to the north as conservation backwaters unlikely to join their farmland preservation efforts underway for more than 20 years.

Program creation, once complete and funded, will create a true mid-Atlantic block of states with farmland preservation programs based on the purchase of development rights or agricultural conservation easements.

In Virginia, the Senate Finance Committee pushed through a budget amendment that calls for funds from the Department of Agriculture and

Consumer Services to be used "to establish the Virginia Agricultural Vitality Program," and a board to "develop standards for local purchase of development rights programs" including criteria for eligibility, and "a method and source of revenue for allocating funds to localities."

The board, which includes a representative of the American Farmland Trust, is also charged with creating a farm link program that will "provide state assistance in the transition of farm businesses and properties from retiring farmers to active farmers."

Funding for development of the program was set at \$65,000 for the first year and \$50,000 for the second year of the biennial budget. No funding

*please turn to page 2*

## Program administrators gather for two-day conference

EAST WINDSOR, NJ – Finding notable differences between their own programs and others didn't keep 116 farmland preservation administrators from picking up tips of the trade at a two-day conference sponsored by the American Farmland Trust at an undistinguished hotel off Exit 8 of the New Jersey Turnpike. Thirty-nine AFT national staff and field office representatives also attended.

Both veterans and novices mixed during tightly paced sessions to learn about techniques and issues, from database management and installment purchases to whether or not state programs should attempt to control the sale price of preserved farms, and whether term easements

should be allowed in farmland preservation.

Conference goers were greeted by Art Brown, New Jersey Secretary of Agriculture, who said the

*please turn to page 2*

**Volume 10, Number 6 April 2000**

### inside this issue ...

Howard County may restart IPA program ..... p. 6  
Task force to study Maryland program ..... p. 8  
Legislative briefs ..... p. 6,7

## Virginia, West Virginia create ag easement programs

*continued from page 1*

has been allocated for easement purchases.

"We didn't get any money for easements, but we got a funded position in the Department of Agriculture to get the program up and running," said Mary Heinrich, director of the AFT Mid-Atlantic field office. "It was done through a budget amendment because one of the patrons decided that was the best way to do it."

William Dickinson Jr., Virginia Commissioner of Agriculture and Consumer Affairs, attended the recent two-day conference in New Jersey sponsored by the AFT to learn more about farmland preservation programs.

"We have a lot of work to do. We're not quite ready to hire an executive director," he said after attending a workshop on term easements. Dickinson was joined at the conference by several representatives of the Virginia Farm Bureau as well as Louis Cullipher, director of the Virginia Beach PDR program, the only operating program in the state, created in 1995.

In West Virginia, SB 209 sets down a structure and guidelines for a statewide farmland preservation program. It authorizes county farmland protection boards and charges them with establishing standards and guidelines for eligibility, based on property use, improvements, size, location in relation to other farms, and threat of conversion. Boards are also charged with seeking funds, but will have the help of a state agricultural land protection authority, which is also charged with applying for and obtaining "all state and federal funding available" for farmland preservation.

Both the state authority and county boards can acquire easements or lands in fee for resale with easements. Easements may include an opt-out provision, that would place the easement selling price into an escrow fund for up to five years if owners get cold feet at settlement.

Development threat is the first of eight criteria to be addressed in ranking applications, followed by acreage, soil productivity, contiguity to working farms, and the ratio of the asking price to the

fair market value.

Interest in participating in the new program will likely come from the state's eastern panhandle region which juts out uncomfortably close to the Washington, D.C. metropolitan area and includes the historical area of Harper's Ferry.

### IN NEW JERSEY

## NJ Ag Secretary says state mandate is "achievable"

*continued from page 1*

state's \$500 million boost to its farmland preservation program, mandating 500,000 acres preserved within a decade, is "achievable" but that "staff has their work cut out for them." In preparation, the program has eliminated a longtime cap on the number of applications counties can submit, and increased application cycles to twice a year. Applications as a result have already tripled.

Brown was particularly enthusiastic about the program's fee simple option, which puts the program in emergency mode when a farm is under imminent threat. The program will buy the farm outright at fair market value, retire its development potential through easement, and resell the property at auction. Over the last 10 years more than 3,000 acres have been preserved through the fee simple option.

"In the next few months, we will protect as much acreage in fee simple as we have in the last decade," Brown said, adding that priority will be given to farms hurt by recent droughts.

Brown was also enthused about the state's new Planning Incentive Grant Program, which encourages formation of large contiguous blocks of farms entering permanent preservation. Several blocks have been formed, he said. "And that's difficult in this state, which is so heavily developed."

*please continue to page 3*

**AFT conference, continued from page 2**

The grant program was created in August 1999, "to enable us to get large blocks of farmland instead of a farm here and a farm there," said program director Greg Romano at that time (see FPR Sept. 1999). Localities must assemble multiple farms that are "reasonably contiguous and located in an agriculture development area."

Brown said the program has entered "an exciting and challenging time," and that the state is determined to reach its protection goals, which target half of the remaining undeveloped land in the state.

Close to one-third of Brown's listeners were New Jersey program administrators from state and local agencies, attending the first AFT conference held in their state. Out-of-staters, many from Maryland, Pennsylvania and New York, expressed admiration for Brown's knowledge of New Jersey's farmland preservation program.

Brown's enthusiasm was followed-up next day by Jack Collins, Speaker of the New Jersey General Assembly. Noting that New Jersey now holds the status of having the highest median income in the nation, Collins quipped, "PDR costs a lot, but we have a lot of money," bringing chuckles from the audience.

**Is it smart growth without UGBs?**

In a session on Smart Growth and PDR, session leader Tom Daniels, professor of planning at SUNY-Albany, berated the smart growth movement as suggesting that a balance can occur between development and land preservation. An overriding weakness in the concept of smart growth, he said, is that it assumes population growth can be accommodated.

"Smart growth suggests we can have it all. It's important to recognize the balance is very fragile and may not last much longer." Meanwhile, the goals for PDR are to achieve a critical mass, maintain affordable land prices, keep funding adequate and programs reliable, sustain public support, and maintain reasonable cost in comparison to public benefit.

Daniels was keen on the use of urban growth boundaries, faulting Maryland's smart growth law as inadequate until UGBs are required. He said that when he served as director of the Lancaster County (Pa.) Agricultural Preserve Board, which preserved 30,000 acres during his 10 years there, farms within urban growth boundaries were not eligible for the program. When asked by a session attendee whether this wasn't unfair, Daniels said good planning was about "selective sacrifice" and that it was important for developers to know where they could seek available land and what lands were off limits.

"The developers can do their thing and we can do ours. In 1998 there was more land preserved in Lancaster County than was developed."

Al Sokolow, a public policy specialist with the University of California Cooperative Extension who studies farmland preservation techniques, differed on the prospects for success of urban growth boundaries.

"I think the jury is still out on UGBs. They may not be needed in situations when you have a fairly rigid planning regime." Sokolow said UGBs delineated for periods of 20 years may not deter development where developers can invest in land and hold out over the period.

**Smart growth "will take too long"**

Luncheon speaker Ed Thompson Jr., senior vice president for public policy with American Farmland Trust, outlined a national agenda that focused on the need to raise more money for agricultural easements and to "spend it wisely." Thompson said that "money is what we need to compete with developers for farmland," and that \$600 million annually was needed. He called for reaching out "to urban and suburban voters without alienating our core constituency," farmers.

That might be difficult in attempting to decrease density allowances in agricultural zones,

*please turn to page 4*

## Veterans debate: should land resale be monitored to keep it affordable?

but Thompson called for a "good faith effort" and a "non-confrontational way to engage the conversation - a substantial number [of farmers] recognize that zoning has positive results." He noted that studies have shown that the "fear that motivates loss of equity is unjustified."

Thompson further noted that smart growth, as a set of complex policy adjustments with many players will take too long to make a difference for farmland protection efforts. "We can't wait for its effects."

### Farmland affordability as a program concern

Rich Hubbard of the Massachusetts Agricultural Restriction Program and Michael McGrath of the Delaware Agricultural Land Preservation Foundation were paired up in a debate on whether state programs should direct time and resources to assure land affordability by monitoring sales of preserved farms. Hubbard argued yes, and McGrath, an emphatic no.

The Massachusetts program's mission includes land affordability and easement grantors must first offer to sell the farm to the state at the appraised fair market value for commercial agriculture. So far, however, the program has not had to exercise the option, Hubbard said, because grantors understand the purpose of the clause and set their asking price accordingly.

But some landowners have a hard time with the program interfering with land sales. One farm owner, Hubbard said, received \$2.3 million for an easement and then "objected to not being able to turn around and sell it for \$2 million."

Hubbard indicated the state farm bureau finds the APR program policies disagreeable, resulting in "a bloody battle as to whether this is a farm program."

But its only a minority of farmers who feel

they should be able to sell their farms for what the market will bear, or, the "estate value," Hubbard said, and he sees the sale monitoring practice as an important part of the mission of farmland preservation. The program further requires that purchasers of preserved farms "be engaged in farming as their primary occupation."

"These are farms that have a public value. They're not the same as other farms."

McGrath said he would be out of a job if he or his program in Delaware tried to do what Hubbard's program does. The issue of land affordability is absent from Delaware program law and regulations.

"We've taken a very focused view of what this program is about. You have to be realistic from a political standpoint. We can't sustain the political energy so narrowly we cut out supporters. In Delaware, 90 percent of citizens really don't care about soybeans and corn production." What they do care about, McGrath said, is open space and scenic views.

"We make sure it stays in agriculture, but who owns it is not a concern of ours." McGrath said 75 percent of Delaware farmland is leased, and historic ownership patterns show ownership is not a factor in economic strength or stability. "It doesn't matter who owns the land."

While Hubbard said he sees his program as a source for farmers looking for affordable land, McGrath countered that the "best thing to happen to agriculture is that the land will become inflated for use as agriculture."

### Contingent from Virginia

Newcomers at the conference this year hailed from Virginia, where a farmland easement program was passed by the legislature in March.

William Dickinson Jr., Commissioner of Agriculture and Consumer Affairs, attending a workshop on term easements, said he was there to learn everything he could that would aid in program development. While funds were allo-

*continue to page 5*

*continued from page 4*

cated to set up administration for the program, the department is not quite ready to hire an executive, he said. No funds were allocated for easement purchase. The legislation creating the program was adopted as a budget amendment and included little in the way of guidelines. A farm link program is part of the package.

Attending for the first time was Louis Cullipher, administrator for the state's only operating farmland preservation program in Virginia Beach, which now preserves 5,000 acres "with another 5,000 in the pipeline."

Doug Stoughton of the Virginia Farm Bureau, attending the Experts Roundtable discussions, said his idea of farmland preservation was pursuing economic development for agriculture.

"The whole idea is to look at a multitude of ways to keep the farmer on the farm and make the enterprise more profitable," he said.

### **Usefulness of term easements debated**

A large group of veterans as well as newcomers debated the implications of temporary protection and whether 10 to 25-year easements help or hinder true preservation goals.

Ben Way of the American Farmland Trust's Colorado field office described an attempt in the Colorado legislature to enact a term easement program.

"In Colorado sprawl is a front page issue on a daily basis. The governor announced a plan and one part of it was temporary easements." The plan was strongly supported by the Cattlemen's Association, but not by the Colorado Cattlemen's Land Trust, and was opposed by land trusts broadly.

"It was referred to as a term easement, but we thought the word "easement" should be restricted to a permanent program. The proposal, which eventually died in committee, was made even more objectionable by allowing landowners to opt out early by paying back only half of the state income tax credit received for enrolling. The bill also lacked criteria for eligibility.

June Mengel of Lancaster County, Pa., said a series of term easements were arranged in Lancaster in the beginning of its program in 1983, with varying restrictions. Some of the landowners – so far, seven of 20 with term easements – now want to go to permanent easements. "The problem is, how do we evaluate and compensate fairly?" One policy issue is whether term easements make fiscal sense when using public dollars, Mengel said.

"It would have been a lot cheaper to permanently preserve it in 1983 than in 1998 at \$350,000."

The Lancaster County Agricultural Preserve Board has preserved 289 farms and more than 24,000 acres, and the Lancaster Farmland Trust has preserved 110 farms and over 6,000 acres.

Several representatives of the American Farmland Trust said term easements have a place in farmland preservation, where farmers are entrenched in the impermanence syndrome and where program criteria put so many farms out of the ranking.

"The farm bureau in Massachusetts wants term easements," said AFT veteran Bob Wagner, director of the group's field operations. "This is for farmers who see no future for agriculture and its a jump start for them." In Massachusetts grants of \$20,000 are offered for five-year easements and \$40,000 are offered for 10-year easements.

Tim Storrow, land protection program manager for AFT, said term easements offer "another layer of programs" for farmers whose land does not rank high due to location and other factors.

Tim Warman, public policy director for AFT, said farmland preservation policy and practice has to confront the issue of term easements because it won't be going away.

But resistance to temporary easements among program administrators attending the session was strong. Rich Doenges of Skagit County, Wa., where a PDR program is in place, said term easements are a non-issue if programs have a strong foundation.

"If you have good land use laws, you don't

*please turn to page 6*

## AFT backs use of term easements

*continued from page 5*

need to start down the slippery path of term easements. The farmers on my committee say they don't want to pay out and pay out again."

Michael McGrath, veteran director of the Delaware program, said it is the responsibility of policy makers to consider the public investment value of their decisions, and shouldn't base decisions on what farmers want. Farmers are "just thinking about money." Further, he said, the danger of short term easements is the probability of short term funding, that by the time a temporary easement is looking for permanent status, funding may not be available.

"We have no concept of time in this country - 25 or 30 years is not a lot of time. We really need to be careful about what we see as a short term solution."

Term easements are an option being pursued by a group of farmers in Maryland's Eastern Shore counties. Term easements of a minimum 15 years are allowed under Montana easement law, and are allowed under the state's new Agricultural Heritage Program. Term easements are opposed by the state's land trusts, but were accepted as a way to establish the ag program there last year.

"They are generally used to warm up a landowner if they are not sure," said director of Montana Audubon Janet Ellis last September. "It's like a courtship period. But ultimately they're just not worth it."

## Howard County proposes to restart installment purchase program

**ELLCOTT CITY, MD** - After four years of inactivity, Howard County's installment purchase program for farmland easements will be up and running again with an expected County Council approval of the county executive's proposed \$15 million bond authorization for the program next month. The program was closed to new applicants in 1996, after using up \$55 million in bonds authorized in 1988.

The county's real estate transfer tax provides the revenue stream needed to retire the bond debt, but for a period, the revenue was not sufficient to cover additional purchases. According to program administrator Bill Pickens, "over the past year we concluded we could do \$15 million comfortably. When we finish that, we'll take another look."

The tax is levied at one percent of all real estate transactions, with 0.25 percent, about \$4 million annually, dedicated to the farmland

### legislative and program briefs ...

**In Maryland ...** Bills introduced to make changes to the Maryland Agricultural Land Preservation Foundation (MALPF) program, including decreasing dwelling allowances, were sideswiped by a bill to create a task force to study the entire program and make recommendations to the governor in December. The MALPF program has an array of technical and policy matters long unresolved. The task force will include four members of the General Assembly, representatives from affected agencies and nonprofits including American Farmland Trust.

The Rural Legacy Program received 23 applications for renewal grants and new Rural Legacy Areas requesting a total of \$84.6 million, more than twice the amount available this grant cycle. All but three applications are requests for continued funds. The three new proposals are: Manor Rural Legacy Area in Baltimore and Harford Counties submitted by The Manor Conservancy; South Branch Patapsco River, Howard County; and Chino Farms in Queen Anne's County submitted by The Conservation Fund.

**In Ohio ...** The governor's \$400 million bond proposal to be split between urban redevelopment and environmental conservation has been approved. An effort in the House Finance Committee to remove farmland preservation from the programs to be funded was defeated. The \$200 million for conservation activities includes open space and "farmland preservation" according to Howard Wise of the Ohio Office of Farmland Preservation. Now the proposal goes before voters in the November election.

**In Virginia ...** The General Assembly created the Virginia Agricultural Vitality

*please turn to page 7*

Program, which will include the purchase of easements, within the Department of Agriculture and Consumer Affairs. Born of a budget amendment with few guidelines, the program will be developed with \$115,000 for administrative costs over two years. No money was allocated for easement purchase (see story).

**In West Virginia ...** Within days of the Virginia program creation, West Virginia legislators approved extensive policy and technical guidelines for localities to establish farmland protection boards "to approve the purchase of farmland easements." The law also creates a state board and a fund, but no funding (see story this issue).

**In Pennsylvania ...** The governor promised to preserve 100 farms in 100 days and the Bureau of Farmland Protection delivered 101, comprising 12,400 acres since Jan. 8. Length of time to settlement: 30 - 45 days. What's next for this booming program? Encouraging counties to use installment purchase agreements to preserve farmland even more rapidly. The state is paying up-front costs for IPA, developing standard documents, and will be conducting IPA workshops throughout the state this summer.

**In Colorado ...** Gov. Bill Owens announced the preservation of the 21,000-acre Greenland Ranch, the largest tract of undeveloped land along the Front Range. Funds from Great Outdoors Colorado (GOCO) of \$9.2 million and an equal amount from Douglas County made the purchase possible. GOCO is funded by state lottery proceeds and has preserved about 97,000 acres of agricultural land, much of which is grazing lands, since 1994. The GOCO Trust Fund awards grants for "outdoor recreation, wildlife and open space."

**In Rhode Island ...** A campaign is underway to promote passage of a \$50 million bond this fall; about \$12 million is anticipated to go to farmland preservation.

*continued from page 6*  
preservation program.

### **IPA and its use elsewhere**

The securitizable installment purchase agreement (IPA) method, devised by Daniel "Pat" O'Connell of Evergreen Capital Advisors Inc. in Princeton, N.J., provides tax-exempt interest payments to landowners over 30 years and makes a balloon payment of the principal at the end of the period. This allows deferral of capital gains tax and allows the county to settle on a greater number of farms more rapidly.

IPAs are used by several other counties in Maryland and New Jersey and in the City of Virginia Beach. The technique will soon be an option for Pennsylvania counties participating in the state farmland preservation program, according to director Ray Pickering, who will be conducting IPA workshops for county governments and farmers across the state.

"We will have a standard off-the-shelf approach," for counties interested in using IPA, Pickering said.

Harford County, Md., began using the IPA method in 1993 and at that time had about 9,000 acres preserved through the state's lump sum payment program. Using IPA for most of its easements since, the county has tripled its preserved acreage, at a pace nearly unequalled in the nation.

The Howard County program has preserved about 18,000 acres, and ranked number six among localities in the nation for number of acres preserved as of June 1999 (*Source: FPR*).

### **IPA and Rural Legacy**

In addition to using IPA in its farmland program, Howard County will be pursuing use of IPA for properties it protects under the state's Rural Legacy Program. According to Pickens, the initial zero coupon bond purchase would be handled through the Rural Legacy Program, with the county making interest payments to the landowners.

"Since we have a confirmed revenue source, we are comfortable in doing the interest," Pickens said.

Howard County submitted two plans in the recently completed third Rural Legacy application cycle. One, a renewal application for its Upper Patuxent River plan which won a grant last year, and a new application for the South Branch of the Patapsco River, a 16,600-acre area.

The county's rural area zoning allows one unit per 4.25 acres. About 16,400 acres remain unprotected in parcels of 20 acres or above.

Contact: Bill Pickens, (410) 313-5407; Pat O'Connell, (609) 279-0068; Ray Pickering, (717) 783-3167.

## Task force to study Maryland program policies, practices, funding status

ANNAPOLIS, MD – A number of bills directed at improving Maryland's farmland preservation program have been waylaid by the legislature in favor of sending all concerns regarding the program into interim study – an easy out provided by one of the bills, which called for a task force to be established. The Maryland Agricultural Land Preservation Foundation's program and practices as well as its funding status will be reviewed by the 18-member task force appointed by Gov. Parris Glendening.

The group will include legislators as well as representatives from agencies and nonprofits, and will submit an interim report by Dec. 1 and a final report by July 31, 2001.

One bill, submitted by the Foundation itself and now referred to the task force would have reduced allowable family lot exclusions on easement farms from a maximum density of one unit per 20 acres (1-20) to one per 50 acres (1-50), not to exceed four total lots. Current law allows up to 10 lots, although this maximum has never been pursued on a preserved farm.

Other bills sought minor improvements, one a temporary funding boost during fiscal 2002 through matching grants to counties and another, a state income tax credit for easements or land donations to the Maryland Environmental Trust.

One bill that did manage to be approved was steered through by the Carroll County delegation and is effective to the program statewide. It will allow a principal dwelling to be constructed on preserved properties that have no dwellings. Subdivision of a new dwelling from the preserved parcel is prohibited.

### professional resources ...

#### Conferences & Workshops

**April 26, Baltimore:** *Smart Growth Breakfast Series – Ins and Outs of Smart Growth Policy Applied to Urban Areas*, a breakfast meeting at the Johns Hopkins University Downtown Center, sponsored by Urban Land Institute District Council. Speakers are Paul P. Farragut, executive Director of the Baltimore Metropolitan Council, and Ronald Young, Deputy Director, Maryland Office of Planning. Call 1 800 321-5011 for pre-registration and information.

**May 9, Washington, D.C.:** *Keep America Growing~ Balancing Working Lands and Development; What is Happening to the Land?* Sponsored by AFT, EPA, NACo, NGA, et al., this one-day conference will focus on data analysis, including NRI, American Housing Survey and others, and the role of data in land use planning. Speakers include Ed Thompson, John Freece, Neal Sampson and Carl Bouchard.

Contact Anna Barrios, AFT, 202 331-7300, ext 3041 or [abarrios@farmland.org](mailto:abarrios@farmland.org).

**May 19 & 20, Shepherdstown, WV:** *Mid-Atlantic Land Trust Staff Retreat and Conference*. Informal meetings, discussions and training sessions for six-state region. Registration deadline, April 21. Visit [www.lta.org](http://www.lta.org) or call 877-514-7900.

**June 1, Baltimore:** *Smart Growth Breakfast Series to feature Bill Hudnut, Sr.* Resident Fellow at ULI and author of *Cities on the Rebound*. Call 1 800 321-5011 for pre-registration and information.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## Annuities not legal for installment purchases in top states

Purchasing annuities as a means of financing installment purchase of conservation easements, a technique introduced by two finance professionals independently of each other, is not legal for local governments in New Jersey, Pennsylvania or Maryland, according to Daniel P. (Pat) O'Connell, of Evergreen Capital Advisors Inc. in Princeton. Such restrictions may exist in other states as well, he said.

O'Connell, who devised the use of installment purchase agreements using zero coupon bonds for localities in Maryland, New Jersey, and Virginia and for the state of Pennsylvania, contacted bond counsel for those programs for their opinions on whether local governments could invest in annu-

ties for farmland preservation.

"Each said that annuities to fund installment purchase agreements were not a legal investment for counties in his or her state," O'Connell said, adding that even if it were legal, such arrangements with insurance companies, in his opinion, would be "an imprudent investment."

The method was presented by the American Farmland Trust at its national conference in April. Wade Martin of PaineWebber Inc., a corporate donor to AFT, presented the technique to AFT last year as part of an arrangement for free one-hour consultation to farmers nationwide. AFT referred to its relationship with PaineWebber as a strategic partnership.

*please turn to page 4*

### IT'S ALL IN THE PROCESS

## Maryland often takes twice as long to settle as Pa., NJ

Farmers in Maryland wait twice as long to reach settlement on easement sale compared to farmers in Pennsylvania, and at least six months longer than farmers in New Jersey, according to state and local program administrators in those states.

In Pennsylvania, it takes six months to one year from application to settlement; in New Jersey, about 18 months; in Maryland the process for many applicants, is taking two years.

In Pennsylvania, prior to state board approval of offers, legal and technical chores are coordinated by counties, including surveys, appraisals, and title work. That can take six to eight months

depending on the complexity of the circumstances for each farm, said state program director Ray

*please turn to page 2*

Volume 10, Number 7

May 2000

### inside this issue ...

- How to streamline Md. program ..... p. 3
- N.C. governor announces Million Acre effort ..... p. 5
- Highway dollars at work on PDR ..... p. 6
- Legislative briefs ..... p. 6,7

## Farmers waiting two years to settle in Maryland program

*continued from page 1*

Pickering. The whole process from application to settlement takes eight months to a year.

Some counties have fall application deadlines, do their rankings in January, obtain appraisals in February and March and make offers in the spring. By summer those offers are approved by the state board. Most easement projects – about 80 percent – will reach settlement in about 30 days following state board approval, Pickering said. Those with complicated title work may take a few weeks longer.

Pickering said keeping the majority of processing at the local level is the key to efficient processing in his program.

“Once the state check is cut, we call the county administrator to let them know its coming, and they schedule the closing,” Pickering said. The process hasn’t always been this fast, he said. Two years ago it was taking three to four months from state board approval to settlement day, an unacceptable wait, Pickering said.

So last year, Pickering got administrators in other agencies more involved in the program, taking people from the comptrollers office and the budget department on a tour of preserved farms, and with a captive audience, explained what the program does. “That was very helpful. We’re happy we’ve been able to speed it up,” he said.

The Maryland Agricultural Land Preservation Foundation handles applications far differently from Pennsylvania. While coordination with appraisers, surveyors, title companies and banks is handled by localities in Pennsylvania, in Maryland these tasks are coordinated by the state’s Department of General Services, which handles all of the state’s land and easement acquisition work – a workload that has increased substantially in recent years.

And, while Pennsylvania landowners apply to their counties and coordinate with their local administrators, Maryland landowners send

applications directly to the state – where they are logged in, sent back to counties for ranking, and back to the state again, where they are approved (or not) by September.

It is not unusual for the process in Maryland to take two years, according to Iva Frantz, assistant to director Paul Schiedt.

Following approval, the Department of General Services (DGS) sends out contracts to appraisers to bid, with two appraisals done for each property. The department determines which appraisal will be used. Title work is also sent out for bidding to four or five title companies that handle the state’s work on a regional basis. As title work comes in, it is assigned to a settlement attorney at DGS.

“Unfortunately there are only three (attorneys),” Frantz said. “And they do all of DNR’s land acquisition work as well.”

Once a project has been reviewed by a settlement attorney, “they let us know of any problems. If its OK, they order a check, we process the invoice and send it to the Department of Agriculture’s Fiscal Services Office. They process it, then it goes to the comptrollers office, which cuts the check.” That alone can take three to four weeks, she said.

Once the check is prepared, it is sent to the settlement attorney, who then forwards it to the title company, where settlement is coordinated. The county program administrator is notified of settlement but is not included in the process. They receive copies of correspondence and a copy of the recorded deed of easement.

Not long ago, there were only two settlement attorneys at DGS. Having a third hasn’t helped much, local administrators say.

“It seems to be taking longer to get to settlement,” said Tim Blaser, farmland preservation administrator for Frederick County. Currently, Blaser has four landowners who applied in July 1998, were made offers in April 1999, and are currently waiting for settlement almost two years

*please turn to page 3*

## Maryland program can be streamlined, Powel says

How can the Maryland program be speeded up? Program veteran Bill Powel, on the job for Carroll County since 1987, believes he has some of the answers.

Some policy changes that could be made, Powel said, involve simple details.

Currently, when a settlement attorney at DGS (see accompanying story) has validated an easement file, he notifies the Foundation office, which puts in a request to the Department of Agriculture's finance office, which in turn notifies the county for its cost share payment to the state.

"They can't order the state check until the county has paid," Powel said. "My question is, when was the last time a county reneged on a commitment?"

Powel said the program should explore keeping a "settlement fund" at the Department of Agriculture so when the county funds are received, the check can be cut immediately, and the fund can be reimbursed by the Board of Public Works.

"It's not the length of time from application to offer that upsets the landowner – he understands that appraisals and surveys take time," Powel said. Its the time between the landowner accepting an offer and receiving the check – often a year – that is exasperating and unacceptable, he said.

The second most time-consuming item is the title work and it has an inherent danger – "you don't know whether a survey is flawed until the title report comes in," often eight to 10 months after a landowner has accepted an offer.

Powel thinks the title work should be ordered "when the landowner has responded to the offer, so they'll have the title when the Board of Public Works approves the purchase."

A little faith may be all that's required, according to Powel. Just as the Department of Agriculture could easily trust a county to pay its cost share, he said, "the Board of Public Works never turns down an easement purchase," Powel said. Why not complete the title work "while waiting to get on the schedule for the Board of Public Works?"

Powel said some improvements are more systemic in nature.

"There is no single person who has control over the whole process," he said. If there was, "things could be expedited much better."

### Settlement, from page 2

after applying.

"I've got two property owners quite vocal about the fact its been taking so long," he said. Blaser noted he sometimes doesn't know when settlement occurs.

Bill Amoss of Harford County said the county's local program, which uses installment purchases, takes six to eight months from offer to settlement, but he warns farmers applying to the state program they will wait twice that long, maybe longer to get a check.

"I have one applicant who applied in July 1998, got an offer in March the following year – 1999. Now its April 2000. The lawyers at DGS just told her another survey is needed. Now it's the busy season for surveyors – it will be another three or four months." Other program administrators say they have had the same thing happen.

The State Agriculture Development Committee in New Jersey may be the state's farmland preservation headquarters, but all the work is done at the county level, just as in Pennsylvania.

"It's all in the hands of the counties," said Hope Gruzlovic. "We have a legal review of the closing information, that's pretty much it." The review process takes two to three weeks, she said.

In Burlington County, after landowners accept offers, "we tell them six months," said Cecile Murphy. From application to receiving a check, the process takes 18 months, tops.

"We're trying to shorten it – we've hired a survey reviewer, we've instituted penalties for late surveys."

That's right, penalties – \$150 a day for late surveys, and \$150 for each element Murphy's office asks for and doesn't get.

"We've gotten surveys that disregard our scope of work...our freeholders were supportive and they authorized a survey reviewer."

"This year I'm optimistic it will be faster. We'll get surveys in two months," Murphy said. "The only hang-up will be the title work."

Contact: Iva Frantz, (410) 841-5860; Ray Pickering, (717) 783-3167; Hope Gruzlovic, (609) 984-2504.

## AFT says partnership with PaineWebber was not an endorsement of annuities

*continued from page 1*

The annuity technique had been presented to AFT by Kentucky-based insurance broker Jim Ferguson of The Ferguson Group in 1997. Ferguson obtained several legal opinions assuring that interest payments to landowners would be tax-free.

Under the technique as devised by Ferguson, a state or local government would purchase an annuity from a life insurance company. Then, under contract, the company would send the payments directly to the landowner. For the IRS to characterize the interest payments as tax-free, the governmental entity must own the annuity contract.

In an interview, Ferguson said he was surprised to learn that counties in the states checked by O'Connell would not be able to use the technique.

Annuities can be purchased by nonprofits, but interest payments to the easement seller, while a bonus over lump sum payments, would not be tax-free, Ferguson said.

Dennis Bidwell, director of land protection for American Farmland Trust, said its partnership with PaineWebber Inc. and its presentation of the annuity technique at the conference did not constitute an endorsement, that AFT was only "playing the role of putting innovative approaches out there."

According to Bidwell, PaineWebber Inc. had completed several installment purchase deals using annuities, but "it's been a land trust doing the annuity purchase" and that PaineWebber "made the assumption it would translate to use by counties."

"We don't necessarily think its a bad idea. It doesn't mean we are warranting they [annuities] are sound legally. I haven't examined the legal implications - we didn't undertake an independ-

ent investigation. We see our role as a convener of interesting and innovative ideas," Bidwell said.

O'Connell said even if it was legal for his government clients to use annuities for installment purchases, he would strongly advise against it because insurance companies, even top-rated ones, can go out of business abruptly, forcing the county to pay for the easement twice.

"Annuities are unsecured contracts in which insurance companies promise to make payments. Insurance companies come and go." Making reference to a top-rated company that went bankrupt "because it invested in junk bonds," O'Connell said annuity contracts with local governments would "get thrown into bankruptcy court with everything else."

Ferguson countered that insurance companies "are very reliable" and that nonprofits wouldn't exist without them. He said O'Connell's opinion was a matter of "professional bias."

Ferguson said his idea came from his work negotiating personal injury and medical malpractice settlements using installment payments. He believes a benefit of using annuities over zero coupon bonds is that the annuity buyer "can do just one deal" and not have to create a larger program requiring political support, bond issue and a new revenue stream.

Another benefit, he said, is that the technique allows a lot of flexibility in payment schedules and amount of payments. His plan offers 10, 20, and 30-year arrangements with optional annual increases of three and six percent. Ferguson recently completed an annuity contract with a nonprofit conservation group in Iowa.

Wade Martin of PaineWebber Inc., said he had completed one annuity arrangement for the Delaware and Raritan Greenway in New Jersey and was negotiating another.

"We've made some inroads on this," Martin said. "It's real laid back. We wanted to make sure it was pure and controlled, safe and conservative."

But administrators of existing local government installment purchase programs think their programs offer adequate flexibility through zero coupon bonds. Harford County, Md. has been

*continue to page 5*

using zero coupon bonds to finance installment agreements for its local program since 1993. Program director Bill Amoss said his program offers 10 or 20-year arrangements and has several times boosted first payments for farmers in need.

"We are very flexible. We aim to please our customers," Amoss said.

Amoss feels there would be no advantage in using annuities over zeros if annuities were a legal use of public dollars in Maryland. Having to put all the money up front to buy the annuity is the glaring difference, he said.

"I don't see how that would save the county money."

*Contacts: O'Connell, (609) 279-0068, Pat@wmswordco.com; Ferguson, (800) 969-4600.*

## North Carolina governor announces "Million Acres Initiative" with no money

RALEIGH, NC – Gov. James Hunt Jr. announced April 27 he was challenging state agencies and nonprofits involved with land conservation to preserve one million acres, charging the Department of Natural Resources with drafting a plan identifying resource lands to be protected and setting a 10-year goal.

The governor did not, however, challenge the legislature to fund the effort.

Farmland is "a piece" of the Million Acres Initiative, said Dave Vogel, director of the Soil and Water Conservation Division of the state Department of Environment and Natural Resources.

"It's somewhat separate and overlapping. The idea is, the state is making a commitment to continue and enhance existing programs. The Million Acres Initiative is not really envisioned as creating new programs," Vogel said. "It's intended to have a lot of local involvement."

As part of the Million Acres Initiative, Vogel is developing a strategy for preserving farmland within the state's voluntary agricultural districts program, in place since 1986. Formation of a

district provides protection from nuisance suits, and, depending on county actions, other negative impacts such as water and sewer assessments. Vogel's agency is responsible for the role of conservation districts in state initiatives, and plans to use the working structure of ag districts and the conservation districts in a bottoms-up approach to farmland preservation.

Vogel last month convened a one-day workshop on farmland preservation, bringing south Ray Pickering of the Pennsylvania Bureau of Farmland Protection and Wayne McGinnis, former chairman of the Maryland Agricultural Land Preservation Foundation and a farmer in Baltimore County. Vogel and his colleagues were fishing for ideas, but Vogel knew farmland preservation in North Carolina would be in a league of its own.

"What we're trying to incorporate [into a program] is not only the land base but the profitability of farms."

Vogel said economic development for agriculture must be built in to any program that targets the resource for preservation. In North Carolina, where pork-production and tobacco agriculture has been hit hard with natural disaster and political incorrectness, it can't be any other way, he said.

Conservation easements, yes, Vogel said, but also "deliverables" such as improved tax breaks; more flexible nutrient reduction rules; financial planning workshops; cost share programs that are boosted for ag district farms. Vogel would like to see the creation of agricultural economic development councils, to help spur new products and new markets.

"North Carolina already offers good benefits statewide, but there's always more we can do." Vogel plans to "go to farmers and ask what they want – what will it take to get them into a district?"

Vogel's enthusiasm is matched by colleagues across the state. Ben Hitchings of the Triangle J Council of Governments, near Raleigh, and Leland Heath of the Department of Environmental

## Including farmland in N.C. effort called a "significant development" even without funding

*continued from page 5*

Resources attended the American Farmland Trust PACE conference in April to learn about ag conservation easements. Hitchings is working to "develop implementation strategies for regional smart growth," for his planning area. Noting that farmland protection is a significant component in the Million Acres Initiative, Hitchings said he thinks, for North Carolina, "that's a significant development."

Coinciding with the Million Acres Initiative is a budget request from the Department of Agriculture for \$1 million for the state's Farmland Preservation Trust Fund, a move to double last year's allocation of \$500,000. Those funds have been used to purchase easements on farmland, a task being carried out by a statewide conservation group. The legislature is considering the request during its short session this month. While it has the governor's support, "the problem is money – it's not a good year," Vogel said.

*Contacts: Vogel, (919) 715-9628, david.vogel@ncmail.net; Hitchings, (919) 558-9397.*

## Highway mitigation dollars create new local PDR program in Wisconsin

BARABOO, WI – State transportation dollars will be used to fund a purchase of development rights program in Sauk County, Wi., following a 10-year battle over the planned widening of U.S. 12, a highway that closely skirts the region's highly prized Baraboo Hills. The area is among The Nature Conservancy's "Last Great Places."

State and federal highway officials reached a compromise with the county and environmental groups that put \$15 million into a fund to preserve farm and forest land in the Baraboo Hills, a 144,000-acre region where 10 percent of the lands are either owned by the county or by The Nature Conservancy.

The Baraboo Hills, located about 20 miles north of Madison are "a matrix of farmland, timber lands and residential development," according to Deirdre Gruendler of The Nature Conservancy, which has had an office at Baraboo for 40 years, she said. Agriculture includes corn, soybeans and beef cattle. The hills include, as well, 55,000 acres of upland deciduous forest, the largest block of forest in the midwest except for the Upper Peninsula, she said. The Con-

### legislative and program briefs ...

**In Virginia ...** The Mid-Atlantic field office of the American Farmland Trust will permanently set up office in downtown Culpeper as part of the town's Main Street revitalization, according to director Mary Heinrich. "Culpeper is a lively and very friendly town," she said. "We're looking forward to being part of what's going on there." Both Heinrich and staff assistant Alison Deets will move to Culpeper. Donna Mennitto will telecommute from Maryland.

**In Wisconsin ...** The state is moving toward conversion to use-value taxation, but the move is difficult after two decades of tax credits in exchange for land use restrictions. The state Department of Revenue is preparing for the conversion, according to Keith Foye, administrator of two tax relief programs that send about \$35 million in tax credits to thousands of farmers each year. Farmland Preservation tax credits average \$1000 per claimant, or about 29 percent of a claimant's tax bill. Wisconsin is one of two states, along with Michigan, without use value taxation. The Michigan legislature is considering a bill to establish it this year.

The Wisconsin town of Cottage Grove in Dane County is considering a TDR pilot project.

**In California ...** The Sonoma County Agricultural Preservation and Open Space District has preserved 29,729 acres as of the end of February, according to District Manager Steve Sharpe.

**In Pennsylvania ...** Chester County will celebrate reaching

*please turn to page 7*

10,000 acres preserved through its farmland preservation program in June, according to administrator Kevin Baer. Lehigh County will soon reach the same mark during the summer, according to director Jeff Zehr, and will celebrate this fall.

**In New Jersey ...** The State Agriculture Development Committee May 8 approved the purchase of development rights on 145 farms for this year.

**In North Carolina ...** \$1 million is proposed in the Department of Agriculture budget for the state Farmland Preservation Trust Fund. On the books since 1986, the Fund got its first allocation in 1998 at \$250,000 and in 1999 at \$500,000. The request is pending during a short legislative session this month.

The budget request coincides with Gov. Jim Hunt's surprise announcement challenging existing programs to (somehow) preserve a million acres of resource lands, including farmland. While not expecting to preserve a million acres with a million dollars, conservation leaders are nevertheless calling the move "a significant development."

(See story this issue.)

**In Washington, D.C....** The Land Trust Alliance has moved. The new address is 1331 H St. NW, Washington, D.C. 20005-4711. Phone and fax are unchanged.

**In Maryland...** CORRECTION: It was reported last issue that a bill affecting the Maryland program, allowing a principal dwelling to be constructed on preserved properties that have no dwellings, passed into law. It did not pass. We regret the error.

□

*continued from page 6*

servancy will likely participate in Sauk County's new program through a grant request.

Sauk County is the second locality, after Dane County, its neighbor to the south, to establish a purchase of development rights program in Wisconsin. There is no state PDR program.

Sauk County citizens feared the highway project would "open up the Baraboo Hills" for more development, said Tim Kabat, county planning director. Staff was recently hired to set up and operate two separate, funded programs that have emerged: one, a direct result of the "Highway 12 settlement" is the \$15 million program targeting preservation within the Baraboo Hills, and, the second, a countywide farmland preservation program the county funded with \$450,000 for agricultural lands not in the Hills region.

"The state D.O.T. was challenged to study secondary impacts, and without any resolution they reached a drop-dead date," Kabat said, and the compromise including a phased-in highway upgrade and the land protection element was settled. Another element was that Dane County would undertake a commuter rail study.

Sauk County has a population of about 50,000. Its agriculture ranks near the top in the state for pork production.

So far, Kabat's department has sent a newsletter to landowners announcing the program. "We've gotten quite a lot of interest from landowners. I'm hoping we'll have a purchase by the end of the year."

*Contact: Kabat, (608) 355-3285; Gruendler, (608) 356-5300.*

## Wisconsin trying to switch from tax breaks to use value taxation

MADISON, WI – A few years ago Wisconsin decided to try to phase in a use value taxation to replace its tax credit approach to farmland protection, but the courts said that would be unconstitutional. Now the administration is looking to do it all at once – but whether that will actually happen is anybody's guess, according to Keith Foye of the Wisconsin Department of Agriculture, Trade and Consumer Protection, Conservation Management Section.

Some are saying there should be a major overhaul. But problems are big – some tax credits are tied to requirements for local planning, so "if we lose tax credits in rural areas, we could lose planning too."

While tax credits may be phased out, they will be replaced with some form of preferential treatment for agriculture, Foye said.

*Contact: Keith Foye, (608) 224-4603.*

## professional resources ...

### Job Postings

**Executive Director, Pennsylvania Land Trust Association, Harrisburg.** Statewide organization for the state's 75 land trusts. Seeks professional with a passion for land conservation and experience with development and management of public policy coalitions. Clerical support provided. Plan, develop and monitor annual program, plan and budget; oversee design and creation of a statewide land conservation advocacy network; raise funds; oversee day to day operation. Minimum 5 years experience in land conservation, environmental advocacy, public policy or related field; demonstrated commitment to land conservation and knowledge of private land conservation techniques; proven ability to build coalitions and to affect change; strong verbal and written communication skills; demonstrated ability to act strategically and to work independently; willingness to work a flexible schedule including weekends; experience in non-profit management and fundraising. Salary commensurate with experience. More details available from lta.org. Send resume to PALTA, c/o Land Trust Alliance, 1331 H St., NW, Suite 400, Washington DC 20005-4711.

**General Manager, Sonoma County (Ca.) Agricultural Preservation and Open Space District.** Manage District business including land acquisition and management activities, personnel and financial administration. Qualified candidates for this position will have completed substantial college course work or possess a degree in planning, public administration, business administration, park or natural resources management, economics, recreation or a closely related field AND will have five or more years of management or administrative experience in governmental program analysis and planning, open space acquisition and management, or park management, which included such responsibilities as: planning and directing the acquisition, development, and maintenance of open space areas; preparation of ordinances, regulations, contracts, and grant applications; etc. SALARY: \$68,724 - \$83,568. Excellent benefits. (for full duties and qualifications call or email (707) 565-2331; kwillia3@sonoma-county.org). Download application from [www.sonoma-county.org](http://www.sonoma-county.org). Applications due by June 2. Application materials to: Sonoma Co. Personnel Dept., 575 Administration Dr., Suite 116B, Santa Rosa CA 95403. Fax: 707 565-3770.

### Conferences & Workshops

**June 1, Baltimore:** *Smart Growth Breakfast Series to feature Bill Hudnut, Sr.* Resident Fellow at ULI and author of *Cities on the Rebound*. Call 1 800 321-5011 for pre-registration and information.

**June 2-3, New Paltz, NY:** New York Land Trust Alliance conference held at SUNY- New Paltz. Topics: local fundraising; GIS. Field trips. Scenic Hudson co-sponsor. See lta.org.

**June 1-3, Roanoke, VA:** *National Meeting on Advancing Community Sustainability.* Tracks include physical development (infill, adaptive reuse, preventing sprawl), infrastructure design; and economic structure. Contact: Prof. Richard C. Rich, Chair, Dept. of Political Science, 531 Major

Williams Hall Virginia Tech, Blacksburg, VA 24061-0130, Phone: (540) 231-6571, FAX: (540) 231-6078, E-Mail: [urban@vt.edu](mailto:urban@vt.edu); Web Site: <http://www.conted.vt.edu/advcom.htm> OR request a conference brochure with registration form by email from [urban@vt.edu](mailto:urban@vt.edu).

**June 15 - 18, Portland, OR:** *The Politics of Place, Congress for the New Urbanism.* Agenda will "tackle the thorniest issues of improving the built environment." Membership (\$50. - \$150.) required to register. Regis.fees range from \$195 to \$375. Website: [www.cnu.org](http://www.cnu.org). Receive brochure: call (415) 495-2255.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## USE VALUE ASSESSMENT, RECAPTURE FEE, SNUFFED OUT

### Michigan Farm Bureau joins homebuilders; legislation fails

LANSING, MI – The Michigan Farm Bureau, in an astonishing turn-about, joined ranks with the state's homebuilding industry to defeat a tax break recapture on converted farmland that would have provided funding for the state's farmland preservation program on a par with mid-Atlantic states.

In a surprising attack on its allies, the Michigan Farm Bureau claimed the American Farmland Trust, the Michigan United Conservaton Clubs and others were proposing tax increases on farmers by advocating recapture penalties ranging from five to nine percent of a property's market

value.

"These self-proclaimed experts and advocates of farmland preservation need a reality check," said Michigan Farm Bureau President Jack Laurie in a press release. "We are not ... going to entirely fund the agricultural preservation programs on the backs of Michigan farmers, because the benefits extend beyond just agriculture."

The recapture penalty was seen by all sides as an essential element in establishing agricultural use value assessment for farmland in Michigan, the only state in the nation without preferential

*please turn to page 2*

### \$10 million in federal funds to boost programs next month

WASHINGTON, D.C. – Passage of the Agricultural Risk Protection Act, expected soon to be signed by the president, will fund the Farmland Protection Program (FPP) at \$10 million. These funds would be in addition to annual appropriations of \$100 million to the Department of Agriculture for conservation programs including FPP, if Congress passes the Conservation & Reinvestment Act (CARA), now in a Senate committee (see story this issue). The FPP is administered by the Natural Resources Conservation Service.

The new funding means a new RFP from the NRCS, likely in early July, according to acting program manager Tom Heisler, who said the \$10

million allocation was an unexpected boost.

"We were surprised. It appeared on the radar screen out of nowhere," he said.

*please turn to page 3*

Volume 10, Number 8 June 2000

#### inside this issue ...

Vink appointed to head farmland programs .....	p. 4
West Virginia program sets up rulemaking .....	p. 4
Vote nears on \$2.8 billion conservation bill .....	p. 4
Pa. court says ag land is developed land .....	p.7
Legislative briefs .....	p. 6,7

## Michigan Farm Bureau backs developers, fights old allies

*continued from page 1*

tax treatment for agricultural land. The disagreement was in how much of a property's tax break would have to be paid back, and with or without interest, if the land is developed.

### Farm bureau formula: \$2 million by 2003

While conservation groups sought to base the penalty on a percentage of market value, using other states including Maryland as models, the recapture formula sought by the farm bureau would have based the penalty on the difference between a property's *taxable* value and its agricultural value. The scheme would have generated less than \$2 million in revenues in its first effective year in 2003. After 10 years it would have netted just \$6.6 million. The penalties, depending on a property's location, would have ranged from just 0.1 percent to 1.4 percent of *market* value, far below other states, according to American Farmland Trust examples.

The Michigan Farm Bureau would appear to be in an identity crisis: the progressive sponsor of four "Ultimate Farmland Preservation" bus tours to mid-Atlantic states to learn how the nation's top programs work, became, during the legislative session, more concerned for farmers entering the development business than for those who wish to remain in farming.

Revenue for supporting an easement program, under the farm bureau's formula, would have been remarkably low for a state the size of Michigan. In Maryland, for example, roughly one-fifth the size of Michigan, an agricultural land conversion fee equal to five percent of market value is levied, generating about \$20 million in funds for the farmland preservation program annually.

During the final week of a frenetic legislative session, attempts by conservation groups to reclaim effective recapture fee rates, failed, crippling what had been a comprehensive farmland preservation package. But the farm bureau's low

recapture amendment failed as well.

David Skjaerlund of the Michigan Department of Agriculture, Office of Agriculture Development, said the parts of the package that saw less controversy will provide a leg up for next year.

"I'm just trying to keep everybody focused on the positive."

Coming close to passage was H.B. 5780, setting up a whole new administrative structure designed to strengthen the state's farmland easement program. The current bill, which may be taken up by the Senate when it returns briefly this month, creates a farmland preservation fund (which would receive the revenues from recapture fees) and also sets down how grants would be allocated.

While the bill, as is, sets up administration by townships, Everett said AFT will seek an amendment that will model administration on the Pennsylvania and New Jersey programs, where programs are run by county agricultural preserve boards, with concurrence of township planning.

The bill would also move administration from the Department of Natural Resources to the Department of Agriculture. According to Everett, the move was in part sparked by DNR's recurring position that hunting and fishing rights should be part of farmland conservation easements.

One bill that did pass, S.B. 709, sets a limit on increases in the assessed value of agricultural land, upon sale, to five percent or the rate of inflation, whichever is lower, as long as the land is to remain in farming. Current law increases assessments on all land based on market value when it is sold, equalling 50 percent of true cash value.

"This will help in the transfer of farms to family members or beginning farmers, and can result in taxable values as much as 50 percent less than state equalized values," said Scott Everett.

"The good news is we had the best ever debate on farmland protection in the Michigan legisla-

*continue to page 3*

**Michigan, continued from page 2**

ture. The bad news is that true farmland protection didn't happen," Everett said.

Without use value assessment and the accompanying recapture penalty on farmland conversion, there remains no source of funding for farmland conservation easements in Michigan beyond the current penalty fees paid by landowners who withdraw early from temporary preservation agreements. Those fees generate about \$2 million annually for a program that had its origins in the 1970s, but only began purchasing easements in 1996 with the accumulated penalty fees having amounted to \$12 million. The program has preserved about 16,000 acres.

**New player adds weight to cause**

Everett said the support of the Michigan United Conservation Clubs (MUCC), a coalition of hunters, anglers and other outdoor interests, was instrumental in defeating what would have been "a fraud on the voters of Michigan."

"It would have been wrong to have voters vote on this and tell them it was going to preserve farmland." Inconsequential funding and its lackluster results "would have hurt support for farmland protection," he said.

James Goodheart, executive director of the MUCC, said the group supports taxing farmland based on agricultural use value, but that a meaningful penalty for conversion was essential. Goodheart told legislators that "in order to protect the public trust in the program and to deter speculation, it seems appropriate to have a seven year conversion fee based on market value." He also said that his organization could not "ask its members and the public to support an agricultural use tax package, which saves farmland only by rhetoric..."

The legislation supported by Gov. John Engler, SB 1246, called for a conversion fee equal to 5, 7, or 9 percent of market value – the higher percentage for projects with lots greater than five acres, and the lower percentage for higher density develop-

ment.

Everett, who worked for the Michigan Farm Bureau for 11 years before joining American Farmland Trust in March, said fences must be mended and a farmland preservation program with merit should become reality in Michigan.

"We have a great chance to do this thing right. This proposal just was not the right one to preserve Michigan farmland."

Contact: David Skjaerlund, (517) 373-4550; Scott Everett, (517) 324-3905.

**New round of funding for FPP effective next month**

*continued from page 1*

Another change to the FPP came in a provision under the act that allows conservation organizations with 501(c)(3) status under the Internal Revenue Code to request project funds. Allowing land trusts to apply for FPP grants was strongly advocated by the American Farmland Trust but not looked on favorably by farmland preservation administrators who say limited funds are already stretched too thin among established programs.

The Farmland Protection Program, established in the 1996 farm bill, was last funded in 1998 with \$17.2 million announced by Vice President Gore. In its first two years a total of \$33.5 million was given in grants to 52 state and local programs.

The NRCS expects to set a late summer deadline for FPP applications, and to announce awards in October. Contact: Tom Heisler, (202) 720-8767.

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NATION'S NEWEST PROGRAM**West Virginia program seeks funds, begins rulemaking**

MARTINSBURG, WV – Getting a farmland preservation program established in West Virginia took two years of hard work and plenty of strategy, according to Sen. John R. Unger II, lead sponsor of SB 209, passed by the legislature in March (see *April FPR*) and effective June 10.

Unger said those involved with the legislation took plenty of time to get citizens involved, and didn't push for funding – something Unger said would have doomed the bill from the start.

"The state has had financial setbacks," Unger said, due to shortfalls in revenue from the coal mining industry. "Money is extremely tight."

Funding will be allocated to administer the program within the Department of Agriculture. But for this year, at least, state funding for easement purchases "is unrealistic."

"I'm not saying the state isn't committed. There may be some money. I know there's a lot of commitment. It's definitely not lip service."

The program will apply for federal funds, with some optimism now that the Farmland Protection Program fund is being revived (see story this issue). Also, private foundations could help out with easement funding, Unger said. Local governments as well could allocate funds. Easement donations to the Department of Agriculture will also be pursued, Unger said.

Unger's district includes Berkeley and Jefferson Counties, which will likely be first to participate in the program. They make up the easternmost part of the state's panhandle, which juts out into Maryland, uncomfortably close to areas already fragmented by sprawl. Jefferson County includes the Harper's Ferry National Historical Park, a favorite weekend recreational spot for the Washington, D.C. region. Not far is Charlestown, with significant commercial development in recent years on its eastern fringe and with a

*continue to page 5*

**etcetera ...**

**Vink to head Ca. Land Resource Protection**  
*Sacramento, Ca.* – Gov. Gray Davis has appointed Erik A. Vink as assistant director of the Division of Land Resource Protection in the California Department of Conservation. Vink, who has been with the American Farmland Trust for 10 years, will oversee the state's farmland preservation programs.

Vink will oversee implementation of the Farmland Conservancy Program, formerly the Agricultural Land Stewardship Program, the Farmland Mapping and Monitoring Program, and administration of the Williamson Act, the state's preferential tax system for agricultural lands. The Farmland Conservancy Program has awarded \$8.6 million in grants for conservation easements since first funded two years ago.

Vink currently serves as AFT's California Policy Director, overseeing two California field offices.

Over the last decade, Vink has served on a number of commissions, including the Governor's Commission on Building for the 21st Century and the Agricultural Task Force for Resource Conservation and Economic Growth in the Central Valley.

Vink said he was looking forward to the new challenge. "It's an exciting time, particularly with prospects of new funding," he said. *Vink will begin his new post July 3. Until then he can be reached at AFT, at (530) 753-1073.*

**Vote near on \$2.8 billion conservation bill**  
*Washington, D.C.* – The Conservation & Reinvestment Act (CARA), which passed the House on May 11, is in the Senate Energy & Natural Resources Committee with a scheduled vote for June 14. The bill would boost land and water conservation programs by nearly \$3 billion annually.

The federal Farmland Protection Program along with the Forest Legacy and Urban and Community Forestry Programs are slated to divide \$100 million annually from the bill, according to Joan Comanor of the NRCS Community Assistance and Resource Development Division, which administers the Farmland Protection Program.

If it passes the full Senate, CARA would at long last funnel offshore oil revenues into the Land and

Water Conservation Fund as was intended when the fund was created in 1965.

Another bill, S 2181, would provide \$50 million for FPP, \$50 million for Forest Legacy, and \$50 million for rangeland protection.

While CARA is scheduled for a vote, the Senate committee could postpone it because it is "in the middle of electric power deregulation," said Russ Shay of the Land Trust Alliance, who has closely followed the CARA bill. Shay said passage is by no means assured, as a number of senators from western states do not support federal land acquisition.

The Land and Water Conservation Fund saw progress in land conservation in its first decade, but then beginning in the Reagan administration, money began to be diverted to other programs or to pay down debt.

The offshore oil program generates about \$4 billion annually; almost three-quarters of that would go to fund federal, state and local environmental programs through the CARA legislation.

#### **Transit group: New roads gaining dollars**

*Washington, D.C.* – Building new roads was supposed to be deemphasized in the nation's transportation agenda under the Transportation Equity Act for the 21st Century, called TEA-21, but gas tax revenue increases have boosted new road construction since TEA-21 was enacted in 1998, according to the Surface Transportation Policy Project, a transportation spending watchdog group.

During the 1990's, transportation spending under ISTEA, the former transportation spending bill, deemphasized new road construction, and boosted mass transit and projects for bicycling and walking.

But during the remake of the transportation spending bill in 1998, a move by lawmakers that would allow for unanticipated increases in gas tax revenues to go to new highways was slipped through, and now, is being felt: this year, the Treasury Department predicts \$3 billion more in gas tax revenues over what was anticipated two years ago. All of those funds, according to STPP director Roy Kienitz, will go to new highways.

"It turns out that the 1998 estimates of future gas tax revenue were short – way short," Kienitz wrote in the STPP's report, released in April.

Through the 1990s, \$5 to \$6 billion was spent annually on new highways. In 1999, new construction got more than \$9 billion, over 80 percent more in the two years since the new provision. *For more information see [www.transact.org](http://www.transact.org) or call (202) 466-2636.*

#### **West Virginia, continued from page 4**

growth inducing bypass newly cut through a solid farming area. A 70-acre farm along the bypass is on the market for \$3 million.

The West Virginia Department of Agriculture began last year to look at other state programs seeking a model that could be adapted to their state. Certain aspects of the Maryland program, farmers said, wouldn't work for them. Seeing complications arising, action was postponed for a year. Once a bill was drafted, Unger made sure farmers had plenty of time to mull it over, and then "we opened it to the whole state. After a year of building consensus, it was truly a people's bill." Creating a program that "would fit the West Virginia context," was a challenge Unger said was met.

One provision in the West Virginia program that is new to state farmland preservation programs, is an escrow option, allowing farmers who have accepted an offer to have the money put in an account for up to five years, allowing them to back out of the deal.

Unger said the new program represents a major new era in the state's political arena. The vote in the legislature was unanimous.

"There was no opposition because of the process used. It was amazing to see environmentalists and farmers at the same table. Even developers were for this. They saw that the value of land that is developable goes up."

The League of Women Voters supported the bill, but felt it should include funding.

"But if we had put the money out front, it would have killed it," Unger said.

David Miller of the state Department of Agriculture said the next steps are to get rules written and to have counties set up farmland protection boards. Local boards, he said, will be in charge of easement coordination, including appraisal work.

"They will know more than somebody in Charleston," Miller said.

Jefferson County was a major player in establishing the farmland preservation program, according to Jim Rulland, one of five county

## Rulemaking begins in West Virginia

*continued from page 5*

commissioners.

"We were assisting in the process from the beginning."

Rulland said the biggest challenge is building a matching fund to qualify for federal money.

Meanwhile, Jefferson commissioners are meeting with their Berkeley County counterparts, their neighbors to the west, "so the miracle of consistency can occur," Rulland said. "We want the additional resource of a neighbor" doing the same thing, he said.

Rulland said the county's first task is to "craft some rules, and probably have a public hearing." Then, commissioners will appoint a farmland protection board, as provided for in the law.

Unlike legislation passed in Virginia at the same time, which simply authorizes a program, SB 209 sets up a structure and guidelines for a statewide farmland preservation program. It authorizes establishment of county farmland protection boards and charges them with setting standards and guidelines for eligibility, based on property use, improvements, size, location in relation to other farms, and threat of conversion.

Local boards are also charged with seeking funds, but will have the help of a state agricultural land protection authority, which is also charged with applying for and obtaining "all state and federal funding available" for farmland preservation.

Both the state authority and county boards can acquire easements or lands in fee for resale with easements.

Development threat is the first of eight criteria to be addressed in ranking applications, followed by acreage, soil productivity, contiguity to working farms, and the ratio of the asking price to the fair market value.

The eastern panhandle is "the states most productive and the most threatened" farmland, Unger said, with beef cattle, and corn and soybean crops prevalent.

Beef cattle have become an important segment of Jefferson County's agriculture, increasing the amount of pasturelands in the county over the last several decades, according to Craig Yohn of West Virginia University Cooperative Extension.

Jefferson County will need to have a building code and a capital improvements plan to attain taxing authority under the state's local powers act, Yohn said.

The 1997 USDA Census of Agriculture noted 3.45 million acres of farmland in West Virginia, with a majority of farms between 50

### legislative and program briefs ...

**In California ...** Gov. Gray Davis has appointed Erik A. Vink as assistant director of the Department of Conservation's Division of Land Resource Protection. Vink, 36, has been California Policy Director for the American Farmland Trust and prior to that, director of the AFT's California field offices. Vink has served on a number of commissions, including the Governor's Commission on Building for the 21st Century.

**In Wisconsin ...** Correction: It was not ruled by the circuit court that phasing in implementation of use value taxation is unconstitutional, as reported on page 7 last month. Wisconsin is converting from farmland preservation tax credits to use value assessment, according to John Rader, administrator of the Division of State and Local Finance, Wisconsin Department of Revenue. A decision is expected soon on the question of how use value taxation can be implemented – full implementation vs. phasing in, he said.

**In Montana ...** The Montana Agricultural Heritage Commission completed its first easement deals in May, through \$388,000 in grants to land trusts. Each of the three properties, comprising 2,090 acres total, involved bargain sales. The Commission reviewed nine applications for a combined \$2 million in project requests. The program, created last year, has set its next deadline for Aug. 1, according to program administra-

*please continue to page 7*

tor Mike Volesky.

**In Delaware ...** The state program, making offers on 55 properties at the end of October 1998, completed settlements of all properties by the end of February 2000; from the point of selections to first settlement took five and a half months. In 10 1/2 months following, all 55 properties had completed settlement according to program records. Settlement times for other mid-Atlantic states were featured in last month's issue.

**In Pennsylvania ...** Amendments to the state planning code that will encourage regional planning, will be taken up this month in the legislature.

**In Maryland ...** Staff recommendations for grants under the Rural Legacy Program have been forwarded to the Rural Legacy Board. Announcement of awards is expected by July.

**In Oregon ...** Property rights advocates will likely gather enough signatures to place on the November ballot another takings measure that promises to undo the state's land use law, this year celebrating its 25th anniversary. The move is especially troublesome, according to Randy Tucker of 1000 Friends of Oregon, because so many initiatives will appear on the ballot this year, and the group's campaign to defeat the measure will have to compete with so many efforts. "This is a sweeping, extreme initiative. It would be the end of land use planning in Oregon." In addition, they will have to fight "a back door attack through the administrative rules process" that would have equal results, since the land use law is contained in administrative rules. The efforts are led by Oregonians in Action, a property rights group, at oia.org.

*continued from page 6*

and 179 acres. Of those acres, 161,600 acres were in cultivated cropland. That figure represents 138,200 fewer cropland acres than in 1982, or a loss of about 9,200 acres of cropland per year. The market value of agricultural products sold, with the great majority of products in livestock and poultry, was \$447.4 million in 1997.

*Contact: David Miller (304) 558-2201; Craig Yohn, (304) 728-7413.*

## Pennsylvania court: zoning boards can consider ag use as "developed"

DOYLESTOWN, PA – The Court of Common Pleas of Bucks County, Pa., affirmed in May that a zoning board is correct in considering agricultural land as "developed" rather than undeveloped land, if in keeping with its comprehensive plan. The ruling denied an appeal by a developer seeking a zoning ordinance amendment to build an increased number of apartments in Buckingham Township.

The appellant, Heritage Building Group, challenged the township's zoning ordinance as unconstitutional because it didn't provide a "fair share" of lands zoned for multi-family dwellings. The appellant claimed the ordinance excluded those with low incomes and that restrictions were unreasonable in that apartment development was not economically feasible.

George M. Bush of Hartzel and Bush, representing Buckingham Township, said the ruling "represents new law in this area."

"As you can imagine, we were quite pleased with Judge [John J.] Rufe's decision. Obviously, the percentage of land set aside for apartments, townhouses, etc., changes radically when farmland is considered as being developed."

The case, first filed in 1995, involved six properties totaling over 300 acres. The township contains about 22,000 acres, with about 11,000 in agricultural use. About 3,000 acres are preserved, with a goal to double that figure.

"From the beginning, we tried to show that farmland was not just sitting there waiting to be developed, but rather was a use of land that should be recognized as such by the court," Bush said.

Heritage Building Group has appealed to the Pennsylvania Commonwealth Court.

*Contact: George M. Bush, (215) 345-7060.*

## professional resources ...

### Job Postings

**Executive Director, Lower Shore Land Trust (MD).** Based in Salisbury, Maryland (about 2 hours outside Washington D.C.), and dedicated to preserving the natural heritage, rural character, and historic landscapes of Somerset, Wicomico, and Worcester Counties on the Lower Eastern Shore of Maryland. Position responsible for all programs and activities, including fund-raising, short and long-range planning, budgeting, financial management, land protection program, easement monitoring, public information, and community relations. Qualified applicants will be committed to conservation, with demonstrated abilities to organize and carry out projects, develop funds, and manage a growing organization. Fax cover letter, resume and three references to (410) 860-5315. (posted 6/2/00)

**Associate Planner, Brandywine Conservancy (PA).** Experienced professional to work in land protection program, planning and writing conservation easements and other protection options. Bachelor's degree in natural resource management, land planning, ecology, or a related field required; experience in land conservation, land trust operations and land and real estate law strongly preferred. Strong organizational skills and ability to read and comprehend legal documents and maps required. Demonstrated written, oral and interpersonal communication skills essential. Send resumes to Diana Werner, Brandywine Conservancy, P.O. Box 141, Chadds Ford, PA 19317. Or fax to 610-388-1575. (posted 5/27/00)

**Executive Director, The Aquidneck Island Land Trust (RI).** Responsible for a three-four person paid staff. The goals and objectives of this position are to achieve the outcomes of AILT's strategic and annual plans as well as achieve AILT's five-year fundraising goals. Principal duties will include: fund-raising; community relations; constituency building; public policy development; board relations; staff management. Qualified individuals will have: knowledge of Aquidneck Island (communities, people and properties); strong track record in fund-raising; strong communication and presentation skills. Experience in land preservation real estate or tax planning a plus. Salary range is \$55 - \$65K, commensurate with experience. A complete and competitive benefits package is provided. Send resumes to Sheila Reilly, VP-Programs, AILT, 45 Valley Road, Middletown, RI 02842, or email them to sreilly@ailt.org. (posted 5/27/00)

**Conservation Officers (3), Piedmont Environmental Council (VA).** PEC is seeking three conservation officers to manage and conduct land conservation activities in Fauquier/Culpeper, Orange, and Rappahannock/Madison counties. Responsibilities include promotion of conservation easements, purchase and protection of at-risk properties, project development and management, and assisting landowners in development of land conservation strategies. Candidate must have bachelor's degree plus experience in land conservation, real estate, law or agriculture and excellent written and verbal abilities. PEC, founded in 1972, has 25 employees working to protect Virginia's northern Piedmont area and has been instrumental in the protection of over 100,000 acres. Send cover letter and resume to Catherine Scott, Director of Land Conservation, PEC, 45 Horner St., PO Box 460, Warrenton, VA 20188. Fax 540-349-9003. EOE. (posted 5/27/00)

### Conferences & Workshops

**June 25 - 30, Daytona Beach: *The Wildland-Urban Interface: Balancing Growth***

*with Natural Resource Management and Conservation.* Course sponsored by the Urban Forestry Institute. Managing the urban-rural fringe. Contact UFI at 352-392-5930.

**June 28, Washington, D.C.: *New Trends in Transportation Spending: What They Mean for Smart Growth*,** lecture by Roy Kienitz, Surface Transportation Policy Project, to be held at the National Building Museum. Call 202 272-2448 or visit [www.nbm.org](http://www.nbm.org).

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# farmland preservation report

*Covering the policies, practices and initiatives  
that save farmland and open space*

*Since 1990 • Deborah Bowers, Editor*

## 6th ANNUAL SURVEY

### Montgomery tops 50,000 acres; Lancaster nears 40,000

*Farmland Preservation Report's 6th annual survey of local programs turns up few surprises if you took note of funds available to each program last year. Sonoma County, with comparatively limitless funds added more than 3,000 acres; Lancaster County, which reported \$11.6 million a year ago, racked up more than 6,000 acres – more acres in six months than in the year preceding, according to Ag Preserve Board director June Mengel. The gain jumped Lancaster up two notches in each ranking. This year Mengel is reporting \$28 million, so the writing is on the wall.*

*Other counties, too, made significant progress – Baltimore County is notable.*

*Another piece of news is that six programs listed in the centerfold are now using installment purchase agreements, some just starting up this summer.*

*We hope you enjoy this issue's summaries of the nation's "Top 12" programs. ~ Deborah Bowers, Editor and Publisher*

#### Montgomery County, Md.

Montgomery County has always been the leader in preserved acres, through the transfer of development rights primarily, and that hasn't changed. This year is notable: the county broke the 50,000-acre mark, with 50,969 preserved. The milestone was not celebrated, according to administrator John Zawitoski, who has been too busy working with the county's land preservation programs to plan a party.

Keeping Zawitoski most busy this year, yet resulting in no preserved acres, was the state's Rural Legacy Program. Wranglings between Montgomery County and the state Department of Natural Resources, the lead agency for Rural

Legacy, settled some policy issues that affected the entire state, but, the land that was targeted got away. Now, Montgomery County is seeking an extension to its first 18-month \$3.7 million grant that ends July 26. Zawitoski will be concentrating on properties that won't have complications and can be forwarded within three months, a condition for grant extensions.

Most of Montgomery's preserved acreage is achieved through its transfer of development rights program. In effect since 1980, the program requires developers to purchase development rights from the county's rural northern and eastern tier, to build in urban receiving areas. The program has protected 40,583 acres, with a residual density of 1-25. This shows no change from last year.

The county's own farmland preservation program has been active this year, however, with an increase of 1,223 acres, for a new total of 6,353

*please turn to page 2*

Vol. 10, No. 9

July -August 2000

#### inside this issue ...

Annual survey centerfold ..... p. 4 - 5  
Job postings ..... p. 8

## Lancaster to start installment purchases, point valuation

*continued from page 1*

acres. The program has a budget of about \$2 million. Under the state farmland preservation program, 2,074 acres are preserved, no change from last year. Other preserved acres are through the Maryland Environmental Trust, and stand at 1,959, unchanged from last year.

Zawitoski is currently juggling about 18 applications for the county and state farmland easement programs and for Rural Legacy.

"The next two or three years will be very interesting. We're going to go a long way, and will try to maximize and leverage as much as possible."

### Lancaster County, Pa.

Lancaster County is always plowing the way for other counties, and this year is no exception, with a startling 6,000-acre gain and a \$24 million fund to keep up the pace. Racking up that many acres took a lot of hard work by a team of players that includes the farmers who had their paperwork in order, according to June Mengel, executive director of the Lancaster County Agricultural Preserve Board.

"This year we've preserved more farms in six months than we did in the year preceding," Mengel said. "The funding has enabled us to do more, more quickly. Getting three new staff people up to full capacity was another contributing factor – and everyone was brought on board with the understanding we'd be doing 20 farms a year. I really think we've done an amazing job. Everyone has been a good team player."

The ag board has also put together an aggressive strategy for wiping out a long-standing applicant backlog: next month the board is expected to approve a points-based appraisal system.

The board hired Tom Daniels of the State University of New York at Albany to develop the system. Daniels, who until two years ago was executive director for the board, entered the task

with a familiarity with land values in the county and had plenty of data to use, since the program has kept farm sales data since 1988.

Daniels tested the point system on 15 farms in five farm sales areas delineated in the program's farm sales annual reports. The board tested additional farms "to see what consistency we would get," and then "tweaked the dollar multipliers," Mengel said. The system is ready to use once the board adopts it in August.

The point system is the board's ticket to faster easement offers. Mengel said she hopes to get offers out to 70 farmers by the end of August, and "if half of them take the offers, we'll be pleased. These folks have been waiting quite a while." Farmers will have the option of seeking an appraisal, she said. Mengel acknowledges farmers with nearby development are likely to opt for appraisals.

### Chester County, Pa.

In June, Chester County reached the 10,000-acre mark in its ag program, and held a celebration event at the farm that brought in the milestone acres. The total is now 10,700 acres, and the county is on a roll with \$15 million available.

Chester entered the ranking last year when the survey first allowed acres preserved by other entities to be counted in county totals as long as they are predominantly agricultural. Brandywine Conservancy has preserved 23,688 acres in Chester County, all at least partly in agricultural use or with cropland available, according to John Goodall.

The program is working on reducing a backlog dating back three years and comprising about 7,000 acres. With a per-acre cost of close to \$4000, the county needs to double the \$15 million it is designating for its farmland program out of a \$75 million bond issue. But the state's allocation has helped, too, said administrator Kevin Baer.

"Instead of a 55-60 applicant backlog, we're down to the mid-40s." The influx of money and assistance with conservation plans and monitor-

**Survey, continued from page 2**

ing through the state program's planning assistance grants program has also helped to spur new interest in the program, he said.

"Things are going great – we're just standing at the controls and letting the state program run. We're getting some key farms interested in the program." One favorable indication is that some applicants are the first in their communities to step forward. Baer hopes such applicants will spur others and create new clusters of easements.

**Carroll County, Md.**

If considering only government-operated purchase of development rights programs, Carroll County, Md. ranks first in the nation for number of acres preserved. But because the FPR survey includes transfer of development rights in the ranking, Carroll occupies the Number Two spot in PDR acres (see Table B), as it has since 1997. It has preserved 32,520 acres, all through the purchase of development rights with state and county funds.

Acreage increased significantly this year through the state Rural Legacy Program, which added 1,236 acres to the county total, the most in the state. Eleven farms were picked up in the state program, and the county "may pick up five more," said Bill Powel, program administrator.

With a budget of \$5.3 million and start of installment purchases, Powel's office will be busy in the coming year. As if this funding, and new leveraging through installments isn't enough, the county will apply for a new Rural Legacy Area, even though the state is discouraging additional areas. One thing it will have going for it – Carroll has spent Rural Legacy dollars more quickly than any other county – something Gov. Parris Glendening likes to see.

"We recognize it may not be accepted, but at least its in the hopper," Powel said.

**Sonoma County, Ca.**

The Sonoma County Agricultural and Open Space District entered the FPR ranking in 1996 straight into fifth place, having accumulated more

than 20,000 acres in just five years. While gains are not as dramatic, since last year it has added 3,000 acres with help from the Sonoma Land Trust, one of the nation's top land trusts with 11,438 acres preserved

**Marin County, Ca.**

The Marin Agricultural Land Trust began purchasing easements in 1986 with funds from a state ballot measure. Ten years later it had preserved 25,504 acres, and wanted to go on protecting the farms from a backlog of applicants representing \$10 to \$12 million in funding needs, when its money for easements ran out.

Difficult times had set in: after California voters turned down a bond referendum in 1994, Gov. Pete Wilson the following year refused to give Marin County Supervisors the authority to create a special taxing district that could have supported open space protection.

So began a lean period that ended only a year ago with a local foundation challenge grant of \$2.5 million. MALT must match the grant 2-1 through a capital campaign, that, according to Lisa Bush of MALT, has already garnered \$1.6 million in cash and \$1.4 million in pledges. Meanwhile, preserved acres have pushed up from 25,504 to 29,707.

The grant's announcement, unfortunately, came a month after last year's survey, which had deleted Marin from the ranking due to insignificant funding. MALT reenters this year with qualified status in Tables 1 and 2.

**Baltimore County, Md.**

Program administrator Wally Lippincott called it a "huge year" for farmland preservation in Baltimore County, adding close to 5,000 acres. The acres came through the state and county farmland programs, the Rural Legacy Program, and through easement donations. Like in Harford County, "it was our biggest year for MALPF – easements through the Maryland Agricultural Land Preservation Foundation, which beginning

## Nation's Top 12 Local Farmland Preservation Programs

Rank	County	Total preserved acres	Ag program acres	Other preserved ag acres*	\$ available for ag program (in millions)
1	Montgomery (MD)	50,969	49,010	1,959	\$2
2	Lancaster (PA)#	39,096	30,638	8,458	\$28
3	Chester (PA)	34,388	10,700	23,688	\$15
4	Carroll (MD)#	33,242	32,520	722	\$5.3
5	Sonoma (CA)	32,619	30,560	2,059	\$40
6	Marin (CA)	31,907	29,707	2,200	\$1.6
7	Baltimore (MD)	29,352	18,139	11,213	\$3
8	Harford (MD)#	29,223	26,686	2,537	\$2
9	Howard (MD)#	21,713	18,088	3,625	\$15
10	York (PA)	21,500	18,277	3,223	\$3.3
11	Burlington (NJ)#	20,559	14,316	6,243	\$4
12	Berks (PA)	18,185	15,545	2,640	\$30

**Table A**

# Counties using installment purchases

\* Includes land under easement through other entities or programs; lands are predominantly agricultural.

\*\* In Maryland counties, figures may be actual acquisition cost per acre through the state program only.

\*\*\* USDA figure shows how many acres are in agricultural use countywide.

Sources: Interviews with county administrators, July 2000, and, USDA 1997 Census of Agriculture.

### FARMLAND PRESERVATION REPORT 6th ANNUAL SURVEY: PROGRESSIVE LOCAL PROGRAMS

#### How localities qualify for the survey

This survey looks at a locality's progress in farmland preservation in terms of 1) Number of acres permanently preserved; 2) political leadership and administrative skill; and, 3) significant commitment of funds. While the ranking itself considers only number of acres preserved, to be included in the survey all localities must meet the other criteria.

#### How counties are ranked

The survey considers a locality's total farmland preservation effort, including the activities of other entities and programs, such as land trusts, and, Maryland's Rural Legacy Program, if preserved acres are agricultural land. For example, Baltimore County has five Rural Legacy Areas, but one of the areas is completely forested and preserved acres there are not counted.

#### Changes in this year's survey

This year we extended the primary ranking from 10 to 12 places to allow more counties to enter.

Market value, ag products (millions)	Avg cost per acre**	Land in farms***	Source of funds
\$28.5	\$3,565	77,266	Ag real estate transfer tax; bonds; TDR
\$766.7	\$1,809	391,836	State program; local appropriations
\$342.8	\$3,900	175,363	State program; local bond issue
\$71.2	\$2,009	160,180	State program; general fund appropriations
\$463.6	\$1,603	570,804	Dedicated 1/4 percent local sales tax
\$53.8	n/a	149,663	Foundation grant; fundraising campaign
\$51.1	\$3,000	75,795	State program; bond funds; general fund
\$38.8	\$2,000	94,112	State program; local real estate transfer tax
\$19.6	n/a	39,846	Zero coupon bonds; density exchange option
\$128.6	\$1,346	261,164	State program; local match
\$87.5	\$4,000	103,667	Dedicated property tax
\$247.7	n/a	221,511	Bonds

**Table B: Public sector program ranking**

1	Montgomery (MD)	49,010
2	Carroll (MD)	32,520
3	Lancaster (PA)	30,638
4	Sonoma (CA)	30,560
5	Marin (CA)	29,707
6	Harford (MD)	26,686
7	York (PA)	18,277
8	Baltimore (MD)	18,139
9	Howard (MD)	18,088
10	Berks (PA)	15,545

**Other progressive programs**

Frederick (MD)	13,850
Calvert (MD)#	14,656
Lehigh (PA)	11,120

# Uses installment purchases

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## MALT returns to ranking; Burlington, Berks make top 12

*continued from page 5*

last year allows counties to rank farms in order of priority using a locally derived but state approved formula. Baltimore and Harford Counties are the only counties in the ranking that used the option.

"We knew we'd do well if everything fell in place, and everything fell in place. We let the more competitive folks fight it out," Lippincott said of those farmers who opted for the usual bidding system. "It's doing just what a program like that should do. It worked well for us."

### Harford County, Md.

Harford County's local installment purchase program set a pace for several years that was unequalled in the nation. Now it is slowing down due to budget constraints caused by rampant residential growth over the last decade. While the county program is funded through a dedicated real estate transfer tax, the revenue became stretched a few years ago and had to be pumped up with general funds. As a precaution, the easement program was cut in half this year, from 20 farms to 10. This year, for the first time since the county's locally operated program began in 1993, more acreage was preserved through the state program than through the county program, according to administrator Bill Amoss.

Harford is one of about eight localities using installment purchase agreements, which give annual tax-exempt interest payments to landowners over a number of years – 10 to 30 – and make balloon payments of the principal in the last year. This allows landowners to put off capital gains tax, and allows the county to buy easements more quickly.

Harford has one Rural Legacy Area, which has been awarded two grants totaling \$3.1 million. Difficulties finalizing the grant agreement with the state, according to Amoss, has kept projects from moving forward and has resulted in one key applicant property being placed on the market.

Harford is adding just 645 acres in its latest round, less than half of the annual gain it has taken in over the last seven years. Yet the program's total

number of preserved acres is 1,379 fewer than last year, reflecting some inconsistency in recordkeeping that couldn't be reconciled by press time. This low gain and adjusted numbers affected Harford's ranking from 5th to 8th place in the primary survey.

### Howard County, Md.

Howard County recently reactivated its installment purchase program after a four year hiatus, approving a \$15 million bond issue that will preserve roughly 2,500 acres. The county's real estate transfer tax, the revenue stream used to retire the debt, needed a rest after just eight years and \$55 million in bond expenditures approved in 1988. The difficulty for the county is its location – ideal for those who work in either Washington D.C. or Baltimore – it makes up the suburbs in between. Per-acre easement values are as high as \$6000, the highest in the state.

While the county has committed new funds to reaching its goal of 30,000 acres, its performance in the smart growth category has not pleased the Maryland Department of Planning, which, along with the Maryland Agricultural Land Preservation Foundation, has authority over certification of county farmland preservation programs and influences whether a county receives state dollars for easements. This spring, the county's recertification under the state farmland program did not go well, with the Maryland Department of Planning, now a cabinet-level agency, calling Howard's 30,000-acre goal unrealistic and its \$6000 per-acre easements too expensive for state participation. The letter said the county's use of clustering with a "density exchange option" would not preserve enough farmland and would fragment what little was preserved, as compared to other counties.

Further, Department of Planning comments indicated that the state's farmland preservation program values traditional agriculture, and that urban-influenced agriculture in Howard was of questionable value from a state perspective.

While certification was not denied, the comments clearly indicated dissatisfaction and a move toward cutting off state funds. In fact, a new Rural Legacy Area application from Howard County was

denied in the most recent round of grants.

The letter put county officials on the warpath, with Howard County Planning Director Joe Rutter responding in a letter that he was "surprised and angry to have the county's certification threatened... it is astounding that you seem to have concluded that because easement purchase is expensive and difficult, it is no longer worth pursuing," he said.

Howard's state elected officials responded as well, along with W. Dale Hough, chairman of the county Agricultural Land Preservation Board, who pointed out that if the state program itself determines farmland preservation not worthwhile in Howard, it opens the door for the county's 27 farms that are under state easements to apply for withdrawal when the 25-year waiting period ends. That happens in two years, just when recertification will be taken up again.

Meanwhile, the county program becomes active next month, opening with a 60-day application period, the first in four years.

"We expect to record in six to nine months," said Bill Pickens. "Our target with the \$15 million is 2,500 to 3,000 acres in three years."

#### **York County, Pa.**

York County shares boundaries with Harford and Baltimore Counties in Maryland as well as with other progressive counties in Pennsylvania – Adams and Lancaster. That makes for good preservation efforts all around. With 18,277 acres preserved on 77 farms, the county is progressing, but could be doing better, according to Patty McCandless, program administrator.

"We've got tough competition with counties with huge matches," for state allocations, she said. The county put up \$800,000 this year, and \$1 million last year. Other counties are putting up twice that, and reaping more state dollars. She is hoping, she said, that county commissioners consider bond funding for next year.

York is helped along by the Farm and Natural Lands Trust, which has protected 3,223 acres, a 260-acre gain over last year. Over the past decade, the trust has acquired donated easements on 37 properties valued at \$8.9 million, according to executive

director Jackie Kramer, who will also work to get county officials to consider a bond for farmland and open space.

#### **Burlington County, N.J.**

Last year Burlington County, New Jersey's pioneer in farmland preservation, nudged into the Number 10 spot after gaining significant acreage with \$4 million in annual revenue from a dedicated portion of property tax. Since last July the program has added 1,335 acres. But this year it is displaced from 10th to 11th because Marin County reentered the list. It is because of Burlington's aggressive activity, along with that of nearby Berks County, Pa., that the ranking expanded from 10 to 12 slots.

Burlington is one of six counties in the ranking that uses installment purchase agreements to leverage funds. The other counties using, or about to begin using, installment purchase agreements are Harford, Howard, Lancaster, Carroll and Calvert.

Burlington also has something in common with Montgomery County, Md., in that it gets help from the transfer of development rights – from two programs – significant help from The Pinelands Transfer of Development Credit (TDC) program, and, potential for additional help from the new Chesterfield Township TDR program, which just completed negotiations to get sewer service to its receiving area.

The Pinelands program is one of the nation's most active and successful transfer of development rights programs, beginning in 1981. It has protected 15,768 acres, with 6,243 of those acres in Burlington County in agricultural production, according to John Ross, executive director of the Pinelands Development Credit Bank.

"That's doubled from last year, and we're expecting to do better this year as well," Ross said. "There is increased interest in participation."

#### **Berks County, Pa.**

Entering the ranking for the first time, Berks will be racking up acres fairly quickly with a \$30 million bond issue. "We selected a grand total this year of 50 farms," said Tami Hildebrand, working from a pool of 213 applicants. The boosted program is looking for additional staff (see page 8).

## professional resources ...

### Job Postings

**Assistant Program Coordinator, Burlington County (NJ) Farmland Preservation Program.** Office of Land Use Planning needs enthusiastic self-starter to assist with the county's successful and innovative easement purchase program. Salary mid 30s. Excellent written, organizational, computer and communication skills, including public speaking. Be integral part of small professional staff. Degree in agriculture, environmental science, planning or related field. County residency and NJ driver's license required. Send resume and cover letter to Cecile Murphy, Program Coordinator, Burlington County Land Use Office, P.O. Box 6000, Mount Holly NJ 08060. Email OK to CMurphy@co.burlington.nj.us or fax to (856) 642-3860.

**Agricultural Conservation Easement Program Technician, Berks County (Pa.) Agri. Land Preservation Board.** Inspect protected farms, prepare recommendations, assist in farm evaluations, and be involved in conservation work; BS in agricultural science or related field, possess working knowledge of basic farm practices. Strong organizational, interpersonal and computer skills. Competitive salary, benefits package. Resume to: Berks County Agri. Land Pres. Board, 1238 County Welfare Road, Leesport, PA 19533; (610) 378-1844.

**Land Programs Director, Nashua River Watershed Association (MA).** Award-winning environmental non-profit seeks director to forward creation of greenway; work with landowners and government agencies to obtain conservation easements/land; facilitate regional initiatives and land trust alliance; utilize GIS to conduct open space prioritization projects/environmental assessments with local communities; testify before government regulatory agencies. Training and experience in land protection and resource-based planning; strong communication and facilitation skills; ability to use GIS required. Part-time or full-time. Resumes to: Land Programs Director Search, 592 Main St., Groton, MA 01450 or e-mail tnwa@ma.ultranet.com, subject line "LP Director Search" (attachment format Word or text w/line breaks).

**Executive Director, Larimer Land Trust (CO).** Active and growing local land trust serving northern Colorado seeks an experienced Executive Director. Land trust experience preferred, non-profit experience critical. Background in land conservation, biological sciences, fundraising, real estate, law, or related fields; BS/BA required, MS preferred. Seeking effective leadership and management skills, including staff, board, and community relationships; excellent oral and written communication skills; fundraising success; ability to engage diverse constituencies with diplomacy and tact required. Willingness and ability to multi-task a necessity. Salary range: \$33,000-\$36,000 to start, commensurate with experience. Send letter of application, résumé, three references to: ED Search, Larimer Land Trust, 2629 Redwing RD, #300, Fort Collins, CO 80526 by Aug. 9. For additional information, please visit [www.larimerlandtrust.org](http://www.larimerlandtrust.org).

### Conferences & Workshops

**Aug. 1, Washington, D.C.:** *Balancing Historic Preservation and New Construction*, sponsored by the National Building Museum, 6:30 - 8 p.m. Tersh Boasberg, chairman of the D.C. Historic Preservation Review Board will discuss how preservation combined with new construction can help revitalize District neighborhoods. Philip A. Esocoff, FAIA, will discuss his design for a mixed-use adaptive-reuse complex on 7th Street NW that includes the Clara Barton House. Registration required. Call 202 272-2448.

**Aug. 9, Morristown, N.J.:** Listening forum, sponsored by NRCS and Forest Service, re: Maintaining agriculture and forestry in rapidly growing areas. Hosted by the USDA Policy Advisory Committee on Farmland Protection. The committee is seeking comments on how federal policy and programs are working, or not working, to protect farmland. Written comments will be accepted two days prior. For more information contact Rosann Durrah, (202) 720-4072 or email [rosann.durrah@usda.gov](mailto:rosann.durrah@usda.gov).

**Oct. 11 - 13, Atlantic City, NJ:** *BROWNFIELDS 2000 - Research and Regionalism: Revitalizing the American Community*, Call Amy Lesko at 412-261-0710x32 or see [brownfields2000.org](http://brownfields2000.org).

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

Since 1990 • Deborah Bowers, Editor

## MICHIGAN

### After tough legislative session, counties gear up for grants

LANSING, MI – Many Michigan farmers and local officials are battling an undercurrent of disappointment and, for some, disgust, with state legislators and farm bureau leaders who failed to back a bill this spring to make development pay for farmland preservation. But over the summer, local farmland protection efforts have also stayed afloat, hoping to create local programs to take advantage of a bill that did pass, one that will restructure the state farmland easement program.

Despite a tough fight over establishing use value assessment for agricultural land that left Michigan still without it (see FPR, June 2000), the legislature did pass House Bill 5780, creating the Agricultural Preservation Fund, P. A. 262.

Beginning Oct. 1, funding and administration of the state farmland preservation program will be transferred from the Department of Natural Resources to the Department of Agriculture under P. A. 262.

Purchasing easements just since 1997, the program is down to \$5 million in easement funds - less than half of its starting money, with 6,000 to 8,000 acres preserved, according to director Rich Harlow. "We expect to have 12,000 acres by Dec. 30," he said.

But not much new easement activity will likely occur while the program is busy revamping its policies and procedures. Following appointments to a seven-member Agricultural Preservation Fund Board, the new Department of Agriculture section will receive funding from the program's

original source - cancellation of 10-year farmland preservation agreements. A new funding source created by the Agricultural Recapture Tax Act, a bill separate from the use value assessment issue, will not provide funding to the program until tax benefits received under it accrue and are then relinquished by landowners for development purposes. It may be many years before this funding source provides any significant amount of money for the program.

#### Grants format, installment purchases

The most significant change in the program is in the way money for easements will be allocated, and why localities are trying to get in shape: grants to localities will now be the format for easement purchase, although state-processed easements will still be an option.

To qualify, localities must adopt a purchase of development rights program, with application

*please turn to page 2*

Volume 10, Number 10

Sept. 2000

#### inside this issue ...

Pa. makes IPA available statewide .....	p. 4
Federal funds are tied up; USDA holds forums .....	p. 5
Book review: Land ownership - count the ways .....	p. 6
Legislative briefs .....	p. 6,7

## Michigan counties at work to qualify for farmland grants

*continued from page 1*

procedure, a scoring system for selecting properties, and a method for establishing easement offers that can include appraisals, a bidding system, or a points-based appraisal, or formula, used now by many localities in Maryland for determining easement values.

Localities must also have adopted or updated a comprehensive plan within the last 10 years before applying for a grant. Local funding will also be part of the grant equation. While no percentage of local matching funds is required in the law, the state board will consider amount of local contribution in its selection criteria.

Another significant change is the authorization of installment purchases of easements. Localities will need to show interest to the state in using installment purchase agreements (IPAs) to pay farmers, so that limited money can be stretched.

Installment purchase agreements allow farmers to receive semi-annual payments of tax-free interest, and payment of principal in 20 to 30 years, enabling them to defer capital gains tax. Local government benefits by stretching limited dollars to purchase more easements more quickly.

According to Daniel P. O'Connell of Evergreen Capital Advisors Inc., Michigan's \$5 million in current funds could purchase \$25 million worth of 30-year U.S. Treasury obligations, increasing the amount of easement purchasing power immediately by 400 percent.

The state program, he said, could help localities by setting up a standardized IPA option, something O'Connell has put together for the Pennsylvania Bureau of Farmland Protection to establish a plug-in finance arrangement all counties can use (see accompanying story).

"Pennsylvania is showing the way for a state PDR program to leverage funds. By encouraging its counties to use grants to buy zeros, Michigan could quadruple the number of acres put under easement in its next round," O'Connell said.

### Counties gearing up

Several Michigan counties are gearing up to be first to apply for grants.

Ken Mitchell, a farmer in Lenawee County in southern Michigan, said he is urging his county to update of its long-range plan. The county's planning commission, he said, "has just been reactionary" in the past. "Hopefully we'll get them to go further."

Most counties in Michigan are organized as a "general law" county, with a board of commissioners as the chief decision-making body. Most counties also have a planning commission, but effectiveness varies widely throughout the state.

In Clinton County, lifelong farmer and retired engineer Russ Bauerly is optimistic about his county's chances "to be first to take advantage of the state program."

Bauerly served on the Board of Commissioners for a time and continues to be active in civic affairs. Last year an 18-member committee was appointed to study farmland loss and it recommended a PDR program, a parks and recreation plan, an economic development initiative focusing on value-added opportunities, and an advocacy initiative, "to do a little lobbying" for farmland preservation in the state legislature.

A subcommittee is working on getting a PDR program established, he said, and an effort is underway to get funding in the 2001 budget to hire someone to draft a greenspace plan. The PDR subcommittee "will put policies together and then go forward with a public information program." Bauerly is even optimistic about taking a millage proposal to voters in two years to fund PDR.

"I'd like to see this thing through. I'd like to see Clinton County get in a position to do something."

In Lapeer County, near Flint, county administrator John Biscoe said an effort is afoot to establish a local program, but "it's not just farmland preservation in the traditional sense - we're in the early stages of trying to pull together a compre-

*please continue to next page*

**Michigan, continued from page 2**

hensive approach," that will include economic development "like they're doing in Maryland."

Louis Martus, a full-time dairy farmer in Lapeer, has been hard at work showing township officials that farmland loss is a problem that can be addressed. As chairman of his county's farm bureau local affairs committee, Martus recently helped organize a bus tour of local farms for township officials.

"I think a lot of people are aware of farmland preservation, but it takes officials to get things going."

Keeping Lapeer County commissioners interested and involved is a challenge, Martus said. "We've been trying to get the county [involved], but it might be townships working with other townships that will matter."

Martus has been successful in getting his neighbors to apply to sell their development rights in the existing state program, with seven landowners in a contiguous block. While ten times that number were interested in the program, "everybody is sitting back to see what will happen with the seven individuals" that have received offers from the state program. Martus is one of the applicants.

Martus shares with others a lingering sense of despair when he thinks about the disappointments of the past legislative session, when Gov. John Engler started out with a solid, promising proposal to tax farmland at its current use value rather than its development value. The plan included a recapture penalty when land is taken out of agricultural use, with penalty funds to be used for farmland preservation. Then wranglings began over what level of penalty to set. Development interests bent the ears of legislators and succeeded in eliminating any significant recapture fee that could have been used to provide a meaningful level of funding for the program.

**"Rogue legislature"**

According to Keith Schneider, project director and founding executive director of the Michigan Land Use Institute, Gov. Engler dropped the ball

and was less than genuine in his intentions for farmland preservation.

"The governor had a good proposal, but he didn't really mean it - which is not unusual for him on these issues."

According to Schneider, and others who were involved in the legislative session, the governor never weighed in when ranking Sen. George McManus of Traverse City and Jack Laurie, president of the Michigan Farm Bureau hosted closed-door sessions with the real estate industry that gutted the bill and created "a rogue legislature." That set off mass confusion about a package of bills that were supposed to be about farmland preservation, and instead looked more like a bed of roses for developers. The result was a mess that couldn't be straightened out before session's end.

"There was a significant recapture fee that would have brought \$20 to \$30 million a year," for farmland preservation, Schneider said. Instead, McManus' version would have created "a land banking system [for developers] at taxpayers' expense."

Use value assessment for farmland has been on Gov. Engler's list of things to do since 1994 when he appointed a task force to strengthen the state's \$37 billion ag industry. Last February, speaking before 400 county representatives of the Michigan Farm Bureau, he promised to push the tax break through the legislature and onto the fall ballot.

**"Something communities can do"**

David Skjaerlund, director of the Rural Development Council of Michigan, is working through the maze of where to go from here.

Skjaerlund said his part will be to continue grassroots work and help localities get ready to apply for grants from the Agricultural Preservation Fund. Part of Skjaerlund's strategy is leading a semi-annual bus tour to Maryland, Pennsylvania and New Jersey counties to hear about farmland

## Grassroots efforts, UFP tours, to help spur counties to go after Michigan grants

*continued from page 3*

preservation programs, which he is conducting this month for the fifth time since 1998 with Scott Everett of the American Farmland Trust. After this "Ultimate Farmland Preservation (UFP) Tour," about 600 Michigan farmers and public officials will be alumni of the tours. With that many people getting the scoop on how farmland preservation can be done, something is bound to take hold, at least at the local level, Skjaerlund said.

Localities need to "develop a vision and form leadership. The state fund will be the carrot. For the first time, we've got something that communities can do."

Contact: Keith Schneider, 616 882-4723; Dave Skjaerlund, 517 373-4550; Rich Harlow, 517 373-3328.

### INSTALLMENT PURCHASE AGREEMENTS

## Pennsylvania counties to boost preserved acres by 400 percent using IPAs

**WEST CHESTER PA** – Pennsylvania counties could soon boost the number of farmland acres they preserve each year by 400 percent by plugging in to a finance arrangement offered by the state Bureau of Farmland Protection.

Under the program, Pennsylvania counties can begin paying farmers for development rights in installments, with farmers receiving tax-free interest payments over 20 or 30 years and deferring capital gains tax until a balloon payment of the principal in the last year. Counties will substantially decrease up-front costs of easements, thereby keeping more money for additional

easement purchases. The method is financed by investments in U.S. Treasury obligations.

Farmland protection chief Ray Pickering said the program put together by Evergreen Capital Advisors Inc. of Princeton, N.J., has gotten favorable reviews from county commissioners.

"Overall, it's been quite well received by county officials," Pickering said.

Pickering and finance consultant Daniel P. O'Connell, have been taking the finance plan on the road, visiting county officials to show how the method works.

Chester County Commissioners had plenty of questions for O'Connell at one such session Sept. 7. The commissioners had some concern about the cost of using installment purchase agreements (IPAs) – up to \$20,000 per easement, but were far more pleased with how the arrangement will allow them to keep substantially larger sums available for additional easements.

"It makes a lot of sense for this county at this point in time – the time is exactly right," said County Commissioner Colin Hanna who said the county program needed a boost to compete with persistent development pressure.

Commissioner Andy Dinniman agreed, and added that he envisioned IPA's giving the county the ability to target specific communities for increased easement activity.

"We know there will be intense pressure on the Route 100 corridor," he said of a highway that connects West Chester with a divided-highway interchange.

O'Connell said that counties using state grant funds to purchase U.S. Treasury obligations will quadruple their immediate spending power, for example, \$10 million invested will provide \$50 million in IPAs, an increase of 400 percent.

A number of counties in Maryland and New Jersey are using IPAs, as well as the City of Virginia Beach. O'Connell first devised the program for Howard County, Md., in 1989. The innovation allowed Howard County, a fast-growing suburb of both Washington, D.C. and Baltimore, to attract more easement sellers, and quickly received

*continue to page 5*

national awards for excellence and innovation in financial management.

Until the finance program was arranged, Pennsylvania counties were only able to offer five-year installment plans for farmers seeking to defer capital gains tax, and, counties had to encumber principal and interest at closing.

Under the new program, state grants can be invested in U.S. Treasury obligations, called zeros, that mature at the right time and in amounts that cover the principal of the IPA. Semi-annual interest is then paid from county general revenues, but arrangements can also be made to cover both principal and interest on the IPA. Far greater savings are realized, however, from investing only to pay the principal, O'Connell said.

O'Connell told his audience of about 15, including representatives from Montgomery County, that Pickering's office has offered to pay for the first easement deal as an incentive for counties to use IPAs.

"The idea was to lure you into this program by making it cheap and easy to do," he said. "We don't want to just get you to the closing table, we want to help you with the process afterwards."

Pickering said educating elected officials about the finance plan is only half of the job. "We'll come back to meet with farmers next month."

Contact: Ray Pickering, (717) 783-3167; Pat O'Connell, (609) 279-0068.

## Federal funds tied up, but USDA hosts farmland protection listening forums

WASHINGTON, D.C. – Agriculture officials say they don't know when \$10 million in funding for the Farmland Protection Program will be announced and a request for proposals (RFP) published, but according to Rich Pazdalski, acting director of the budget division in the Farm Service Agency, the funds cannot be dispersed until the new fiscal year, beginning Oct. 1. An RFP may not come before November, he said.

The Agricultural Risk Protection Act of 2000 contained a provision that transferred \$10 million from the budget of the Commodity Credit Corporation, but the bill also states the money "shall obligate expenditure of funds only during FY 2001," Pazdalski said.

Another problem with the appropriation was that no "technical assistance language" was included in the legislation, something Lloyd Wright, a consultant to the Farmland Protection Program, said makes the program technically unable to use the funds. "Usually, technical assistance funds are stated as a percentage of the allocation," he said. "In some cases you can't subsidize one program from another without administrative costs."

Since last June when the act was passed, farmland preservation administrators have waited for an RFP to arrive, with information that it would come by the end of July.

Meanwhile, staff additions at the Farmland Protection and Urban Community Assistance branch of the Natural Resource Conservation Service will strengthen its ability to administer the Farmland Protection Program and other programs that assist communities in developing farmland protection data, according to Lloyd Wright. A new director for the Farmland Protection Program will be announced soon, he said.

Wright, formerly team leader of the section, was hired to help reorganize it, and to coordinate a series of "listening forums" across the country designed to hear citizens' views on how agriculture in urbanizing regions can best be assisted.

### Farmland protection forums

At one such forum in Morristown, N.J., speakers consistently told a listeners panel that included Agriculture Under Secretary Jim Lyons, that federal funds for farmland preservation should be increased.

Liz Thompson of the New Jersey Farm Bureau said the economic and social benefits of farms are well known, and that in urbanizing areas "farms subsidize residential development ... we need to increase funding for PDR. The federal govern-

*please turn to page 6*

## Under Secretary Lyons: New Jersey is "ground zero" in urban ag debate

*continued from page 5*

ment's contribution has not been so substantial."

Hank Stebbins of Scenic Hudson Inc. explained to the panel that purchase of development rights should be seen by the federal government as the only realistic land protection method in urban regions.

"There is no other alternative in suburbanizing areas," because of allowed densities and availability of land, he said.

Under Secretary Jim Lyons, a native of Bergen County, told the 100 or so participants that the Morristown forum was "one of the best forums we've held - [New Jersey] is clearly ground zero in the debate of agriculture and forestry," surviving in an urbanizing region, he said.

"In my mind there's something wrong when we're spending \$32 billion [in commodity supports] to keep farmers farming, and not to keep farming for the long run," Lyons said.

In an interview after the forum, Under Secretary Lyons said a whole host of issues that affect farmland loss were addressed in the forums, including how federal laws such as the mortgage tax deduction affect the housing market and generate sprawl.

*A report about the forums may be made available. Contact Lloyd Wright or Joan Conanor at 202 720-8767.*

### Book Review

## Landownership somewhere between capitalism and socialism

A review of *Property and Values: Alternatives to Public and Private Ownership*. Charles Geisler and Gail Daneker, eds., Washington, D.C.: Island Press, 2000, \$35., 300 pages.

BY TOM DANIELS  
*Contributing Editor*

It is easy to think of land as either private property or property held in the public realm by some level of government. But as several authors in *Property and Values* persuasively demonstrate, there is a third type of property ownership with publicly-held interests in private land or privately-held interests in public land. Moreover, this third type of

## legislative and program briefs ...

**In Connecticut ...** The Working Lands Alliance, successful last spring in getting a reluctant bond commission to release \$7 million in farmland protection funds over 18 months, has succeeded in getting Gov. John Rowland to support the program. Last winter, Mark Winne, director of the Alliance, said Gov. Rowland didn't care about farmland, and was holding up funds that were allocated to it. That has changed, Winne says. "The governor has actually expressed personal interest in public," Winne said. "We're sensing there will be some kind of initiative over the next several months." Meanwhile, the first funds from the \$7 million will be seen in October.

**In New York...** New York localities have requested \$63 million in state grants for a total of \$84.5 million in preservation projects. But the program will have only \$5.5 to \$15.5 million to spend, with only \$5.5 committed to date. Issues looming large for New York are funding and administration of the program. The state Clean Air/ Clean Water Bond Act runs out this year, making future funding levels uncertain, and there is still no dedicated staff for the program, which has spent \$28 million since 1996.

**In Maryland ...** Reorganization at DNR has put the Rural Legacy Program on a par with Program Open Space, with both programs on their own turf, administratively and budget-wise, "with no impact on the existing level of funds," said DNR Assistant Secretary Mike Nelson. Nelson, who was serving as a regional director for DNR, now oversees Rural Legacy, POS and two other grants-based programs. Chip Price has succeeded Grant Dehart as director of POS. Dehart has become Director of

*please continue to next page*

Policy for DNR, coordinating federal and state program policy. Price said POS emphasis will be on improving management of land acquisition.

Conservation easement veteran Pam Bush now directs the Rural Legacy Program, with three administrators assisting grant recipients. "The focus is now on production, on getting acres protected," Bush said. "We're all geared up to get sponsor projects to the Board of Public Works." The program, formerly under POS, has been beset with slow activity.

A new Rural Legacy policy to reallocate funds that sponsors have been unable to spend from the program's first year in 1998 is being announced. Requests for reallocated funds would be due this fall, Bush said, for grant agreements that will expire in January. However, "our first priority is to get the funds spent by the people they were given to."

The reorganization has been "very well received," Nelson said. "It will significantly raise [the programs'] profile and give them the visibility they deserve."

Anne Arundel County is settling on its first installment purchase agreements (IPAs) this month. It is the fourth Maryland county to use IPA.

A task force charged to study the Maryland Agricultural Land Preservation Foundation's administration of the farmland preservation program has not yet met; it is to report to the governor in December.

**In Delaware ...** The Delaware program, with uncertain future funds, has a certain big advantage in getting value for its dollars — landowners are selling easements at an average of 53 percent below appraised value. In Kent County, making up the middle of the state, easement purchases in a designated rural area run 64.8 percent below their appraised value. Here, per-acre values range from about \$625 to \$800, according to administrator Stewart McKenzie. The program currently has 53,783 under permanent easement.

*continued from page 6*

ownership is likely to grow in the future, both to protect landscapes and to provide affordable housing.

Readers of FPR familiar with the public purchase of development rights will recognize that a private landowner voluntarily sells an interest in private real estate to a state or local government. Is the property then still private property? Yes, but there are restrictions to the property that are monitored and enforced by government agencies for the benefit of the public-at-large. On the other hand, grazing rights to public lands in the west transfer with a privately-owned ranch; they cannot be purchased directly from the federal government.

*Property and Values* is a timely and thought-provoking book. It is a welcome antidote to the property rights absolutists and the "it's my land, I can do what I want with it" crowd. Geisler and Daneker are to be commended for compiling a volume of 13 essays that express the social goals and functions of property, not just property as investment or property as commodity.

The book has a decidedly academic tone, but there are some good practical examples of the third type of ownership, such as the Vermont Housing and Conservation Board (a state agency that splits its money between low-income housing and farmland preservation), the community land trust movement with its goal of creating forever affordable housing, and state trust lands in the west that are managed for income as well as public benefit.

Margaret Grossman's essay on leasing farmland emphasizes the increase in absentee landlords and the separation of farm ownership from control. Ford Runge *et al.* note that "in agriculture, givings far exceed takings." That is, government farm programs have benefitted farmers far more than zoning restrictions have hurt them.

A central theme of the book is that property ownership concepts change over time. For instance, the public purchase of development rights to farmland is barely more than 25 years old. Land trust numbers have tripled in the last 20 years. These are bold experiments.

While government regulations will continue to affect property and property values, the sharing of ownership interests will continue to be a popular way to protect natural areas, working farmland, and even some of the built environment.

Tom Daniels is a contributing editor of *Farmland Preservation Report* and Professor of Planning at SUNY-Albany. His latest book is *When City and Country Collide: Managing Growth in the Metropolitan Fringe* (Island Press, 1999).

## professional resources ...

### Job Postings

**Director of Community Planning, Eastern Shore Land Conservancy, Queenstown Md.** Experienced professional to manage new regional land use initiative. Facilitate a regional land use vision plan, establish ESLC as a regional planning forum through newsletter, workshops and other means. Work with local governments to develop public preservation funding mechanisms. Candidates should have planning, law or related conservation experience, a history of strong teamwork and a commitment to rural landscapes, small towns and clean rivers. Salary commensurate with experience. For more information on ESLC, fax Nina White at 410 827-9039 or email [eslcnina@usa.net](mailto:eslcnina@usa.net). Fax or email resume by Sept. 20.

### Conferences & Workshops

**Oct. 2, Crownsville, MD:** Maryland Land Trust Alliance workshop *Putting Land Trusts on the Map ~ GIS Technologies and Options in Maryland*. Comprehensive overview as well as nuts and bolts of developing a GIS system. Contact Nick Williams at (410) 514-7907.

**Oct. 10, 11, Erie, PA:** Fall Workshop of the Pennsylvania Farmland Preservation Association. Contact Ellen Dayhoff, at 717 337-5859.

**Oct. 11 - 13, Atlantic City, NJ:** *BROWNFIELDS 2000 - Research and Regionalism: Revitalizing the American Community*, sponsored by The Engineers' Society of Western Pennsylvania, EPA, AFT and others, this conference is billed as the largest and most comprehensive brownfields conference to date. Last year, over 2300 people attended the conference in Dallas. For those involved in brownfields assessment, cleanup, and redevelopment, from nonprofits to federal officials. Call Amy Lesko at 412-261-0710x32 or see [brownfields2000.org](http://brownfields2000.org).

**Oct. 19 - 22, Portland, OR:** *National Land Trust Rally 2000*. More than 100 workshops on legal issues, land transactions, easements, stewardship, fundraising, organizational development, ag preservation, etc. Nation's biggest and best land conservation conference. See [lta.org](http://lta.org) or call 202 638-4725.

**Dec. 4 -6, Atlanta, GA:** Partners for Smart Growth Conference- *Engaging the Private Sector*, sponsored by the Urban Land Institute. Keynote speakers, Md. Gov. Parris Glendening, Ambassador Andrew Young. Call 800-321-5011 or see [www.uli.org](http://www.uli.org).

**March 1 - 3, 2001, Park City, UT:** *2001 National Green Space Design Conference: Redefining the Legacy of Open Space*, sponsored by the Green Space Design organization. Learn practical methods of open space preservation from industry leaders. Keynote speakers: Randall Arendt, president, Greener Prospects; Will Rogers, president, Trust for Public Land; Ed McMa-

hon, president, The Conservation Fund, and others. Call 1-877-GSD-PLAN or see [www.greenspacedesign.com](http://www.greenspacedesign.com).

### Reports

*National Main Street Trends Survey*  
*National Trust for Historic Preservation*

The National Trust surveyed 1,500 businesses in 16 downtown commercial districts nationwide and found that internet usage is having a significant positive impact on retail sales. For a copy of the survey, call 202 588-6324.

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# farmland preservation report

Covering the policies, practices and initiatives  
that save farmland and open space

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## Farmland zeroes out in spending bill; vote eludes CARA

WASHINGTON, D.C. – A \$12 billion, six-year conservation spending plan approved for the Department of Interior and the most generous conservation bill in memory, “does not contain one cent for farmland preservation,” according to Russ Shay of the Land Trust Alliance.

The appropriations package was a compromise after passage of the Conservation and Reinvestment Act (CARA) became highly unlikely in an election season. CARA included funds for farmland protection.

While efforts are still underway to get money for the federal Farmland Protection Program into appropriations for the Department of Agriculture, farmland protection simply didn’t sell in seem-

ingly round-the-clock negotiations Sept. 30 on Capitol Hill.

“Congressman George Miller tried very hard to get [FPP funding] in, but it’s not there, I regret to say. We’re still trying to see if we can squeeze it in,” Shay said.

Susanne Fleek of the American Farmland Trust said there may still be an opportunity for FPP funds in a Department of Agriculture omnibus appropriations bill that could be finalized later this month, she said.

The new conservation spending, financed in part by oil royalties, makes \$1.2 billion available immediately for federal conservation efforts – a figure double what has been available and is \$200

*please turn to page 2*

## New York program grows while funding source goes dry

ALBANY, NY – Increased interest among New York localities in winning state grant money for farmland preservation is overwhelming the Department of Agriculture and Markets at a pivotal time: one of the program’s funding sources, the state’s Clean Air/Clean Water Bond Act, is about to dry up.

For the upcoming year, the program will have \$6 million from the state’s Environmental Protection Fund (EPF), its other source of funds, and an undetermined amount from the remaining bond act money. In 1999, the program’s combined funds came to \$11.6 million, its highest amount to date. Requests for the funds, however, came to \$63

million.

According to Jerry Cosgrove, northeast field director for the American Farmland Trust, this is

*please turn to page 2*

**Volume 11, Number 1    October 2000**

### inside this issue ...

GAO report slams farmland programs .....	p. 4
Virginia group to grade legislators .....	p. 5
Task force commences review of Md. program .....	p. 5
Legislative briefs .....	p. 6,7
New PDR job postings .....	p. 8

## Interior appropriations bill called poor substitute for CARA

*continued from page 1*

million above the Clinton administration request. Projects eligible for funding run the gamut from land and water conservation to historic preservation and arts programs.

Bruised by the failure of Congress to move the long-touted Conservation and Reinvestment Act known as CARA to a final vote, many environmental interests paused from the marathon sessions to call the Interior appropriations bill a poor substitute for CARA. The conservation bill, championed by most environmental organizations, would have created a virtually untouchable dedicated and permanent source of funding that was universally agreed to be adequate to the task of funding massive land and water conservation programs. But when an agreement between conservative Republicans and the White House over such a major, permanent conservation fund looked impossible, the Interior appropriations bill was quickly pushed as a compromise plan.

"The senators who considered this deal said this bill is in no way a substitute for what was in CARA, and is totally inadequate to the needs out there," Shay said.

According to Shay, the appropriations bill for the Department of Agriculture, following close on the heels of the Interior funding bill, failed partly due to the "indifference of the Department of Agriculture," which he said placed priority on increased funding and eligibility for the Conservation Reserve Program (CRP).

Mike Young of the USDA Office of Budget and Program Analysis confirmed that no funds in the Department of Agriculture appropriations bill as filed go to FPP. Further, a \$10 million appropriation from the Agricultural Risk Protection Act passed last spring is pending approval in the Office of Management and Budget with the "technical assistance problem not resolved ... It will be decided in an aggregate sense, but shouldn't prevent the money from going forward," Young said.

Tom St. Hilaire of the Americans for Our

Heritage and Recreation said the appropriations bill "does not have the longevity, dedicated funding or the state and local conservation programs that were a hallmark of CARA."

However, not all groups thought CARA was perfect. The Natural Resources Defense Council, a leading environment watchdog, said CARA's faults were as significant as its assets, including incentives for increased offshore oil drilling and the coastal development that accompanies it.

The Interior appropriations bill, with its "landmark conservation program" will endow the Land and Water Conservation Fund with \$450 million for state programs and \$90 million for federal programs for FY 2001. The two programs will compete with other programs for a share of \$540 million in each of the next five years. The Historic Preservation Fund will receive \$30 million in FY 2001 and will compete with other programs in its category of funds for \$160 million over the next six years.

State and other conservation programs are funded in FY 2001 at \$300 million; state wildlife grants at \$50 million; wetlands conservation at \$40 million; the Forest Legacy Program at \$60 million; and urban and historic preservation at \$160 million. The \$1.6 billion available in the first year will increase to \$2.4 billion by 2006.

Contact: Russ Shay, (202) 638-4725; Tom St. Hilaire, [tsthilaire@ahrinform.org](mailto:tsthilaire@ahrinform.org).

### On the lookout

## New York program needs new funding source

*continued from page 1*

the last year for the bond act. While a new bond act is unlikely this year, possible sources of funding have been discussed. These include dedicating a larger portion of the state's real estate transfer tax to the Environmental Protection Fund.

"It's just one option that's been discussed,"

*please continue to page 3*

*New York program, continued from page 2*

Cosgrove said.

The state's real estate transfer tax is levied at four-tenths of one percent of the sale price, and generated \$340 million in revenue last year, according to Tim Taylor of the fiscal planning unit in the state's Division of Budget. Currently a set amount of \$112 million of transfer tax revenues is deposited into the Environmental Protection Fund, with the legislature determining how much each program receives each year.

Maryland and Vermont also use transfer tax revenues to fund farmland preservation, Maryland using 14.5 percent of revenues for the purpose (\$15.5 million in FY 99) and Vermont 50 percent (\$11.3 million last year allocated to the Vermont Housing and Conservation Board). Maryland also derives farmland preservation funds from a special agricultural conversion transfer tax.

The New York program began not as a state, top-down PDR program, but as an incubator for local initiatives to plan for and protect farmland, using whatever methods were chosen. All grant proposals now are for PDR projects. The Department of Agriculture and Markets began soliciting proposals in 1996, when \$3.7 million was made available. The following year the program had \$4.5 million and in 1998 funds jumped to \$7.7 million.

For the first time in 1999, a greater share of the \$11.6 million allocated to the program was from the open space account of the Clean Air/ Clean Water Bond Act. With a total of \$13 million spent to date, the program has thus far preserved 4,314 acres at an average per-acre cost of \$3,037. A total of \$28 million in state funds and \$10 million in local money has been committed and is still in process, according to program director Bob Somers.

While program funding has grown only moderately, requests for that funding have leaped dramatically in three years: in 1997, just 13 applicants asked for \$7.9 million for purchase of development rights. This year, 32 applicants asked for \$63 million in state funds for PDR projects, for

which they are contributing \$21.6 million.

One of those localities is Washington County, with close to 400 dairy farms adjacent to southern Vermont. The county has been successful in three of four funding rounds. This round, the county farmland preservation board seeks state funds to preserve three dairy farms comprising 564 acres.

Kate McQuerry, of the county's Agricultural Stewardship Association, said she worries that inadequate funding will eventually discourage farmers from bothering to apply to the program, a concern echoed by others.

"The biggest problem is lack of funding. I would say it's true that people are discouraged," she said.

While the county has received 1,500 requests for information about the purchase of development rights, only 25 farmers have applied.

"In our application form we mention how tremendous the competition is," she said.

What makes the situation worse, McQuerry said, is that low milk prices and the added stress caused by unhelpful weather patterns has made "interest in options and a need for cash more intense."

But even if there was more money in the program, criteria favors farms that are doing well despite hard times, she said.

"We have two groups of applicants - those whose farms are really on hard times and are looking for a way to keep farming, and, those larger farms that are well managed and profitable who would use the money to expand or offset the cost of transferring to the next generation. Without exception, the farms they choose are in the second category."

McQuerry said she doesn't necessarily disagree with this policy, but would like to help those in need along with those who are thriving.

Jerry Cosgrove of the American Farmland Trust said that while the program has some administrative and policy matters to address, money is its most urgent need.

*please continue to page 4*

## New York program looks for cash, program manager

*continued from page 3*

"I think clearly the major challenge is we need significantly higher levels of funding. We've started late and we have three large and significant regions under threat." Those regions, named by the AFT as under significant threat are the Hudson River Valley, Suffolk County of eastern Long Island and the Ontario Plain and Fingers Lake Region. Cosgrove said there's "a growing recognition" in New York of a need for increased funding for farmland protection.

"We'd like to see a significant bump-up. We'd like to see \$50 million. That would put New York on a par with Pennsylvania and other states."

Growth in the program has finally pushed the margins enough to advertise for a program manager, said Bob Somers of the state Department of Agriculture and Markets. Somers has been operating the program but said it needs a dedicated manager, something he has been requesting for three years. The position has been advertised (*see page 8*).

"When we fill that position, it will help municipalities to close deals," Somers said.

Closing deals effectively and securing more funds is important, but the New York program will also need to look at where deals are made, according to Tom Daniels, professor of planning at the State University of New York, Albany. Daniels said that as the program matures, it should consider strategic targeting of easements using quality farmland, local commitment, and location as the parameters for using funds wisely.

"They could use a lot more money but even if they get it, the state still has relatively weak planning and zoning. The state needs to develop planning expertise at the local level to guide preservation."

Strategy, Daniels said, involves looking at getting the best value for the public dollar. "Big chunks of money are ending up in Suffolk County.

*continue to page 5*

## etcetera ...

### Farmland programs called insufficient, toothless in GAO report

*Washington, D.C.* – The U.S. General Accounting Office reported last month that the federal Farmland Protection Program "is small and has not met its goals," and that the federal Farmland Protection Policy Act (FPPA), which requires federal agencies to consider the potential adverse effects of federal programs on farmland and to find alternate sites is "ineffective."

Local officials interviewed for the report said the FPPA is a "toothless tool" that "does not require agencies to select alternatives that lessen the impact of federal activities on farmland."

Officials at the Natural Resources Conservation Service told the GAO they "lack the resources to strengthen their oversight." USDA officials themselves said the FPPA "is not enforceable because it offers no guidance for choosing a less damaging alternative [to building a facility on farmland] and no incentives for doing so." The Farmland Protection Policy Act was created in the 1980 farm bill.

Farmland loss was a high or very high concern for about 45 percent of rural counties responding to a GAO survey and 59 percent also reported that keeping farmland was a high priority in planning policies. Sixty-two percent reported a concern about sprawl.

According to the report, a June 1999 President's Livable Communities Initiative study found that 16 federal programs administered through seven different agencies, are designed to preserve farmland and open space. The GAO report discussed three of these: the Farmland Protection Program, the Land and Water Conservation Fund, and the Urban and Community Forestry Program.

The GAO report stated that federal funding for the Farmland Protection Program "is insufficient to satisfy the demand.

The Farmland Protection Program was authorized in 1996 and funded then at \$35 million, which was supposed to be spread over six years. The money was gone, however, in two years. The program was without funds for easement purchase until a \$10 million appropriation this year from

Commodity Credit Corporation funds. That money, however, is tied up in an OMB review of unfortunate legislative drafting that deemed the money unusable because the authorization lacked technical assistance language. The president's FY 2001 budget requested \$50 million in funding for the FPP, but Congress did not approve the request and as of press time no funding for the program is present in Department of Agriculture appropriations bills.

### **Va. group to rate legislators, push environment agenda**

*Richmond, Va.* – Born of slow-growth activists from Loudoun County in northern Virginia, The Virginia League of Conservation Voters seeks to tread where no one has before, along a hard to find route for environmental interests to the state capital, a bastion for conservatives, but not conservationists.

The League seeks the support of high-tech companies in the area surrounding Dulles Airport, some of which support growth controls to protect the remaining livability in the region. More than \$100,000 in seed money had been raised as of July when creation of the group was reported in the Washington Post.

Lisa Guthrie, newly hired executive director, said the group's mission is to produce an annual scorecard that rates legislators on their votes concerning environmental issues.

In addition, the League will provide support to the state's environmental advocacy group.

"We have defined what our lobbying role will be," Guthrie said. "We will support or partner with nonprofit organizations. They have their issues. Our role is as an umbrella." That means that whatever issues conservation groups are fighting for, Guthrie said, "we own too" and the group will base its scorecard on voting records concerning those issues.

That includes farmland preservation, she said, as well as land use and zoning. The group will support funding for purchase of development rights, particularly since a PDR program was created in Virginia this year.

Contact: Lisa Guthrie, (804) 225-1902

### **New York, continued from page 4**

It has a good agricultural economy, but it's not cost effective for a state program to spend so much money [in an expensive area]. You can preserve a lot more land for that same amount of money in other parts of New York."

Suffolk County, on Long Island, has been under intense development pressure since the 1960s, and has managed to save some of its farmland by starting early – in 1974, by setting up the nation's first PDR program. At the time, the county had close to 1.3 million residents, mostly residing in the county's western half, closest to New York City. But more than 20 years later, preserved acres taken from heavily fragmented areas and often in pieces of just 10 acres, totaled just 6,941, at a cost of \$46 million, or \$6,627 per acre. However, the state values Suffolk County's high-value agriculture, centered on fresh produce, viticulture and horticulture.

State program administrator Bob Somers said Suffolk County may have received more funding in the beginning of the program – and still a significant percentage – 42 percent last round – because so few localities applied. But he makes no apology for sending money to Long Island.

"Suffolk is losing farmland faster than anybody else, their land is escalating in value. If they don't preserve a critical mass, their investment will be reduced. So it's important they receive funding from the state. They're really under the gun compared to other counties."

The Hudson Valley is also under pressure, with "land changing hands rapidly. We're spreading the money around. We want to make sure that everybody who has viable farmland that scores well has the opportunity to participate."

From Somers' point of view, the New York program has few problems that a program manager and lots of cash wouldn't cure.

"The only thing we need at this point is a dedicated funding source," Somers said, adding that the program could be more flexible in financing, possibly exploring installment purchases.

Contact: Bob Somers, (518) 457-2715; Jerry Cosgrove, (518) 581-0078; Tom Daniels, (518) 442-4469; Kate McQuerry, (518) 677-5284.

MARYLAND PROGRAM UNDER REVIEW**Task force begins late, faces tough deadline for report to legislature**

ANNAPOLIS, MD – Convening more than three months late, a task force charged with studying Maryland's farmland preservation program reviewed a set of issues addressed in last year's legislative session, as well as a long list of concerns compiled from several sources.

The 18-member task force, starting late due to delays in appointments by the governor, is "especially pressed" said task force chairperson Harriet Tregoning, Secretary of the Maryland Department of Planning. The task force is scheduled to meet just two more times before it approves its interim report to the legislature and governor. Then, it will meet through June to compile a final report due July 1.

The focus through November will be four bills, and possibly others, that were deferred by the legislature in light of the bill that called for the task force to study the program. These include the length of time farmers have been waiting to settle on easements, and the number of lot exclusions allowed on preserved farms.

Other issues in the two-hour session Oct. 12 included strategic targeting of easements, funding, the number and use of agricultural subdivisions and staff inadequacies.

Several task force members, including Del. Wheeler Baker and co-chairperson Edward P. Thompson Jr. of the American Farmland Trust, said the focus of the task force for the Dec. 1 deadline should be to recommend what action to take on the deferred bills.

"The legislature clearly wants some grist for the mill," Harriet Tregoning said, adding it was her hope the task force could prepare clear recommendations on the bills in its December report. The most significant of the bills, submitted by the Maryland Agricultural Lands Preservation Foundation (MALPF), would reduce allowable family lot exclusions on easement farms from a maximum density of one unit per 20 acres (1-20) to one per 50 acres (1-50), not to exceed four total lots. Current law allows up to 10 lots, although no farmer has ever requested this number. Current law that allows only family members to use excluded lots is removed in the bill.

Other bills called for a temporary funding boost through matching grants to counties, a state income tax credit for easements or land donations to the Maryland Environmental Trust. Another bill, requested by Carroll County, would allow a principal dwelling on preserved properties where no dwelling exists.

Paul Schiedt, MALPF program director, told the group that Maryland "still leads the nation" in preserved acres and that "we are

**legislative  
and program  
briefs ...**

**In Michigan ...** At least a dozen counties are interested in setting up local PDR programs, according to David Skjaerlund of the Rural Development Council of Michigan. The organization is assisting the counties and working to build "a more formalized network at the county level."

**In California ...** The Great Valley Center, a nonprofit conservation organization in the Central Valley, is implementing a \$5 million grant from the Packard Foundation, and has selected farmland preservation projects from Yolo, Stanislaus and Merced Counties. GVC is reviewing the projects.

The state Farmland Conservancy Program, for which voters approved \$25 million as part of a larger park bond last spring, will receive \$4-\$6 million as its first installment of those funds, according to Erik Vink, who oversees program administration. "A lot of projects we'll do with FPP and private funds from the Packard Foundation. With all the funds put together, Vink estimates the \$25 million will preserve about 25,000 acres. "If I had to give a back of the envelope estimate today, I think that's a good ballpark."

**In Maryland ...** The Baltimore County Council Oct. 10 downzoned a number of acres within Rural Legacy areas and other areas, decreasing density in many cases by half or greater. No one, however, has completed a tally that shows how many acres were affected by the hundreds of issues voted on. A new zone was created that allows 1-25 density, that served as a middle density between the county's 1-50 and 1-5. The county planning department is working on statistics that should be

ready in a few weeks, according to Gary Kerns, chief of community planning.

Calvert County's TDR program saw roughly \$2 million in transfers in calendar year 1999, according to county planning director Greg Bowen. The transfers resulted in about 820 acres preserved, he said. Bowen suspects a similar amount of activity has occurred throughout 2000.

**In Ohio ...** Television ads that will promote a bond issue on the ballot next month are ready to air, paid for by a campaign chaired by John Glenn and Bob Taft. If the bond passes, \$25 million will go to the farmland preservation program over four years, according to program director Howard Wise. Several informal groups have formed to study preservation techniques including TDR and impact fees, Wise said. "We hope to make 2001 a defining year in farmland preservation in this state," he said.

**In West Virginia ...** Rules for the new farmland preservation program have been submitted to the Rules Committee, according to Sandy Stewart of the Dept. of Agriculture. David Miller has left the Dept of Agriculture for a position at West Virginia University. His former position, which will include administering the state's new farmland program, will not be immediately filled, according to the executive division.

**In Pennsylvania ...** The Bureau of Farmland Protection will be setting up a series of meetings with farmers to discuss how installment purchases work. A series of workshops for public officials has been completed. The state program has now preserved 173,598 acres on 1,411 farms.

**In Montana ...** The Montana Agricultural Heritage Commission has approved \$500,000 in grants for the purchase of agricultural conservation easements on five Montana properties. In the second round of applications to the new program, the commission considered over \$1.5 million in grant requests from 13 applicants.

*continued from page 6*

doing our very best." Schiedt said the lot exclusion change would mean that lots could be placed on the market, and that the new policy would "treat everyone equally, even those who have no children."

Schiedt told task force members, "I'm going to warn you now, these are major, major, issues."

AFT's Thompson told the task force that the Maryland program trails other states in a number of areas, and that "the enthusiasm shown by the agriculture community in support of the program has not been as vigorous as in other states."

Thompson said that "Maryland is comparable to other states" in the time it takes to close deals. "All state administrators say it takes too long."

At the same time congratulatory and hard on the program, Thompson said, "Maryland certainly is the leader in this nation, but I think leadership has to be continually earned." He added that the task force is "a healthy exercise" and that "MALPF should not fear an inquiry into the program."

Thompson's comments on the time it takes to settle easements contrasted with a report in *Farmland Preservation Report* last May that Maryland farmland program easements are taking twice as long to settle as those in Pennsylvania, and six months longer than those in New Jersey. The article described how the Maryland process differs from Pennsylvania, and innovations underway in a New Jersey county to speed up closings.

Asked to name other issues of concern, task force member John Bernstein, director of the Maryland Environmental Trust, said strategic targeting of easements was something the program should explore, as well as whether the program should "give preference to counties that are actually aiding the foundation," such as actions including "the dreaded 'z' word."

Greg Bowen of Calvert County, the only local program administrator on the task force, cautioned the group that "the popularity of the program is that anyone can play."

Del. Wheeler Baker of Queen Anne's County said he thinks funding should be a main focus of the group. "It all boils down to money - we can't do this without dough."

But details about possible innovations likely won't be discussed at length until after Dec. 1, when the group completes its review of legislation and the program. The review will focus on how well the program truly protects farmland in terms of land use and economic development. Priority issues will be named in the report.

*The task force will next meet Oct. 30, 2 - 4 p.m. at the Maryland Department of Planning. For information call the MALPF office at 410 841-5860, or, Joe Tassone, Maryland Dept. of Planning, at 410 767-4562.*

## professional resources ...

### Job Postings

**Farm Conservation Easement Program Manager**, New York Dept of Agriculture and Markets, Albany NY. New position will manage operation of Farmland Protection Grants Program, which provides funding to municipalities on a competitive basis for the purchase of farm conservation easements or development rights. Responsibilities include: develop program and policy, disseminate information, provide technical assistance and administer grants process; handle recommendation of awards, assistance in developing contracts, project implementation assistance and monitoring, contract compliance review and payout authorization, and development of program related policy. **MINIMUM QUALIFICATIONS:** Bachelor's degree and four years experience in research/policy analysis relating to agricultural resource protection. Preference will be given to individuals with experience in the acquisition of farm conservation easements or development rights. **STARTING SALARY:** \$49,573, with excellent benefits. Some overnight travel is required. Send resume to: NYS Department of Agriculture and Markets, Division of Human Resource Management, 1 Winners Circle, Albany, New York 12235; phone 518.457.3216. [agmhres@nysnet.net](mailto:agmhres@nysnet.net).

**PDR Administrative Officer**, Lexington-Fayette Urban County Government, Lexington, KY. Duties for this newly created program include providing assistance for the PDR Program Manager and other major officials of the Urban County Government through research/analysis of applications for conservation easements, negotiating specific terms for conservation easements on selected properties; reviews appraisals; assists the preparation deeds of easement and closure of transactions resulting from the PDR Program and other related duties. **MINIMUM REQUIREMENTS:** Bachelor's degree with major course work in planning, land use planning, law, agriculture, land conservation, natural resource planning, and three (3) years of research, analytical and project management in land use planning, land conservation experience or equivalent combination. Examination will be a training and experience evaluation from information provided on the application at filing deadline date weighted at 50% and a oral interview weighted at 50% of the final score. **SALARY RANGE:** \$38,319 - \$62,587. Send resume to: Division of Human Resources, Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, Kentucky 40507. 859-258-3051. Web Site: <http://www.lfucg.com> [www.lfucg.com](http://www.lfucg.com). EOE

### Publications & Reports

*Developing for the Future: Hometown USA ~ Innovative Community Projects Supported by EPA Grants*

US EPA, Office of Business and Community Innovation  
Sept. 2000, 40 pages

This report highlights some of the projects EPA has assisted that revitalize urban communities, restore watersheds, facilitate planning and spur environmentally sound lending and building practices. Profiles are provided for each of these project categories, and an appendix lists examples of EPA-supported community initiatives, indexed by state. Funding opportunities are discussed. The report is

available by calling (513) 891-6561.

### Conferences & Workshops

**Dec. 4 -6, Atlanta, GA:** Partners for Smart Growth Conference- *Engaging the Private Sector*, sponsored by the Urban Land Institute. Keynote speakers, Md. Gov. Parris Glendening, Ambassador Andrew Young. Call 800-321-5011 or see [www.uli.org](http://www.uli.org).

**March 1 - 3, 2001, Park City, UT:** 2001 National Green Space Design Conference: *Redefining the Legacy of Open Space*, sponsored by the Green Space Design organization. Call 1-877-GSD-PLAN or see [www.greenspacedesign.com](http://www.greenspacedesign.com).

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# farmland preservation report

Covering the policies, practices and initiatives  
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Since 1990 • Deborah Bowers, Editor

## NEW NATIONAL LEADER

### **Pennsylvania overtakes Maryland in farm acres preserved**

HARRISBURG, PA – Pennsylvania has supplanted Maryland as the nation's leading state in farmland preservation, protecting under easement 170,173 acres, 3,644 more acres than Maryland. Pennsylvania has approved an additional 7,630 acres that will likely be settled within 45 days, then bringing the state's total to 177,803 acres, according to Ray Pickering, director of the Pennsylvania Bureau of Farmland Protection.

The Maryland program has placed 166,529 acres under easement, and has 19,367 additional acres "under contract," according to program assistant Iva Frantz, making a total of 185,872 acres settled and committed. However, because

Pennsylvania's program completes easement deals almost twice as fast as Maryland's, and because it has ample dedicated funding sources, officials are confident it will retain its lead over Maryland.

By March, according to Pickering, the Pennsylvania program will have reached, in approved acres, Maryland's larger number, with settlement reached on most of those acres by the end of May, bringing Pennsylvania's total above the 185,000-acre mark for settled acres. At that time, according to Frantz, it is unlikely the Maryland program acres under contract will be settled.

While state farmland preservation programs

*please turn to page 2*

### **Voters approve scores of local ballots for land protection**

In more than 200 localities nationwide voters cast ballots on open space funding measures totaling more than \$7 billion, with many of those measures including farmland preservation as a target program, according to the Land Trust Alliance (LTA), a national organization for land conservation groups.

According to LTA director of public policy Russ Shay, of 204 known local measures tallied, 166 passed. More than half of the measures took place in states with state-administered farmland preservation programs, including New York, Pennsylvania, New Jersey, Ohio, California and Rhode Island. Many of the new funding pots will

help counties or townships establish matching funds to participate in state farmland preservation programs.

*please turn to page 2*

**Volume 11, Number 2    Nov.-Dec. 2000**

#### **inside this issue ...**

Ma. program dwelling rule change .....	p. 5
Delaware elects conservationists .....	p. 5
Oregon voters send land use law to trial .....	p. 6
Job postings .....	p. 7

## Pennsylvania counties have control over applicant process

*continued from page 1*

are not in competition with one another, accumulation of acres is an indication of political commitment as well as administrative efficiency. Program administrators in Pennsylvania say they have it all over Maryland, because they have more control over the process at the local level.

In Pennsylvania, a farmer who submits an application to sell an easement will wait from eight months to one year before sitting down to the settlement table. But in Maryland, a farmer will wait 18 months to two years.

According to Pickering, the Pennsylvania process is helped along by local administrators who accept the applications and conduct the technical work of surveys, appraisals and title work before the projects go before the state board for approval. Once approved, a project can be finalized in as little as 30 days.

But in Maryland, farmers apply directly to the state, and all the technical and legal work is done by the state Department of General Services

(DGS), which handles all the state's land and easement acquisitions – work that has increased substantially over the last decade. Prior to reaching DGS, applications are shuffled between the state and the counties for ranking. Local administrators say a two-year wait is not unusual.

Some local administrators in Maryland complain that the program's administration is diffuse – that no single person is in control, and that the process depends on an agency in which efficiency is near impossible – for the 147 applications approved by the Maryland Agricultural Lands Preservation Foundation last July, only three settlement attorneys are available at DGS.

Local program administrators in Pennsylvania said state program operation has been running smoothly and the period between application and settlement has shortened by about three months over the last several years.

Pennsylvania Gov. Tom Ridge is expected to announce the program's new status at an event in December.

## Farmland program states host half of nation's land initiatives

*continued from page 1*

### New York

In New York, 11 towns passed tax increases or bond referenda for open space preservation amounting to more than \$90 million in expected revenues and borrowing power. In the Town of Warwick, in Orange County, \$9.5 million in bond funds will be dedicated to a purchase of development rights program.

In West Chester County, N.Y., just north of New York City, five towns passed measures totaling \$17 million in new spending, according to Tom Anderson of the West Chester Land Trust. All but one passed by more than 60 percent of the vote. While some of the money will be spent on urban open space in this county of 900,000 residents, the northern part of the 450,000-square mile county has "lots of farms." Nurseries, apple

orchards and horse farms dominate the agricultural economy, Anderson said.

West Chester County officials last year formed an agricultural district board and a plan for farmland protection in order to participate in the state farmland preservation program. Now, they will have matching funds to qualify. The question now is, according to Anderson, how far \$17 million will go in an area with some of the highest land values in the region.

### Pennsylvania

In Pennsylvania, Bucks County and Chester County figured heavily in the state's local initiative activity, with three and two townships respectively passing open space spending measures.

*please continue to page 3*

**Local ballots**, *continued from page 2*

In Bucks County, two townships, Hilltown and Springfield, approved income tax increases and one township, Upper Makefield, approved a \$15 million bond issue, the largest spending approval in the Philadelphia metropolitan area.

"I think most of it is for farmland - parkland is not as high a priority," said Rich Harvey, administrator for the Bucks County farmland preservation program. Upper Makefield has a track record of pursuing farmland protection, he said.

The Bucks County program has preserved 4,500 acres on the fringes of Philadelphia where a \$10,000 per-acre cap was established to limit costs.

Three years ago the program got \$13.5 million from a \$59 million bond issue, of which \$5.8 million was allocated last year along with \$3.5 million from the general fund. The county program currently has \$7.5 million.

"We have a lot of money, but it's hard to keep up. We're really short staffed here at the planning commission," Harvey said, with four or five planner vacancies.

**New Jersey**

New Jersey clearly won the local initiative sweepstakes, with 45 localities voting to spend money on open space and farmland preservation. Only one locality with a land protection referendum rejected the measure. At least one-third of the measures specifically mentioned farmland preservation.

However, "nearly all the measures are for both farmland and open space," said Steve Jandoli of the state's Green Acres Program. Sussex County was more explicit, designating 90 percent of funds for farmland, he said. According to Jandoli, 19 of the state's 21 counties now have dedicated revenues for open space acquisition, as well as 144 of 566 municipalities.

Countywide initiatives were also passed in Gloucester, Camden and Union Counties. Two established new taxes

In Burlington County, the state's most aggressive in farmland protection, seven townships passed local measures supporting open space and

farmland protection, six using a dedicated portion of the property tax, and one, Mansfield, approving a bond issue of \$1 million for open space and farmland preservation.

Two years ago, New Jersey voters approved the nation's largest land preservation fund - \$1.4 billion in bond money over 10 years. With an ambitious goal of preserving a million acres in 10 years, the money is split between the state farmland preservation program, administered by the State Agricultural Development Committee and the Green Acres Program.

**Ohio**

Ohio voters approved \$200 million for conservation initiatives and \$200 million for brownfields revitalization projects. The Clean Ohio Fund, a bond act, passed by 57 percent of the vote. A campaign chaired by Gov. Bob Taft and U.S. Sen. John Glenn promoted passage of the act, and more than 200 organizations statewide endorsed it.

According to a campaign press release, the \$400 million fund will be used for "locally driven projects such as protecting Ohio's water, revitalizing urban areas by stimulating new investment in blighted neighborhoods, expanding outdoor recreational opportunities and preventing the loss of valuable farmland through voluntary agricultural easements."

The next step, according to Howard Wise of the Ohio Farmland Preservation Office, is for the General Assembly to pass implementing legislation.

"Gov. Bob Taft will ask the legislature to earmark \$25 million for a pilot agriculture easement purchase program," he said. Ohio's program is already established, but will receive its first funds through the bond act. The \$25 million will be spread over four years. Taft originally proposed the open space and farmland preservation fund in November 1998 when he was governor-elect, following passage of legislation that authorized PDR. In 1996, proponents discovered that

## California voters tally mixed results on land protection

*continued from page 3*

Ohio law precluded government entities from holding easements.

The governor will request the state program be structured to provide 75 percent of project costs with localities providing a 25 percent local match, which can be in the form of easement donation or bargain sale, according to Wise.

### California

California voters produced a real mixed bag of decisions on measures involving tax increases or bond issues for land protection.

Countywide measures surprisingly failed in the ag powerhouse counties of Napa and Sonoma, and in Placer and San Luis Obispo Counties. In Placer County, which includes the northern half of Lake Tahoe, a proposed dedicated sales tax increase of one-quarter cent for 75,000 acres of open space purchases and easements failed by 72.6 percent of the vote. The increase would have generated \$200 million over 20 years.

In San Luis Obispo County, where residents have become accustomed to innovative land protection schemes including a transfer of development credits program to save critical coastal spaces, 59 percent of voters rejected the idea of having the final say in whether agricultural lands are rezoned.

Sonoma County ranks fifth nationally for farmland acres preserved and first in the amount of money available for preservation, but voters rejected a plan by the Greenbelt Alliance to freeze zoning for 30 years, preventing changes unless voters approve them. The measure was voted down by 57.4 percent of the vote. However, the city of Sonoma approved an urban growth boundary by 63.5 percent.

Statewide, urban growth boundary (UGB) measures fared moderately, with just five of nine approved.

Californians may not have felt urgent about local land protection, since last March, in the state's primary election, they approved bond issues totaling \$2 billion for watershed protection, parks, clean water, clean air and coastal protection. The measure allocated \$25 million for farmland preservation.

According to the California Planning and Development Report, 21 of 34 "slow growth" measures on local ballots passed and 13 of 22 "pro-growth" measures were defeated, making slow growth proponents the victors in 34 of 55 measures, or 62 percent. However, the failed Sonoma and San Luis Obispo measures were closely watched and noted as serious losses.

### Rhode Island

Rhode Island voters approved a \$34 million bond issue for land conservation, but just \$5 million will go to the farmland preservation program, according to program director Ken Ayers. However, Ayers said, "the other monies can be used to protect farms for other purposes," such as open space.

Rhode Island's farmland preservation program has consistently lagged behind neighbor states in funding and implementing farmland protection. It's last allocation of \$2 million didn't go far.

Perhaps the larger measure of success in the state was the passage of all 12 local measures that were placed on town ballots for open space and farmland protection, totaling \$17 million. Several of the measures mentioned purchase of development rights and agricultural preservation.

"What that means for us is that our \$5 million will go a lot further," Ayers said.

### Other states

In Colorado, open space and ranchland protection is conducted by Great Outdoors Colorado (GOCO), a quasi-governmental agency through grants to organizations from lottery proceeds, but there is no state program for agricultural lands specifically. With 15 local land protection meas-

*continue to page 5*

## etcetera ...

### **New funding, dwelling rule change in Ma.**

*Boston, MA* – The Massachusetts legislature appropriated \$10 million to the Agricultural Restriction Program that will “keep us going a year to a year and a half,” said Rich Hubbard, assistant commissioner of state Department of Food and Agriculture. The money is added to a recent \$2 million authorization.

The program, now in its 23rd year, has protected about 45,000 acres through bond funding and federal grants. According to Hubbard, the program is in the midst of a rule change that could grant one building right to existing preserved farms “as long as the program gets a first right of refusal to the property. They could sell the lot for whatever they want, but we would buy the land at agricultural value, and all would be approved on a case by case basis.”

Currently, new program enrollments are allowed no residual development rights.

The rule change must go to public hearing and to the legislature for approval.

*Rich Hubbard, 617 626-1704.*

### **Delaware elects conservationists to top posts**

*Dover, DE*– While they lacked funding measures for land protection, Delaware voters chose known conservationists to be their governor and U.S. Senator.

Governor-elect Ruth Ann Minner was supported strongly by open space and environmental interests she has carried with her since her days in the state senate when she initiated the first open space acquisition in the state, according to Michael McGrath of the Delaware Agricultural Lands Preservation Foundation.

“She devised and brokered a share of the open space tax to go to farmland, and she is on record as supporting farmland preservation,” he said. “Her campaign record shows an inclination to join together open space and farmland protection.”

The Delaware farmland protection program has been searching for a more permanent funding source.

“People in farmland preservation are very pleased with the outcome of the election,” McGrath said.

In addition to electing a conservationist as governor, Delaware sent its former conservation-minded governor to the U.S. Senate. Tom Carper, U.S. Senator-elect, “will benefit us ... he will go in with the idea [farmland preservation] was a winner in Delaware, that its something you can look good with.”

*Mike McGrath, 302 739-4811.*

### **Local ballots, continued from page 4**

ures on the November ballot, five failed, and of those five, three called for tax increases to fund purchase of development rights in Teller, Grand and Weld Counties. The Weld and Teller ballots mentioned farmland specifically.

In South Carolina’s Beaufort County, voters approved a \$40 million bond issue for open space acquisition and purchase of development rights on farmland, but just north in Charleston County, full of tomato growers and other produce farms, a sales tax initiative for open space and farmland failed by just 800 votes, according to planner Dan Pennick. “I’m sure it will reappear on the ballot. It’s encouraging that it did come that close.”

In Wake County, North Carolina, voters passed a \$15 million bond for open space and farmland, but it may be too little and way too late in the fast-growing Research Triangle area where land values are skyrocketing. No specific amount is designated for farmland protection – it is just “in the mix,” said Rick Bailey, director of the Wake County Soil and Water Conservation District.

In Michigan’s Washtenaw County, voters approved a dedicated property tax increase for “acquisition of environmentally-valuable areas, to preserve wildlife habitat, water quality and recreation.” Estimated revenue over 10 years is \$25 million. Two years ago, Washtenaw County was a battleground leading up to election day when development interests succeeded in crushing an initiative that would have established a purchase of development rights program for farmland and a 0.4 mill property tax increase to fund it.

In Maryland, Baltimore County voters approved \$10 million in bond issues for open space and \$2 million for farmland preservation.

In Montana, where a farmland preservation program started last year with just \$1 million, one county, Gallatin, approved a \$10 million bond issue for land preservation.

In Wisconsin, which has no state purchase of development rights program, Sheboygan County voters passed an “advisory measure” to establish

OREGON SEEKS TAKINGS CLAIMS**Vote may wreck nation's most renowned land use law**

PORTLAND, OR – Oregon voters went against the grain Nov. 7 and approved what will likely be the nation's most far-reaching property rights compensation measure, with effects to be felt throughout this state's historic, nationally renowned growth management regulations.

Experts say approval of Measure 7 will have extensive implications for environmental protections in place since passage of Senate Bill 100 in 1973, Oregon's long-touted land use planning law.

Measure 7, which amends the state constitution, requires state and local governments to pay landowners when a law or regulation reduces property value by any amount. Because some of the language of the new law is vague, no one knows which regulations or rules long administered under SB 100 will be affected. That will likely be determined by the state's landowners as lawsuits are filed.

Planners and conservationists are stunned by passage of Measure 7, said land use consultant

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**Local ballots, continued from page 5**

a fund that would include money for agricultural lands and open space.

According to the Land Trust Alliance, last year voters passed 90 percent of 102 local measures authorizing \$1.8 billion in local taxing authority and bond issues for land preservation. The year before, voters passed 84 percent of 148 referenda totaling \$8.3 billion in spending authority. The success of these measures prompted consideration of spending bills in Congress to supplement local initiatives, most notably through the Conservation and Reinvestment Act (CARA) which failed to move through Congress and was supplanted by a Department of Interior appropriations package that included no funds for farmland preservation. No additional funds have been forthcoming in other appropriations bills before Congress.

Mitch Rohse, former communications director for the Oregon Department of Land Conservation and Development and an expert on Oregon land use law.

"The reasons for passage were pretty murky. I think the measure was widely misunderstood," Rohse said. "The legislature convenes in January. It might be able to adopt legislation that would flesh out some of the details in how it would be administered ... but it's a conservative legislature."

A study commissioned by 1000 Friends of Oregon identified 90 state and local regulations that could be tested, including comprehensive plans and zoning and subdivision ordinances.

Included in that study was an opinion that the law "is clearly intended to include regulations adopted in the past but enforced in the future ... although new laws are generally applied prospectively, a new law will be applied retrospectively if such intent is clearly stated," and the law is clear on that point, the opinion said.

The study, conducted by ECONorthwest, the region's largest economics consulting firm, said the impact of Measure 7, "would extend beyond traditional land-use restrictions because the initiative specifically defines property to include structures, minerals, forest products, and other crops. Consequently, building codes, safety regulations, and a variety of environmental regulations are also covered by the measure."

These would include urban growth boundaries and recent restrictions on rural land divisions.

Because urban growth boundaries bolster property values for landowners inside the boundary and could be seen to reduce values outside it, landowners outside could request payment for lost development opportunities, the study said.

According to Rohse, the Oregon Land Conservation and Development Commission, following Measure 7's passage, "had a conference call and decided to suspend rulemaking on UGBs and development in areas with natural hazards, to see how Measure 7 will work."

*please continue to page 7*

**Oregon, continued from page 6**

Rural land use restrictions could also be hard hit. Downzonings, including the most recent that affected about 89,000 acres and created a two-acre minimum lot size, could trigger Measure 7 claims, the study's authors believe.

Measure 7 amends Article I, section 18, of the Oregon Constitution, which provides that "private property shall not be taken for public use ... without just compensation..." and state courts have found that government regulations can effect a taking when that regulation deprives the owner of "all economically viable use," following *Lucas v. South Carolina Coastal Council*, decided by the U.S. Supreme Court in 1992. Now, Measure 7 will require payment when a restriction is determined to reduce fair market value by any amount.

While conservationists, notably 1000 Friends of Oregon, vow to seek ways to at least mitigate the effects of Measure 7, any quick solution is unlikely, experts say, because constitutional amendments are difficult to overturn.

"If there is a basis, I haven't come up with it yet," said law professor and takings expert Donald Large of the Northwestern School of Law, to *The Oregonian*.

Without a court injunction, environmental and farm and forest lands regulations are likely to suffer, conservationists say, because local governments will be unable to withstand large compensation costs, and so may stop enforcing affected laws.

According to Art Schlack, policy manager for the Association of Oregon Counties, city and county attorneys are scrambling "to reach some consensus as to what to advise" local government on how to implement the new law, such as what technical criteria should be required for claims.

Oregon joins at least four other states that enacted compensatory takings laws in the last 10 years, but that require a certain level of compensation. Texas, for example, requires compensation only when the cited regulation diminishes value by 25 percent or more. Mississippi passed a law with a 40 percent kick-in, applying to farm and forest lands. A Florida law is more open-ended, requiring compensation when a law "inordinately burdens" a

use. Many other states have laws requiring that proposed laws be assessed for their impact on property rights before enactment.

Oregon's attorney general will issue an opinion on Measure 7's impact before the law takes effect Dec. 7.

Contact: *Mitch Rohse*, 503 559-6558 or [mitchrohse@home.com](mailto:mitchrohse@home.com); *Art Schlack*, 503 585-8351.

## professional resources ...

### Job Postings

**Assistant Farmland Preservation Program Coordinator, Burlington County, (NJ)** - An enthusiastic self-starter needed for successful and innovative Farmland Preservation Program. Responsibilities include support to the easement purchase program; interfacing with the state farmland preservation program; public outreach; and information management. The qualified applicant will possess excellent written, organizational, and interpersonal communication skills and will have strong computer skills. Candidate should be able to manage multiple priorities, work interactively with a small staff, and speak publicly. A degree in agriculture, environmental science, planning, or a related field is required. County residency will be required. Valid New Jersey driver's license required. Send resume to: Susan E. Craft, Coordinator Office of Land Use Planning, Burlington County Office of Land Use Planning, P.O. Box 6000, Mount Holly, NJ 08060. Email resume to [CMurphy@co.burlington.nj.us](mailto:CMurphy@co.burlington.nj.us) or [SCraft@co.burlington.nj.us](mailto:SCraft@co.burlington.nj.us) or fax (856) 642-3860.

**Resource Conservation Coordinator, Burlington County, (NJ)** - Enthusiastic self-starter needed for a land and resources conservation position in the county's Office of Land Use Planning. The two primary areas of responsibility include coordinating the county's growing Open Space and Parkland Acquisition Program and facilitating the County's Watershed Management Area (WMA) Planning process within the Rancocas Creek watershed. Responsible for all aspects of land acquisition including interface with county's Open Space Advisory Committee and coordination with municipal officials, landowners, consultants and the State Green Acres program. Collaborate with the Parks Department in the development of county park plans. Must be energetic and capable of managing multiple priorities and responsibilities. Bachelor's degree in landscape architecture, environmental planning, land use management, forestry, or a related field, and at least five years professional experience. Position available immediately. Salary commensurate with experience. Residency in Burlington

*please continue to page 8*

County required. Resumes and inquiries to: Susan E. Craft, PP, Coordinator, Office of Land Use Planning, P O Box 6000, Mount Holly, NJ 08060, (856) 642-3850, e-mail: SCraft@co.burlington.nj.us

**Executive Director, Three Valley Conservation Trust (OH)** - Applicants must have a strong commitment to protection of land resources; communications and negotiating skills; documented fundraising experience; administrative and management experience preferably with a nonprofit organization; ability to relate effectively with a variety of landowners groups, natural resources professionals and the public; ability to work decisively while also working effectively with a *Board of Trustees*. Bachelor's degree required; graduate degree in a related field preferred. Salary and benefits dependent upon qualifications. Submit letter and resume to: Search Committee, Three Valley Conservation Trust, P.O. Box 234, Oxford, OH 45056. (posted 11/9/00)

**Potomac Watershed Partnership Coordinator, Potomac Conservancy (VA)** - This position will administer, implement, and promote the new Potomac Watershed Partnership (PWP) Large-scale Watershed Restoration Project, a partnership of federal and state government and private conservation groups. The Coordinator will facilitate communication between partners; develop outreach and communication tools; assist in fund raising; provide technical assistance, and program and financial management; represent PWP in varied settings; and evaluate, interpret, and synthesize information to guide activities. Requirements: degree in related field; proven project management experience; ability to work effectively with diverse constituents; excellent communication skills; willingness to travel throughout the watershed; high energy professional with commitment to protecting the Potomac River and its landscape through public/private initiatives. Experience working with government agencies a plus. Excellent benefits including 403(b) plan; salary commensurate with experience. Apply immediately w/letter and resume to Matthew Logan, Executive

Director, Potomac Conservancy, 1730 North Lynn St., Ste. 403, Arlington, VA 22209. Open until Nov. 30.

**Project Associate, The Trust for Public Land (CO)** - This position, located in Denver, assists the Colorado team in preserving critical open space utilizing nonprofit land acquisition, public finance and planning techniques by performing project research, program administration and coordination. Responsibilities include: assisting program staffing all phases of public finance projects, including research, polling, public outreach and campaign implementation; providing research of land ownership, land use, legal, political, and economic issues associated with land acquisition projects; coordinating grassroots support for projects; and providing overall help to the Colorado team. Qualifications: Industrious and independent worker; good judgment; bachelor's degree; two years experience; familiarity with Colorado land use issues, communities, and governments; superior written and verbal communications skills; political campaign experience a plus. Letter of interest and resume to Human Resources, TPL, 418 Montezuma, Santa Fe, NM 87501. For more information visit [www.tpl.org](http://www.tpl.org). Salary DOE. We are actively recruiting a diverse work force. (posted 11/3/00)

*For other positions with land trusts, see the Land Trust Alliance Web Site at [www.lta.org](http://www.lta.org).*

### Conferences & Workshops

**Jan. 12 - 13, Hagerstown, MD:** *Farming for Profit and Stewardship*, sponsored by Future Harvest - Chesapeake Alliance for Sustainable Agriculture. On-farm processing and value-added options; improving soil fertility; develop new ag enterprises. Contact Bruce Mertz, 410 604-2681 or email to [fhcasa@umail.umd.edu](mailto:fhcasa@umail.umd.edu).

**March 1 - 3, 2001, Park City, UT:** *2001 National Green Space Design Conference: Redefining the Legacy of Open Space*, sponsored by the Green Space Design organization. Learn practical methods of

open space preservation from industry leaders. Keynote speakers: Randall Arendt, president, Greener Prospects; Will Rogers, president, Trust for Public Land; and others. Call 1-877-GSD-PLAN or see [www.greenspacedesign.com](http://www.greenspacedesign.com).

**March 13 - 16, Atlanta, GA:** *Rebuild America, National Forum 2001*, sponsored by the U.S. Department of Energy. Features innovative projects and leading experts on sustainable communities, energy efficient technologies, clean energy & transportation, high-performance buildings and community revitalization. Call Christina Van Fleck, 301 588-4229 or email to [rebuildamerica@drintl.com](mailto:rebuildamerica@drintl.com).

## Farmland Preservation HOTLINE

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