

..... **CONSERVATION** .....

**AND**

**AFFORDABILITY OF WORKING LANDS:**

**NINE CASE STUDIES OF LAND TRUSTS WORKING**

..... **WITH NEXT-GENERATION FARMERS** .....



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# CONSERVATION AND AFFORDABILITY OF WORKING LANDS

## NINE CASE STUDIES OF LAND TRUSTS WORKING WITH NEXT-GENERATION FARMERS

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# INTRODUCTION

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A recent survey by the National Young Farmers Coalition determined that new farmers face substantial barriers to entering agriculture. Topping the list are: poor access to land; insecure land tenure; and poor access to financing. Our nation's beginning farmers are so hindered that they are not entering agriculture in great enough numbers to fill the shoes of our aging family farmers. The result is that we find ourselves in a national farm transition crisis. In California, there are nine senior farmers aged 65 and older for every young farmer under age 35. Our state's beginning farm operators decreased in numbers by a full twenty percent between 2007 and 2012.

According to researchers at the Farm Land Access, Stewardship, Tenure and Succession (LASTS) project, an estimated seventy percent of U.S. farmland will change hands in the next twenty years... and who will buy it? If current trends continue, not farmers. Eighty-eight percent of the nation's farm owners are landlords, not farmers, and that number is growing.

The American Farmland Trust reports that an average of 30,000 acres of good California farmland are lost annually. This is mostly for residential development, which drives up land values. Revenues from small farms generally cannot support a mortgage based on residential values, as opposed to agricultural values, leaving these farms particularly vulnerable to conversion to "rural ranchettes."

Staff at California FarmLink have observed this dilemma directly over the past fifteen years while working to link a new generation of independent farmers and ranchers with land and business resources for a sustainable future.

We are pleased to be increasing our collaborations with land trusts and other conservation groups who share our belief that agricultural lands are best protected by promoting secure tenure for the farmers and ranchers who steward them. Following are nine examples of how land trusts and other conservation groups are working to accomplish this.

# I. LAND TRUST LEASES LAND TO FARMER

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## Sonoma County Agricultural Preservation and Open Space District with Tierra Vegetables

Since 2002, Tierra Vegetables has leased 17 acres from the Sonoma County Agricultural Preservation and Open Space District (SCAPOS), a county agency that is funded by a county-wide sales tax and answerable directly to the Board of Supervisors.

This farm is located between the cities of Santa Rosa and Windsor, and as part of its mission to encourage and support local agriculture in community separators, SCAPOS decided to lease the property to an organic or sustainable farmer. With help from FarmLink and other local groups, the District issued a public Request for



Photo courtesy of Tierra Vegetables

Proposals (RFP) and selected Tierra Vegetables, owned by Wayne James, his sister Lee James, and Wayne's wife Evie Truxaw. The James siblings already had over a decade of organic farming experience in the county. The farmers had hoped for a long-term lease, but together with SCAPOS they settled on a five-year renewable lease. Tierra Vegetables leases a number of parcels and owns one of them, and the trio has worked very hard to make their farm stand and CSA a success. They have renewed the lease twice.

In 2010, Tierra Vegetables moved a nearby historic barn, which was slated for demolition, to the farm. The farmers saw it as a good opportunity to expand their farmstand and have storage on the property. The barn was given to them free of cost, and with the support of their customers, they were able to cover the costs of dismantling, moving, and reassembling. The project cost was still substantial, but Tierra Vegetables felt confident raising the money and overseeing the project under the terms of their lease.

In 2012, in a strange twist of fate, the California Department of Transportation (CalTrans) exercised Eminent Domain over roughly 4 acres of the parcel owned by SCAPOS, so Tierra Vegetables now leases only 13 acres from SCAPOS.

Tierra Vegetables will have the opportunity to purchase the property in 2017, with SCAPOS holding onto an agricultural conservation easement. In that event, the farmers would have the opportunity to participate in the drafting of easement language.

Land trusts that own agricultural properties must make decisions about how to manage those lands. There is real public benefit in leasing to qualified farmers such as James and his partners. The farmers produce excellent food for their local community and thereby build goodwill toward the District, and they manage the land according to the District's stewardship guidelines. They even benefit the greater public by offering limited public access



through tours. Still, like most land trusts, the Sonoma County Agricultural Preservation and Open Space District ultimately prefers to have its protected lands independently owned and stewarded by folks like the farmers at Tierra Vegetables. Meanwhile, the 5-year lease has served both parties well.

## References

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Hutchinson, Ann. "Preserving History While Preserving Produce." *The Press Democrat*. September 19, 2014.

James, Wayne. Personal and email interviews.

## 2. COMMUNITY LAND TRUST SECURES LAND FOR FARMER WITH LIFETIME LEASE

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Trust for Public Land, City of Northampton, Massachusetts Department of Agriculture, and Grow Food Northampton, with Crimson and Clover Farm



Photo courtesy of Crimson and Clover Farm

When two farms went up for sale in the Town of Northampton, Massachusetts in the summer of 2009, the community banded together to keep the properties in working agriculture and owned by farmers.

At that time Grow Food Northampton, now a strong local non-profit, was just a listserv of local food activists. They came together to take action when Bean Farm and Allard Farm, adjacent dairies on beautiful river bottom soil, went on the market.

In 2010, they were able to engage the Trust for Public Land (TPL) in their efforts and the land trust purchased the 180 acres of farmland for \$2.5 million. TPL sold 60 of those acres to the City of Northampton to develop a recreational complex and river greenway while the City and the Massachusetts Department of Agricultural Resources purchased a conservation easement on the remaining 121 acres. In April 2010, Grow Food Northampton incorporated as a nonprofit and raised over \$670,000 in six months to buy the property from TPL by February 2011.

Jen Smith and Nate Frigard, owners of Crimson and Clover Farm, were selected as the site's first farmers after a three-month application process involving a review panel that included local farmers. The couple signed a 99-year lease with Grow Food Northampton on 37 acres of the property to grow vegetables, fruits, and

livestock. The couple also has a five-year lease (that will soon be converted to 99 years) on 43 additional acres of the property. They worked out an arrangement with Grow Food Northampton to lease the additional acres for free the first year, at half price the second year, and at full lease value in the third and beyond.

The lease, which is based on a template developed by Massachusetts nonprofit Equity Trust, includes the right to pass on this “lifetime” lease to their next of kin. The farmers are required to sell to local markets first, the definition of which was negotiated between Jen and Nate and GFN before the lease was signed. The lease also requires the farmers follow certain organic standards, although they do not have to be certified and are allowed to spray herbicides on invasive species. The lease remains flexible so that both the farmers and GFN can negotiate changes to the terms in the future if necessary. In addition, the farmers can sell their interest in the leased property and improvements at any time subject to alerting GFN, which has a purchase option on the property. If the property is not transferring to the farmer’s heirs, it must transfer to either GFN or another qualified farmer.

The property does not include a house for the farmers, which has been a challenge for Nate and Jen. The couple was ultimately able to purchase a home abutting the property, but it took significant capital input. The property did have three barns in which the farmers purchased a leasehold interest for \$26,000, which was the appraised value of the barns without land. Future tenants are required to purchase the barns when they sign the property lease, which will allow Nate and Jen to recover the cost of improvements that they make to the structures. The couple can build other farm structures on the property as well, but have to notify by GFN and the State.

The farmers’ rent on the tillable land is determined based on appraisals of other local lease fees for agricultural land, taking into account the extra requirements of their lease, and the long-term tenure that it offers them. In the past, GFN has been flexible about the timing of the farmers’ yearly payment to accommodate their farm cash flow, but both parties have now agreed to move to steady monthly payments.

In addition to the lease to Crimson & Clover, the Grow Food Northampton property is now home to four other small farms and a community garden.

## References

Smith, Jen. Personal interviews.

[www.crimsonandcloverfarm.com](http://www.crimsonandcloverfarm.com)

[www.growfoodnorthampton.com](http://www.growfoodnorthampton.com)

### 3. FARMLAND PURCHASED, ENCUMBERED BY EASEMENT, AND SOLD TO BEGINNING FARMER

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Photo courtesy of High Ground Organics

Open Space Alliance, County of Santa Cruz and California Department of Fish and Game, with High Ground Organics

High Ground Organics is a family farm on 38.5 acres near Watsonville, California. Located above Harkins Slough, a sub-watershed of the Watsonville Slough, the property is in a critical location for protecting the watershed from development and other adverse impacts. About half of the land, which is moderately steep and leads down to the slough, is protected by a conservation easement that prevents development and farming. The other half of the land is protected under a unique agricultural conservation easement that prohibits development and requires that production on the farm portion of the property be carried out in accordance with organic standards.

In 1999, the Open Space Alliance (OSA) of Santa Cruz County purchased this unique property for \$680,000, with a \$480,000 repayable grant from the California Coastal Conservancy and a \$200,000 grant from the County of Santa Cruz, which in turn used funds from the Wildlife, Coastal, and Park Land

Conservation Act. OSA assigned a conservation easement to the California Department of Fish and Game (DFG) as part of their Watsonville Slough Ecological Reserve and an agricultural conservation easement to the County of Santa Cruz, protecting both habitat and agricultural resources in perpetuity. The agricultural conservation easement, which covers roughly half the property, requires that any agricultural production must be in accordance with the National Organic Program.

The OSA had purchased the property, which included a house in need of repair, with the intention of protecting it and then selling it to farmers who would be able to steward it consistently with the agricultural and conservation goals. They publicized the purchase opportunity to farmers in the area, and farmers Stephen Pedersen and Jeanne Byrne were identified as conservation-minded buyers with farming experience. In 2000, the land was sold to them for a reduced purchase price of \$430,000. It is worth noting that even at the reduced price, Pedersen and Byrne had to enter into a mortgage with family to finance their purchase; it would have



been difficult for them to obtain a conventional loan based on their income and the scale of their farming experience prior to this acquisition. The OSA applied the full sale amount toward repaying the Coastal Conservancy, retaining \$50,000 of the original grant for administrative and transaction costs.

The combined easement value, therefore, was \$250,000 (the difference between the purchase price of \$430,000 and the full market value of \$680,000). Without this easement, the couple would not have been able to afford the land they now steward and farm.

Pedersen and Byrne, who have two children, have made major repairs to the house, demolished unsalvageable buildings, removed old garbage, and repurposed an old milking parlor into a packing shed. They have been able to grow their business, pay their mortgage and other living expenses, pay rent on additional farmland, and they have even purchased additional neighboring property with a traditional mortgage. Pedersen and Byrne now farm almost 50 acres of row crops, fruit and livestock—just under 20 of those at the Harkins Slough home farm described here. In addition they have secured permission from DFG to graze livestock for management of the conservation portion of their property. Their markets include a CSA, a farm stand, and a small amount of wholesale to restaurants and select grocers. If the couple ever wants to sell their property, they may do so, subject to the easements. At this point, they have no intention of leaving.

The OSA, which has since disbanded, has called the land transaction “an environmental success story, an excellent example of how public/private partnerships can assist in protecting valuable land for our community. This model of sustainable agriculture and wetlands/wildlife habitat protection can be the basis for other such partnerships.” Indeed, High Ground Organics has since won multiple stewardship awards for their good work. The outcome is win-win: the farmland and surrounding watershed are protected in perpetuity, and the land was made affordable to these beginning farmers.

## References

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Wagner, Christine. “Land Trust Purchase with Later Sale to Beginning Farmer and ACE Withheld.” *The Farmer’s Guide to Securing Land*. California FarmLink, 2008.

## 4. FARMER PURCHASES FARM AT FULL MARKET VALUE, THEN SELLS EASEMENT TO LAND TRUST

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### Placer Land Trust with Natural Trading Company

Farmer Bryan Kaminsky developed a farm called The Natural Trading Company, starting in 1995 on 2.5 acres, and moving in 2007 to 40 acres near Newcastle in Placer County. The owner



Photo courtesy of The Natural Trading Company

of the Newcastle property was aging, and decided to put it on the market. Kaminsky wanted to keep farming the land and sought to work out a simultaneous transaction with Placer Land Trust, whereby the owner would sell a conservation easement and Kaminsky would purchase the land at its reduced value. But the owner and his heirs were not comfortable with this approach. So Kaminsky borrowed over \$150,000 from friends and family to make a down payment on the land and purchased it for \$1.2 million, with financing from the seller.

Kaminsky knew he could not sustain the purchase amount. His plan was to sell a conservation easement to the Placer Legacy, a countywide open space and habitat protection program that had committed to working with Placer Land Trust on the project. Upon the sale of the easement, he planned to make a balloon payment to reduce his note to the landowner.

The process ended up taking longer than Kaminsky expected, but Placer Legacy, in partnership with Placer Land Trust and the Department of Conservation, was eventually able to purchase the easement in 2010 and now proudly holds up this example as a success in preserving local agriculture. The easement ended up being worth approximately half the market value of the property, a real game-changer when it came to affordability. It prevents any use or development of the property that would significantly damage or impair the property, including its agricultural viability.

Placer County land is expensive, and Kaminsky was fortunate to secure personal financing until the deal could be finished. The time it takes to draft, negotiate, fund, and execute a conservation easement is a real limitation of this tool, since standard buyers are frequently able to act faster than conservation buyers, and sellers are often pressed to close the deal. In this case the seller was patient, the farmer was creative, and the community is highly supportive of local agriculture. This has been a win-win arrangement for all involved.

## References

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## 5. LAND TRUST PURCHASES EASEMENT SIMULTANEOUSLY WITH FARMER PURCHASE OF LAND

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### PCC Farmland Trust with Dropstone Farms



Photo courtesy of Dennis Lussier

Lauren Manes and Garth Daley Highsmith, of Dropstone Farms, connected with PCC Farmland Trust through Cascade Harvest Coalition's Washington FarmLink program because they were interested in acquiring new land at an affordable agricultural value by purchasing at the same time that PCC Farmland Trust purchased an easement.

The couple had previously been farming on Bainbridge Island, where they owned a two-acre property and leased a few additional acres from other farmers in the area. Their

pastured livestock operation outgrew the small acreage, and they were looking for a larger property to grow their business.

After getting connected with the land trust, Manes and Highsmith went through the process of submitting a proposal in response to a Request for Proposal (RFP) for a farm property that the land trust was actively trying to connect a farmer with. They submitted a business plan, financing structure, details about prior experience, and a list of their available resources. During the application process, PCC Farmland Trust and the farmers realized this was not the ideal property for Dropstone Farms, but kept working together to find a better match.

The 95-acre property that the land trust ultimately connected them with was a former dairy that had been sold to a developer. The developer had purchased it to pull the water rights off for a private water corporation and planned to develop 10 "ranchette" home sites. The development plan eventually fell through, and the property was listed on the market for a few years before PCC Farmland Trust was able to secure it. The land trust negotiated with the landowner and obtained a purchase and sale agreement for the conservation easement and an option for the fee simple purchase. The option agreement included the right to assign the option to another buyer with some limitation for approval by the existing property owner.



Overall, the project took three years to complete, from the land trust's initial introduction to the original property owner, to closing on the easement and sale to the new farmers. The grant process with the USDA Natural Resources Conservation Service (NRCS) to fund the easement purchase took two and a half years of this time. The final six months before the sale to the farmers involved a significant capital fundraising campaign to fill a gap in the easement funding. For the farmers, it took roughly eight months from when they connected with PCC Farmland Trust through Washington FarmLink and began considering the property to the closing.

At the final transaction, all parties from both transactions (the purchase of the property by the PCC Farmland Trust and the sale of the property from the land trust to the beginning farmers) arranged to have all signed documents and funds available simultaneously at the closing, so that the recording of the purchase by the land trust and closing of the sale to the farmers occurred within minutes.

The property was originally appraised at \$2.12 million, with a standard conservation easement valued at \$925,000, making the value of the property \$1.195 million. With a provision that limits any future residence on the property to 2,000 square feet or less, the value of the easement increased to \$1.51 million, driving the overall property value down to \$610,000. By securing \$1.51 million in public and private funds to purchase the easement, PCC Farmland Trust was able to facilitate the sale of the property at the reduced value of \$610,000. With the help of a non-traditional loan, Manes and Highsmith were able to purchase the farm.

The couple grows certified organic hay and produce pastured pork, beef, lamb and poultry on their farm, feeding certified organic hay and grain.

## References

[www.pccfarmlandtrust.org](http://www.pccfarmlandtrust.org)

[www.dropstonefarms.com](http://www.dropstonefarms.com)

Campbell, Melissa (PCC Farmland Trust). Personal interviews.

## 6. SALE OF EASEMENT ALLOWS RANCHERS TO HOLD ON TO FAMILY LAND

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Photo courtesy of Ricky Gutierrez

### American River Conservancy with Pilot Hill Ranch

When his family's 1,000-acre ranch in El Dorado County came under threat of sale for development in 2006, Ricky Gutierrez approached California FarmLink for help. Pilot Hill Ranch was owned at the time by Ricky's mother and four of her siblings as tenants-in-common, although she owned a majority share, and was being leased to a local cattle rancher. It had been in the family since 1899; Ricky's great-grandfather was the last in the family to run it. But in 2006, one of the uncles was threatening to force a sale in order to get his equity out. Sibling relationships among the owners were strained, and the need for a family ranch succession strategy was urgent.

Ricky and his brother David had long hoped to carry on their family legacy and eventually raise cattle there again, but they hadn't expected to do so this soon. David lived in the only cabin on the ranch and had put substantial volunteer effort into its upkeep. At the time Ricky contacted FarmLink, the property had been listed for \$3.6 million. Ricky's mother wanted to see the ranch stay in her family and pass her share to her sons but they were not able to buy out her siblings.

Just shy of 1,000 acres bordering the American River, the property was comprised of seven parcels, each under rural residential zoning, with parcel sizes ranging from 10 to 160 acres. A major housing development had recently gone up across the road, and land conservation efforts had begun in the area.

FarmLink referred the Gutierrez family to a few local land trusts, including the American River Conservancy (ARC). ARC immediately saw the value of protecting this stretch of land along the river and was able to commit \$1.8 million to purchase easements on three of the ranch parcels, using funds from the Wildlife Conservation Board and some of its own funds from a “Preserving Wild California” grant. It would be over a year before the funds came through, however, and time was of the essence.

Ricky wanted to understand how the sale of a conservation easement might affect the purchase price of the shares of his uncles, and whether such a sale would allow him and his brother to take over partial ownership of the ranch. FarmLink connected Ricky with a real estate attorney experienced with conservation easements who helped answer his questions and played an instrumental role in the acquisition of the easement.

“To be sure we could sustain the purchase, FarmLink found us a consultant who helped develop a preliminary business plan for our ranching enterprise,” Ricky Gutierrez said. “They also provided guidance in our search for financing to make the ranch purchase until the easement could be completed.”

After eight months of legal review and negotiation over the conservation easement, hard work to secure financing, and difficult bargaining with the two most rancorous uncles, the Gutierrez brothers bought out the two uncles, each of whom owned ten percent of the property, for \$640,000. Their purchase was made with a low-interest loan guaranteed by the USDA Farm Service Agency (FSA), made with the condition that they would immediately begin a ranching business. They jumped onto the steep learning curve of how to fence, which livestock to raise (they began with meat goats), and how to improve the quality of their grazing land to comply with their easement.

The brothers were extremely fortunate that the deal came together relatively quickly and that their mother already owned a majority share. When the easement was funded over a year later, they were able to pay off their loans and, with their mother’s help, buy out the other two siblings.

Ricky and his brother are glad to now be ranching on the land that has been in their family for four generations. By partnering with the land trust, the Gutierrez brothers have been able to continue the family legacy of ranching on this property.

## References

Gutierrez, Ricky. Personal and email interviews.

Johnson, Kendra. “Easement Sale as Part of a Farm Succession Plan.” *The Farmer’s Guide to Securing Land*. California FarmLink, 2008.

## 7. LAND TRUST OFFERS LEASE WITH OPTION-TO-PURCHASE CONSERVATION PROPERTY TO YOUNG RANCHERS, AND FINANCES PURCHASE

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The Nature Conservancy, Sandhills Task Force, and Shane and Kristi Daniels



Photo courtesy of Daniel Radler and The Nature Conservancy

Nebraska's Sandhills cover a whopping third of that state and have become important—though fragile—grazing land for ranchers. It has become clear to conservation groups that good grazing practices favor species biodiversity and can actually help sustain the important perennial grasses that hold these sandy soils together over the Ogallala Aquifer. Meanwhile, many of the smaller ranches in the area have gone out of business, some consolidated by area landowner Ted Turner. To address a growing concern about the loss of young farmers and ranchers, the Sandhills Task Force, a ranching and conservation coalition, came together with The Nature Conservancy (TNC) in 2005 to try to help a young ranching family get started.

TNC had purchased Horse Creek Fen Ranch, 3,240 acres of sandy hills with significant fen habitat, and decided it would be in its best interest as a conservation organization to help a young ranching family buy the land and set up a profitable business.

So the Sandhills Task Force, made up of a majority of ranchers along with government agency and conservation organization staff, agreed to help TNC facilitate a sale of the ranch to a young ranching family. To address the concern that the ideal candidates—experienced young cattlemen/women invested in ranching as an occupation—would not be able to afford such a substantial chunk of land, the Task Force worked with TNC to offer unique equity and financing options to the selected family. “We could have gone out and sold to the highest bidder,” TNC’s Jim Luchsinger said. Instead, he explained, they wanted to work with a family that would be conscientious and profitable, and might ranch into the next generation.



The group initiated a public Request for Proposals (RFP) to lease the ranch with an option to purchase at the end of five years. The purchase price would be set at the start of the lease, according to the value of the land, minus the value of a conservation easement to be retained by TNC. During the five-year lease, the lessees would be required to use management practices consistent with the terms of the eventual easement, to put a specified amount of sweat equity into the homestead and land improvements, and to attend a minimum number of mentoring meetings with members of the Task Force. TNC would incur very little financial risk—only the cost of staff time to implement the deal and the cost of delaying the sale.

After a rigorous application and interview process, Shane and Kristi Daniels were selected to lease the ranch. They had both grown up on cattle ranches nearby and had dreamed of returning to the Sandhills area but hadn't been able to afford to get back into the business. This opportunity changed everything for the couple and their four young daughters.

For five years, Shane and Kristi leased the land at fair market rate, under the mentorship of the Sandhills Task Force. Meetings were designed to optimize the Daniels' stewardship and business practices and covered topics such as soil and water conservation practices, ranch business management, and marketing. During this time, the couple made sweat-equity improvements to the land and business, and the land appreciated significantly, at an unexpected rate of almost 15 percent, during the lease period. TNC invested a good portion of their lease income back into land improvements, and at the end of the five years the Daniels were able to exercise their option to purchase the property. As planned, TNC retains a conservation easement.



Photo courtesy of Daniel Radler and The Nature Conservancy

The process of working together over the five-year lease period familiarized Shane and Kristi Daniels with TNC and the easement requirements and gave them access to critical guidance from both successful ranchers and conservation groups. The creative structure of the deal and TNC's patience in transferring the property offer an excellent example of how a land trust can promote the success of a new generation of agricultural land stewards.

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"Partnership Helps Young Ranchers Get a Start in the Sandhills." *Nebraska Cattleman*, September 2005.

"Conservation Partnership Hits New Milestone in the Sandhills." *The Nature Conservancy—Nebraska*, Summer 2011.

## 8. AFFIRMATIVE LANGUAGE: EASEMENT TOOL TO ENSURE THAT LAND IS CONTINUOUSLY FARMED

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### Marin Agricultural Land Trust with Thornton Ranch



Photo courtesy of Michael Woolsey and Marin Agricultural Land Trust

Marissa Thornton and her small-scale dairy represent the revival of Thornton Ranch. In her twenties, she's the sixth generation on the ranch, which was settled nearly 160 years ago by her ancestors, the Marshall family. But when her grandfather died in 2000 the property was nearly lost to estate taxes. In fact, Marissa's father Gary was forced to sell off his dairy herd and nearly sold part of the property in order to hold on to the land of his family's legacy.

Over the course of almost 10 years, Gary and Marin Agricultural Land Trust (MALT) negotiated a conservation easement and wrestled with myriad tax and legal issues. MALT, founded in 1980, is the first of this kind of land trust in the U.S., and one of the most influential on the West Coast. The land trust had grown concerned that its protected ranches were not necessarily destined to stay in agriculture, since preserved agricultural land is quite valuable for rural estates, and MALT's board of directors had seen more than one property grow a giant McMansion instead of an agricultural product.

MALT's members and the community at large seemed dedicated to the idea that lands protected by the land trust should continue to be agricultural, so the organization decided to adopt a tool already widely in use in Massachusetts and other eastern states—the affirmative requirement to farm.

A traditional conservation easement extinguishes certain rights on a given property, but affirmative language adds a new dimension that requires that the owner maintain continuous agricultural production. This tool, which is regularly used in Massachusetts and other eastern states, is relatively new to California.

If a property owner allows the land to go out of production, MALT reserves the right to lease the land to another farmer/rancher, to ensure that agricultural production continues. Lease payments are still made to the owner. As of 2011, all of MALT's easements contain the affirmative requirement to engage in productive agriculture, which they call Mandatory Agricultural Use (MAU).

The Thornton Ranch easement was acquired by MALT for \$2,239,500 in August of 2011. Their appraiser attributed about 10 percent of that value to the MAU. In the context of Marin County land values, this reflects a substantial reduction in value by the conservation easement and MAU provision. Not only has the ranch been kept in the family for another generation, it is now guaranteed to forever be an active part of the county's rich agricultural landscape. It will also remain more affordable to future generations of farmers by virtue of this innovative easement tool.

In an effort to bring the dairy of her ancestors back to life, Marissa launched a Kickstarter campaign (an innovative form of internet-based funding) in 2013 to buy a herd of Jersey cows. She was very successful and, now under her father's mentorship, is milking 10 cows and over 100 sheep purchased with a USDA Farm Service Agency (FSA) loan. The milk is piped directly to a creamery next door at Bleating Heart cheese, where it is turned into award-winning artisanal cheese.

"A lot of people have said they want to help make my dreams come true because they could tell I was passionate about agriculture and would hold up my end of the deal, which was really reassuring," Marissa stated in an article in MALT's newsletter. "They want to feel like they have a part in this project since it is for the good of agriculture."

While Marissa's business helps her family comply with the affirmative agricultural use requirement of their MALT easement, the easement in turn has protected the Thornton Ranch as a working farm forever.



Photo courtesy of Marissa Thornton

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## 9. OPTION TO PURCHASE AT AGRICULTURAL VALUE: EASEMENT TOOL TO ENSURE THAT LAND REMAINS AFFORDABLE TO FUTURE FARMERS

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### Equity Trust with Live Power Farm



Photo courtesy of Live Power Community Farm

When the farmland they had leased and developed in Mendocino County, California, for 20 years went up for sale in the early 1990s, Steve and Gloria Decatur, owners and operators of Live Power Community Farm, wanted to buy it. They thought about their investment, their commitment to farming for the rest of their careers, and their hope that another farmer after them would be able to continue on their productive work while owning land. But they were farmers, and the land's real estate value outstripped anything they could afford. Equity Trust, a Massachusetts-based nonprofit, had just begun to move beyond its work in affordable urban housing to address the need for affordable farms, and the organization agreed to help. The Decaturs had a devoted CSA membership that donated enough funds to Equity Trust to purchase a unique agricultural conservation easement. The Decaturs then purchased the property for its remaining agricultural or farm value.



The Live Power agreement included two particularly innovative tools: the affirmative requirement to farm (discussed in case study #8), and the Option to Purchase at Agricultural Value (OPAV). The affirmative language requires that the land be farmed organically or biodynamically. This is monitored by the submission of the farmer's certification records.

The OPAV maintains affordability by limiting the farm's resale value. This is done by prescribing an appraisal process whereby the farm value must be determined upon each transfer of the property. If the owner decides to sell the property at a price above its farm value or to someone who is not a qualified farmer; or if the owner is no longer farming the land in accordance with the terms of the easement, the land trust may exercise its OPAV, then find a suitable purchaser.

Most OPAVs specify that the land must sell to a qualified purchaser, usually someone who has demonstrated experience in production agriculture. Heirs are often exempted but would still need to comply with the easement.

The OPAV is in regular use by the Vermont Land Trust and the Massachusetts Agricultural Preservation Restriction Program, where it has been used in conjunction with hundreds of easements. It can add significant value to an agricultural conservation easement and can serve as an effective enforcement tool for land trusts. Most importantly, it ensures that, regardless of other market pressures, protected farmland will not be available to non-farmers, and will remain affordable to bona fide farmers.

## References

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## **THE OPTION TO PURCHASE AT AGRICULTURAL VALUE (OPAV)**

The OPAV has garnered substantial interest in California, because the state's agricultural land is highly susceptible to conversion to high-end rural estates and ranchettes, which often results in that land going out of commercial agriculture. Small- and mid-scale farms are especially vulnerable, with land values being driven up and out of reach of working farmers. Easements restrict value to some extent, but they don't necessarily protect against non-farm use, and the land can still be bid up by a rural estate or ranchette buyer. OPAV creates a vehicle to ensure that the land remains available only to working farmers, at an agricultural, rather than residential, value.

However, OPAVs are a relatively new concept in California, and adoption has been slow. As of this publication we are aware of only one California-based entity, the Sonoma County Agricultural Preservation and Open Space District (SCAPOSD), that has used an OPAV in conjunction with an agricultural conservation easement. Another project expected to include an OPAV is awaiting completion in Yolo County's Capay Valley. This project is greatly informed by the Decatur's easement with Equity Trust, which has set an important precedent for California.

# ABOUT CALIFORNIA FARMLINK

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*The mission of California FarmLink is to link independent farmers and ranchers to the land and financing they need for a sustainable future.*

Established in 1999, California FarmLink has developed a program of economic development support for beginning, limited-resource, immigrant and other underserved farmers across the state. To help farmers access land and capital, grow their businesses, and create jobs, FarmLink works directly with farmers in two main program areas.

## Access to Land

- Provides farmers and ranchers with information on land leasing, purchasing and alternative land tenure options.
- Coaches farmers on how to find land and helps them find financing for land purchases.
- Maintains an online hub of land for lease or sale, connects landowners and farmers, and helps them negotiate strong leases.
- Works with a network of experienced farm estate attorneys and CPAs to assist retiring farmers in passing farm and ranch businesses and assets to the next generation.
- Works with land trusts and public agencies to develop best management practices in the leasing of farm and ranch land, and innovative easements and leases that help farmers build equity.

## Access to Capital

- Provides flexibly structured loans of \$5,000 to \$250,000 for farm operating, infrastructure and equipment costs.
- Provides technical assistance and coaching in credit counseling, financing options, loan packaging, and cash flow projections.
- In 2015 FarmLink is launching a land loan program for sustainable and organic farmers whose access to financing is limited.

Visit [www.cafarmlink.org](http://www.cafarmlink.org) for more information about California FarmLink's services and resources, and to join the mailing list to receive our quarterly newsletter.



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