LandWorks Connection

Volume III, Issue 2
April, 2000

In This Issue:

FARMLAND LOSS DOUBLES

NATIONAL RESOURCES INVENTORY DOCUMENTS DRAMATIC LOSS

Since the last National Resources Inventory, farm and ranch land conversion doubled. Between 1982 and 1992, about 14 million acres of non-federal land was lost to development. The 1997 NRI — released in December by the USDA Natural Resources Conservation Service (NRCS) — reports that close to 16 million acres were converted from 1992 to 1997. More than half of that was agricultural land. In those five years, roughly 1.8 million acres of agricultural land was developed annually – up a staggering 107 percent from the rate reported for the previous decade.

The NRI is a statistically based survey of land use and natural resource conditions on non-federal lands in the United States. The survey is conducted every five years by the NRCS in cooperation with the Iowa State University statistical laboratory. Data includes information about land cover and use, soil erosion, prime farmland, selected conservation practices, wildlife habitat and wetlands. NRCS field staff collect data from 800,000 sample points representing 1.5 billion acres in the 48 continental states, Hawaii, Puerto Rico, the U. S. Virgin Islands, and (for 1997) portions of the Pacific Basin and Alaska. Staff interpret aerial photographs and use other remote sensing techniques to report on natural resource conditions and trends. On-site visits, soil surveys and field office records supplement this data. While the results are not absolute numbers based on a complete survey, the NRI estimates are the best source for U.S. agricultural land conversion data. *Note: As we go to press, NRCS has announced an error in the statistical estimation procedures. While the data base is being revised, NRCS claims "The revised statistical processing is not expected to significantly change any previously announced findings."*

Many individuals use the Census of Agriculture to get a handle on agricultural land conversion. However, the census captures net changes in "land in farms," but does not document what happened to land taken out of production or where additional acres came from. *continued on page 6*

INNOVATIONS

LIFETIME INHERITABLE LEASE SAVES FARMLAND FOR THE FARMER

The story starts out as a familiar one: a farmer, having invested 10 years improving soils and establishing crops on leased land, has to move. Though his business was growing and he was making a decent living, there was no way he could afford to buy land in New York's pricey Columbia County. But in this case, the familiar becomes unusual: the farm is supported by 650 active community supported agriculture (CSA) members, the land lies within an identified historic and conservation corridor, and—through the collaborative efforts of the membership and two land trusts—the farmer will be able to reinvest his energies in a new farm with a lifetime, inheritable lease.

For years, Chuck Matthei, director of the Equity Trust of Voluntown, Conn., has been helping community land trusts provide and maintain affordable housing through alternative ownership structures. Primarily focused on housing, he has challenged conservation land trusts on issues of land affordability.
continued on page 2

LandWorks
Serving the people who conserve the land

American Farmland Trust

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American Farmland Trust is the only private, nonprofit conservation organization dedicated to protecting the nation's strategic agricultural resources. Founded in 1980, AFT works to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment.

Basic membership is $20 per year. For membership or general information about AFT, contact the National Office at 1200 18th Street, N.W., Suite 800, Washington, DC, 20036, (202) 331-7300, or connect to our web page at http://www.farmland.org

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"An easement that restricts the land to agricultural use and limits development is not enough to keep it in farming. They go a step further, to make it affordable to farmers."
—Dan Luciano, Open Space Institute

Innovations

continued from page 1

Conventional conservation easements protect critical natural resources by limiting development, he says, but they do not ensure the land remains affordable and accessible to farmers. "In many parts of the country, there is another market: the second home or estate owner, who is willing to pay for open land a price no farmer could afford. This is a serious Achilles heel in farmland protection." So Equity Trust began to expand its focus to work on land-tenure issues faced by farmers.

The membership of Roxbury Farm, one of the oldest and largest CSAs in the country, wanted to obtain a secure base for the farm, and provide a model for agricultural land conservation nationally. Assistant farmer Sarah Shapiro says, "It was clear that we wanted to create some kind of ownership structure for the future, so we would not be in the same position again." The farmer, Jean-Paul Courtens, has initiated other cooperative endeavors, such as the apprenticeship training program that now involves a dozen Columbia County farms. So when faced with the crisis of having to find new land, it was a joint venture. As Courtens puts it, "We had a problem; all of us are going to solve it."

The agreement, drafted by Equity Trust, is similar to that used in community land trusts. It separates ownership of land from the development rights, and both from ownership of the business. Acting as surrogate land trust, Equity will purchase and hold title to the land, turn the conservation easement over to a local land conservation organization, and grant a lifetime inheritable lease to the principal farmer, on the condition that he and his heirs actively farm the land. The farmer has ownership of the business and any improvements he makes over time—including any structures he builds. Should the farmer or his children no longer wish to farm, they relinquish the lease. The land trust—in this case Equity Trust—has the first right to purchase the business and subsequent improvements at the current appraised value. The appraisal will be based on comparable agricultural value. "That's the protection for ongoing affordability," says Matthei. "The package of improvements will be sold as a farm unit, not as a weekend second home. Farmers will pay a reasonable lease fee. The land never needs to be purchased again. Every time this land turns over, it will be offered first to farmers at a price that reflects the current agricultural economy."

In this case, Jean-Paul Courtens and the Roxbury Farm CSA found land that has been farmed continuously for at least 400 years. Situated between the villages of Kinderhook and Stuyvesant Falls, the Kinderhook Creek Conservation and Heritage Corridor is the focus of two regional land conservation groups—the Columbia Land Conservancy and Open Space Institute (OSI)—who are working to maintain the historic agricultural landscape, stabilize it from future development, and create a public trail along Kinderhook Creek.

Equity Trust and the CSA members have launched a $600,000 capital campaign to purchase the land and build a distribution center, community meeting space, and storage/maintenance facilities. The charitable gifts will come to Equity Trust, and be tax-deductible. Equity will place a conservation easement on the lands and convey it to a local conservation trust, most likely OSI. The lease fee to Courtens will be based on an agricultural appraisal, which provides a "fair use value rent," adjusted to reflect other in-kind values provided by the farmer. In this case, maintenance of conservation value and public access—issues that serve the larger public interest—will reduce Courtens' lease fee. Property tax bills will be separated; Equity will pay taxes on the land and any capital improvements they fund, and Courtens will pay taxes on the house and future structures he builds.

The land purchase is complicated, but, says Matthei, "at this point it is falling nicely into place." Separating ownership of the land from the conservation easement ensures both the conservation purposes and the social obligations—keeping the land in agriculture—are protected. OSI's Executive Director Dan Luciano praises the Equity Trust for their creative legal framework. "Simply putting an easement that restricts the land to agricultural use and limits development is not enough to keep it in farming. It could become a retirement home for some wealthy person. They go a step further, to make it affordable to farmers," he says.

Luciano calls this project "one of the most interesting and exciting OSI has done... The project has historic preservation, agricultural land protection, landscape protection and public recreation components to it."

USING RESOURCES WISELY

DEVELOPING THE INFRASTRUCTURE

Agricultural economic development has taken many forms, depending upon the region, the nature of agriculture, and available programs. For the most part these efforts—such as training or business management and marketing, adding value to raw products, and direct marketing have been geared to the individual farmer. While programs such as the Massachusetts Farm Viability Program, according to director Kent Lage, have "stopped the hemorrhaging" loss of farmland, the underlying farm economy is still in trouble.

Farming is increasingly polarized, says Vermont's deputy commissioner commissioner of agriculture Louise Calderwood. "Dairy farms are becoming either larger and more specialized, or smaller and more dependent on family labor. Middle-sized farms are out." This perspective is shared by Phil Gottwals, a consultant with Agricultural Community Development Services in Maryland. "We have a bifurcated agriculture," he says. "Farms are either breaking 1,000 acres and growing fast, or 100 acres or less. The viability is at either end of the market. Everything between is drying up fast." The problem is, most of the farms in his region are the 200-400 acre family farms in the middle.

Understanding agriculture as a regional industrial cluster is essential to saving the rural economy, according to Jim King, whose Sacramento, California-based firm, Applied Development Economics, creates strategies to protect California's Central Valley communities. King challenges policymakers to see the agricultural economy as more than farming and ranching. "In California, only three to eight percent of the labor force is literally farming. But when you look at it as a cluster—all the pre- and post-production activities, from repair of farm equipment and installing irrigation to warehousing, processing, packaging and transporting agricultural products—then you have anywhere from 30 to 40 percent of the labor force in a rural area directly related to the agricultural industry." Any change in land use will affect the industry as a whole, which causes policymakers to take notice. "This is a powerful decision-making tool, which they haven't previously had at their disposal," says King.

A focus on the regional agricultural infrastructure characterizes Gottwals' work as well. Maryland's major food processors moved out nearly 30 years ago. With a combination of
continued on page 4

Lifetime Inheritable Lease Saves Farmland for the Farmer
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Connection

"The key to agricultural economic development is to provide enough alternatives that farmers have good options."
—Phil Gottwals

Using Resources Wisely *continued from page 3*

private, federal and state funding, Gottwals is developing a 35,000-square-foot, commercially scaled, shared-use processing center in central Maryland. "It will handle meat, bakery operations, jams and jellies, dry spice mixing, cheese and yogurt, soups, frozen dinners, the works!" he exclaims. The center, which will employ upwards of 90 people and serve 15 to 20 food processors, will provide access to value-added markets for farmers. It will also include consultants in nutrition, economics, marketing, management, labeling, and legal matters either at reduced rates or in-house as a free service. Gottwals hopes to develop smaller satellite services as part of a statewide processing network, as well as mobile processing tractor-trailers that could move from farm to farm. While costly (Gottwals estimates $2.7 million to get each mobile unit on the road), they could serve scale producers who can't travel long distances to get to slaughter and processing facilities. "The numbers are frightening at first, but the break even point is low enough" to make it financially viable, he says.

Skagit County, Washington, is in a similar situation. The only remaining pea processor is threatening to move to the eastern part of the state, where water and labor are cheaper. Don Wick, director of the Economic Development Association, says, "That remaining little bit of infrastructure is so vital, it potentially has a huge impact on the protection of farmland." So the EDA is managing a $30,000 feasibility study to create a controlled atmosphere and cold storage facility for local growers. Several groups hope eventually to consolidate processors, suppliers, warehousers and other companies in an agricultural industrial park to serve the region's pea and apple growers and other niche crops.

Tying agricultural viability to a larger economic cluster is behind a proposal in Loudoun County, Virginia. A citizens' group has designed an innovative, locally funded program to purchase development rights on agricultural land. The program would establish a Rural Economic Development District, and replace the development rights on participating farms with a broad package of permitted uses not customarily allowed in otherwise residential areas. These uses are compatible with or supportive of farming and forestry: processing, machinery sales and service, farm markets, restaurants which serve locally produced foods, guest ranch/farm facilities, equestrian facilities, sawmills, etc. The package of uses increases the agricultural value of protected farmland, lessening the gap between that and its development value.

This is one of several programs inspired by the county's "200,000 Acre Solution," a plan to double the value of the Loudoun County rural economy within a decade. According to the county's economic development officer, Lou Nichols, there is little public infrastructure to support agriculture. However he says "There is an emerging consensus for the need for a public/private venture—a tourism-driven, agricultural development center, small but commercial in scale," that would package and distribute the niche crops produced locally.

Public/private collaboration, geared to specific local markets and growers but regional in scale, is typical of the latest efforts to keep farmers on the farm. Says Maryland's Gottwals, "The key here is to provide enough alternatives so that farmers have good options."

Developing the Infrastructure

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LAY OF THE LAND

° Acres developed between 1992 and 1997	16 Million
° Acres of agricultural land developed between 1992 and 1997	9 Million
° Acres of agricultural land developed each year between 1992 and 1997	1.8 Million
° Increase in annual rate of agricultural land converted over rate reported for 1982 and 1992	107%
° Acreage protected by PACE programs to date	819,490

Data on agricultural land developed are from the 1997 National Resources Inventory, Natural Resources Conservation Service

POLICY REPORT

PICKING UP THE PACE

The escalating conversion of agricultural land (see cover story) is prompting an ever-growing number of states to adopt legislation to actively protect their farm and ranch land. Initially concentrated along the eastern seaboard, purchase of agricultural conservation easements (PACE) programs are beginning to move to the heartland and into more rural parts of the country. PACE, also known as purchase of development rights (PDR), programs compensate landowners for protecting their land for agriculture.

Since 1974, 19 states and at least 34 local jurisdictions have passed enabling legislation for PACE. To date, states have spent $937 million to protect 663,621 acres; local governments have protected 155,869 acres, bringing the total to 819,490. And the pace of PACE is increasing: 60 percent of that farmland was protected in the last five years, with 48 percent of the funds. Recent victories illustrate the range of states now enacting farmland protection measures.

> **Initially concentrated along the eastern seaboard, purchase of agricultural conservation easements (PACE) programs are beginning to move into middle America and into some of the more conservative legislatures across the country.**

Virginia

On March 10, the Virginia General Assembly voted to establish the Agricultural Vitality Program. The program will create an Agricultural Vitality Task Force within the Virginia Department of Agriculture and Consumer Services. The task force will develop a statewide standard, allocate money to localities to implement preservation programs, and administer a "Farm Link" program to connect retiring farmers with young farmers interested in pursuing a career in agriculture.

On the local level, Loudoun County Board of Supervisors recently adopted a PDR program, with 60 percent of the funds allocated to agricultural land. An alternative proposal would empower local landowners to create a service district by referendum, and fund the program through an increase in their property taxes to match available conservation grant programs. By targeting the land locally, citizens would be more likely to support the program, says Louis Nichols, Loudoun County's agricultural development officer. Some hybrid may result. Other efforts are underway in Chesapeake, Albemarle and Virginia Beach counties.

South Carolina

On March 15, the South Carolina Senate passed the "third reading" of the Farm and Forest Lands Protection Act (S.12) along to the House, where it will come before the House Agriculture Committee late in the month. The legislation—which identifies urban sprawl as the primary threat to agricultural land—would create a statewide program to purchase easements on farm and forest land if the land lies within county-designated "priority agricultural land areas."

The legislation, which had failed in two prior attempts, authorizes landowners or county boards to initiate the request for creation of priority agricultural land areas (PALs), to be evaluated and established by the newly created County Priority Agricultural Land Board. Late amendments to limit the ability of municipal governments and planning commissions to initiate PALs, and prohibit counties from imposing impact fees to fund the program, encouraged support from the Realtors' Association, Homebuilders' Association, electric cooperatives and Agriculture First Bank. Gary Spires, state legislative coordinator for the South Carolina Farm Bureau, says the bill strikes a "fragile balance" between conflicting concerns. Since farmers would sit on the County PAL Board, Spires says, "it gets farmers involved in the land use planning process."

Ohio

Through the newly created Office of Farmland Preservation, Ohio's Department of Agriculture will provide a two-thirds matching grant to purchase agricultural conservation easements, with the balance to come from participating counties, townships, municipalities or local land trusts. The Joint Committee on Agency Rural Review is reviewing program rules for participation and funding. A $200 million open space bond issue proposed by Governor Bob Taft, to include an as-yet undetermined amount for farmland easements, will come before voters in November 2000. *continued on page 8*

Farmland Loss Doubles *continued from page 1*

> **"That's the message that the 1997 NRI is spreading: we are taking our precious resource and exploiting it."**
> **—Drew Adam, NRCS**

Therefore, decreases in "land in farms" does not necessarily equal the amount of farmland developed. Furthermore, recent reporting changes, like the broadening of "land in farms" to include short woody crops and entire farms enrolled in the CRP, inflated farmland figures in many regions and made it difficult to compare statistics over time. Although the census supplies a wealth of information about farm and ranch production and operator characteristics, it does not provide a complete picture of land use trends.

The 1997 NRI Summary Report and NRI Highlights give national statistics. (See sidebar for an example of the Summary tables, an explanation of how to read them, and where to find the data.) States are reviewing state-level data prior to public release; as of March 15, 14 states had posted tables on their state Web sites. However, some striking trends are shown on one table, "State Rankings by Acreage and Rate of Non-Federal Land Developed" (located at http://www.nhq.nrcs.usda.gov/CCS/devtable.html).

Ten states developed more than 500,000 acres each; six of those in the south and southeast. The top three—Texas, Pennsylvania and Georgia, in that order—lost more than 1 million acres each, a rate of more than 200,000 acres a year of agricultural land plus forestland and other rural land. Agricultural land accounted for 55 percent of the total. Even more alarming, the rate at which land was developed during that five-year period increased three-fold for Georgia over the previous ten years, and Pennsylvania's rate of development increased more than five times. Pennsylvania lost 1.12 million acres, nearly as much as Texas (1.21 million), which is six times the size of Penn. Thus, while the developed land in Texas now totals 5.5 percent, the figure for Pennsylvania went from 10 percent in 1982 to 15.6 percent in 1997. More disturbing, Pennsylvania lost 548,000 acres of agricultural land – ranking second behind Texas, which lost 1,060,800 – despite its nationally touted farmland protection programs.

In the northeast, where the percentage of developed land is typically double digit, the problem is not due to an increase in overall population, as is the case in southern states. Drew Adams, an NRI specialist with NRCS, says, "We in the northeast are conspicuously losing important farmland in ways that don't necessarily equate to population increase. Strip malls, the potpourri of businesses and stores and corporations, are developing a lot more land. You can criticize population numbers, but this really shows that sprawl is escalating. That's the message that the 1997 NRI is spreading: we are taking our precious resource and exploiting it."

Table 8: Change in Land Cover/Use Between 1992 and 1997

Land Cover/Use in 1992	Land cover/use in 1997								1992 Total
	Cropland	CRP Land	Pastureland	Rangeland	Forest Land	Other Rural Land	Developed Land	Water Areas & Federal Land	
	1,000 ACRES								
Cropland	361,024.9	2,074.3	9,176.3	1,516.3	1,912.7	1,936.8	4,257.1	417.8	382,316.2
CRP land	2,167.3	30,425.4	869.0	272.1	244.4	42.3	17.9	3.0	34,041.4
Pastureland	8,718.0	135.7	106,287.2	1,584.7	6,440.8	1,040.6	2,992.5	234.5	127,434.0
Rangeland	1,881.4	36.6	670.2	398,013.0	1,473.8	828.2	1,689.9	398.5	404,991.6
Forest land	700.5	16.0	1,740.8	1,122.9	387,253.0	943.9	6,376.5	423.9	398,577.5
Other Rural Land	532.8	9.0	822.9	593.7	1,696.9	51,433.7	635.1	85.5	55,809.6
Developed Land	2.7	0.0	1.1	1.2	1.7	7.0	898,388.3	1.1	89,403.1
Water Areas and Federal Land	16.4	0.0	5.4	9.9	7.5	20.1	11.8	451,490.0	451,561.1
1997 Totals	**375,044.0**	**32,697.0**	**119,572.9**	**403,113.8**	**399,030.8**	**56,252.6**	**105,369.1**	**453,054.3**	**1,944,134.5**

Finding and interpreting the data

Press releases, information about data collection and statistical reliability and national results are posted at: http://www.nhq.nrcs.usda.gov/NRI. The 1997 NRI Highlights and the 1997 NRI Summary Report present national statistics. The summary report contains background information about the NRI and a series of figures and tables that portray selected national data. Tables 5, 6, 7 and 8 show national changes in land cover/use for four different reporting periods.

Table 8 of the summary report shows these changes in land cover/use between 1992 and 1997. Read it horizontally to see how a land use was distributed at the end of the reporting period. Read vertically to determine where that land use came from, in terms of 1992 land uses. For example, to determine how much agricultural land was developed between 1992 and 1997, read down the "Developed Land" column. You will see 4,257,100 acres of crop; 17,900 acres of CRP; 2,992,500 acres of pasture and 1,689,900 acres of range were converted to development over five years. To calculate net changes, subtract the total acres reported at the beginning of the reporting period (last column) from the total acres reported at the end of the reporting period (last row). Between 1992 and 1997, Table 8 shows that developed land increased by 15,966,000 acres.

Farmland Loss Doubles
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GOOD DEALS

LIKE-KIND EXCHANGE: LEVERAGING CAPITAL GAINS TOWARD FARMLAND PROTECTION

Farmers Steve and Kathy Melnik are no strangers to farmland protection. The Deerfield, Mass. dairy farmers have placed 430 acres of prime river-valley cropland under the state's Agricultural Preservation Restriction Program. Now, with the assistance of American Farmland Trust and aided by a section of the Internal Revenue Code that defers taxes on the sale of development rights, they will protect another 145 acres.

For 14 years, the Melniks had leased 90 neighboring acres, known as the Peffer Farm, with a right of first refusal, from three elderly sisters who were now ready to sell the fertile riverbottom land. To raise the cash, Steve Melnik decided to sell development rights—worth approximately $290,000—on an additional 55 acres of his own land. Under IRC Section 1031, Melnik can defer paying capital gains on that sale if he applies the entire amount toward a "like-kind exchange" of property. This type of exchange requires a "qualified intermediary," to acquire the second property and swap it for the development rights.

Enter American Farmland Trust. AFT purchased the Peffer farm, placed an agricultural preservation restriction on it, and exchanged the protected farmland for the APR on Melnik's land. AFT will recover its costs when it sells the development rights on both parcels to the state program. It's a win-win situation: the Melniks apply what would have been a considerable tax bill to new land, the land is protected, and the deal closes quickly.

"People may not think of easements as property interests that can be used in a like-kind exchange, but they certainly qualify." —Simon Sidamon-Eristoff

While not a new provision, §1031 has only been applied to conservation easements since a 1992 IRS ruling determined that such easements are property interests. The law allows exchange of business or investment property for property that is of a like kind, without recognizing financial loss or gain. Thus, a farmer who wants to expand operations—or invest in other business ventures—can use the proceeds from the sale of a conservation easement to buy more farmland or other real estate. Personal property, such as first or second homes or recreational lands, does not qualify, but a non-agricultural business does. In the Melniks' case, the newly acquired 100 acres includes an 1864, 14-room, Victorian house which they intend to turn into a bed and breakfast operation.

According to Tim Storrow, land protection program manager for AFT, this is a little known option that more landowners could employ. For the Melniks, "They were able to leverage their development rights into land they might otherwise have lost," says Storrow. And, as the adage goes, a tax deferred is a tax avoided.

So why hasn't this provision been used more frequently? Not all farmers are looking to expand their operations, or they need the cash for other purposes. In some cases, it may be advantageous to pay capital gains taxes on the first property and establish a higher base for the new property. But in many cases, says AFT's General Counsel Simon Sidamon-Eristoff, people simply may not have known about this option. "People may not think of easements as property interests that can be used in a like-kind exchange," he says, "but they are interest in real estate. They certainly qualify."

Like-Kind Exchange
Contact: Tim Storrow, AFT
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Steve Melnik is pleased. "We all had a goal that we wanted to preserve 90 acres of good fertile land. We put our minds together, the figures worked out, it was affordable, and it's a benefit to everybody." He pauses, then adds, "It's something to say you're going to preserve land, to really go and do it and sign your name to the bottom line, to know this land is going to be farmed for my generation and generations after You feel a lot better afterwards."

Picking Up the PACE Contact: AFT's Technical Assistance Service 413-586-4593

Policy Report *continued from page 5*

According to AFT's Ohio Field Representative Jill Bukovac, the initiative has spurred the creation of a dozen or more local land trusts hoping to participate in the program. Meanwhile, most counties—authorized to levy or increase sales or property taxes to purchase development rights—are preparing farmland preservation plans, assisted by a $10,000 state grant to each participating county.

Montana

The 1999 Montana State Legislature passed S.B. 342, creating the Montana Agricultural Heritage Act, to protect the "core values and principles" of Montana's agricultural heritage through conservation of family farms, ranches and forest lands. Though technically ascribed to the Department of Agriculture, the program will be administered by the Department of Natural Resources and Conservation.

Originally proposed in 1997, a coalition of land trusts, conservation and agricultural groups supported its reintroduction, which "flew through" the senate, according to Mike Voleski, executive director of the Agricultural Heritage Program. The legislation establishes a general fund of $1 million over two years specifically for the purchase of agricultural conservation easements. Land trusts will negotiate and hold the easements and enforce their conditions.

Updated PACE tables can be found on the LandWorks Website at www.farmland.org

Building on success

Are PACE programs effective at saving farmland? Without a doubt. An evaluation of Vermont's program, initiated in 1987, indicates more than 20 percent of the land would have been sold for non-farm development were it not enrolled. Two-thirds of the participants say the program makes it more likely they will pass the farm on to children or family members. And programs promise to expand nationally. Last November, voters across the country approved 84 percent of the land preservation funding initiatives, committing more than $5 billion into land conservation efforts. With more than $288 million in PACE funds available as of February 1, 2000, the PACE should keep picking up.

American Farmland Trust

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