

# Farmland preservation: The New Jersey experience

RICHARD D. CHUMNEY



Soil Conservation Service photo by Deland

**N**EW JERSEY, because of its small size and high population density, has always had to be concerned about the proper care and management of its farmland. An intensified and well-managed agriculture has been the only way that New Jersey farmers have been able to compete with the rest of the world.

Two hundred years ago, New Jersey had a population of about 120,000, including several thousand Indians. The state's main industry was farming and agricultural-related services. The concept of private property rights brought by the colonists from the

Mother Country was a prized possession. Laws and taxes were used to discourage manufacturing industries in the new world.

Today, New Jersey is a paradox. On the one hand, its population has increased to about 7.4 million people, putting extreme pressures on the land. On the other hand, it still has 63 percent of its land in farms and forests.

As these urban pressures built during the 1950s and early 1960s, farmland values and taxes increased rapidly. This resulted in a loss of farmland in 1964 alone of 65,000 acres. Until that time, the taxes paid on farmland had been based on the market value of the land rather than on its productive value.

It was in 1963 that the state's agri-

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cultural leaders, led by Secretary of Agriculture Phillip Alampi, secured passage of a constitutional amendment and appropriate implementing legislation that resulted in the Farmland Assessment Act of 1964. This action required that farmland be taxed on productivity rather than market value. The task was not an easy one, for this was the first attempt in New Jersey to design a program to tax farmland on an agricultural and horticultural use basis.

The resulting reduction in farmland taxes has played an important role in preserving some of the state's most valuable farmland. But today, the state is still losing about 8,000 acres of valuable farmland a year.

### The Blueprint Commission

The original designers of the Farmland Assessment Act understood fully that this law was not the complete answer to the question of retaining farmland. In spite of the legislation's benefits, New Jersey farm real estate taxes remain among the highest in the nation.

In the late 1960s it became obvious that New Jersey must undertake additional efforts to preserve its farmland. Governor William Cahill, in his message to the Legislature in January 1971, asked Secretary Alampi to appoint a Blueprint Commission on the Future of Agriculture in New Jersey. This commission would study in detail the problems of New Jersey's agriculture and report back to him with specific recommendations for the future.

Secretary Alampi immediately named a 21-member commission consisting of representatives from all areas of concern involved in the study. Following almost two years of in-depth research and many meetings of eight different task forces and 275 other interested citizens, the secretary submitted to Governor Cahill on April 1, 1973, the commission's findings: "Report of the Blueprint Commission on the Future of New Jersey Agriculture."

### Principles and Guidelines

As a basis for its deliberations, the commission set forth these principles and guidelines in the report:

1. The plan should assure the creation of permanent agricultural open space preserves.

2. The agricultural open space pre-

serves should consist largely of prime farmland, so that such preserves can be both open and productive. The land area so preserved should be of sufficient size to justify the operation of economically efficient agricultural supply, service, and first-processing firms.

3. The constitutional rights of landowners should be protected from the confiscatory measures as their lands are included in an open space preserve, and they should be justly compensated for the value of property rights taken from the land.

4. The authority of local municipalities with respect to planning and zoning should be recognized. The determination of the location of lands in an open space preserve should rest with local municipalities consistent with established guidelines.

5. Land in an open space preserve should remain under private ownership and control, even though its use is restricted. Procedures should be established to encourage owner-operated farming. Undue fragmentation of land ownership units should be avoided.

6. The cost of the program should be equitably distributed among those who benefit therefrom.

7. Landowners and others affected by the land use plan should have ready access to review or appeal procedures and have ultimate recourse to the courts, if necessary. The standards for determining areas to be preserved, compensation rates, appeal procedures, and the like should be objectively determined.

8. Normal and recommended activities and practices essential to agricultural production would be protected by designating the agricultural land preserve as an agricultural priority district and providing for certain review and public hearing procedures where any public action threatens such practices.

9. The plan should be devised to alleviate the immediate impact that inheritance and state taxes have upon land use, ownership, and control.

### Recommendations

With these principles and guidelines in mind, the commission came up with 13 recommendations that involved two basic thrusts:

1. A program to preserve in perpetuity the approximately 1 million acres

of prime farmland in the state.

2. Twelve additional recommendations that would strengthen and improve the economic viability of agriculture so that it could be a profitable segment of the state's economy. These 12 recommendations included an emphasis in the areas of education, farm labor, farmland assessment, federal estate and state inheritance taxes, management, marketing, natural resources, farm organizations, recycling of agricultural waste, agricultural research, an expansion of the functions of the present Rural Advisory Council, and farmland taxation.

### Problems of Implementation

Since publication of the blueprint report, considerable effort has been made to carry out the commission's recommendations, particularly those dealing with farmland preservation. It was obvious to all concerned that without first developing a plan to preserve most of the state's prime agricultural land there would be little need to do those things, on a long-term basis, that would be necessary to retain a viable agriculture.

The thrust of the blueprint commission's farmland preservation program consisted of (a) passage of a constitutional amendment that would authorize the program so that extensive litigation and constitutional questions would not be raised, (b) implementing legislation that would require each municipality with prime agricultural land to put at least 70 percent of this acreage into an agricultural open space preserve with the option to include 100 percent and, (c) payment by the state of the fair market value for the development easements on such lands out of a proposed 4 mill real estate transfer tax that would be set aside for this purpose.

The blueprint report achieved considerable publicity statewide, and a series of meetings and evaluations were held to determine how the program might be implemented. Legislation was drafted and extensive research was done on the cost of implementing the program. As landowners became more familiar with the details of the proposal and the state government moved into an extremely tight fiscal situation, several issues emerged that indicated the original proposal should be reconsidered and modified to meet the changing conditions.

These issues evolved around the following:

1. There was some resistance to any program that would mandate as much as 70 percent of the prime farmland in any municipality into an agricultural open space preserve.

2. In view of the tight state fiscal situation, the cost of the program, \$1.4 billion (if all easements were purchased on the first day, and \$7 billion to \$8 billion if easements were purchased over a 20-year period), was too much to be funded from a new tax source at this point in time.

3. We simply did not know enough about the particular expertise of determining land values that would be needed to carry out a specialized farmland preservation program of this type on a statewide basis.

While all this was happening, Gov-

ernor Brendan Byrne appointed a special Capital Needs Study Commission, headed by Donald McNaughton, chairman and chief executive officer of the Prudential Insurance Company of America, to make recommendations to the governor on the state's future capital needs and how such revenue might be raised. As a part of these deliberations, Secretary Alampi presented the findings of the blueprint commission and progress to date.

The report submitted to the governor by the capital needs commission recognized the fact that the proposed blueprint commission's farmland preservation program was simply too complex, massive, and costly to be implemented with a new tax source. It recommended that a "pilot farmland preservation demonstration project" be devised that would be acceptable to

landowners and that could be funded from some existing source of revenue.

### Designing a Pilot Project

With this new challenge, staff within the State Department of Agriculture's Division of Rural Resources again analyzed the problem and recommended that a pilot farmland preservation demonstration project was feasible. The staff suggested that the pilot program be funded with a portion of the \$200 million Green Acres bond issue that had been approved by the state's citizens in November 1974. Department officials further recommended that the program be voluntary and encompass the other basic concepts of the original blueprint commission report.

Since the authority for spending Green Acres funds rested with the

## THE NATION'S AGRICULTURAL LAND BASE

The retention of prime lands in production, while not the only land-use issue needing attention, is clearly one issue of increasing importance. We need to explore how this might best be accomplished.

Let's begin by looking at our current situation and briefly examining some of the history behind it. The United States has about 2.25 billion acres of land. According to a 1969 report by USDA's Economic Research Service, 58 percent of that land is privately held. Of the private land, 21 percent is used as cropland, 27 percent as grassland, and 32 percent as forestland. These percentages have changed very little over the past 20 years. The remaining 20 percent is used for all sorts of purposes, including urban and transportation, recreation and wildlife, or scenic and wilderness areas. Some of this other land is virtually barren, with soil and climatic conditions that preclude economic use, but much of it has been set aside for special purposes. These reserved lands, while not contributing directly to the production of food and fiber, are important elements in the quality of life.

But let's focus for a moment on the croplands of this country, and see what we can say about their status. At the outset, I'll caution that numerical estimates must be carefully examined to see what lands are included in the estimate. Some estimates include cropland pasture, while others do not.

The total U. S. cropland figure, as reported by ERS, has hovered around 400 million acres for many years, declining very slowly. This estimate masks significant land shifts, however. The 400 million acres of cropland in 1976 are not the same acres that were farmed in 1949. Cropland has been abandoned in some regions at an average rate of 2.7 million acres each year, while in other regions new cropland has been developed at the rate of about 1.4 million acres annually. The point I

want to make is that the cropland in the United States is a dynamic land base. Even though the total acres remain roughly the same, many changes in the use of land have occurred and continue to occur.

In a recent estimate of potential cropland carried out by the SCS, several other interesting factors have been brought to light. Using the definition of cropland employed in the 1967 Conservation Needs Inventory and testing a selected sample of the 1967 CNI plots, this new study indicates a significant decrease in cropland acreage between 1967 and 1975. This decline, from 431 million acres to around 400 million acres, appears to fly in the face of the "fence-to-fence" planting trend observed since 1973. Closer examination may, however, reveal some possible answers. The CNI definition of cropland includes land in rotation hay and pasture, conservation use, summer fallow, and temporarily idle cropland. In 1967, 301 million acres out of 431 million were actually harvested. That left 130 million acres that were either in other uses or suffered crop failure. Moving to 1975, the SCS cropland estimate indicates a reduction to about 400 million acres of total cropland, while the estimate of acreage harvested increased to around 330 million.

Thus, cropland harvested may have increased 10 percent in the past eight years (accounting for the fence-to-fence planting), while the total supply of cropland declined almost 10 percent in the same period. This could indicate that, rather than adding new cropland to the inventory, farmers responded to the need for increased production by planting cropland normally held in rotation hay or pasture, summer fallow, or conservation use.

Indications are that much of this land was marginal cropland and that bringing it back into production has resulted in intensified erosion problems. If this is true,

New Jersey Department of Environmental Protection, it was necessary that Secretary Alampi work closely with Commissioner David Bardin to develop a pilot farmland preservation program acceptable to both agencies. This work culminated in December 1975 and was followed by proposed implementing legislation (Assembly Bill 1334) that was endorsed by Governor Byrne and introduced on January 19, 1976. This act earmarked \$5 million for the purchase of development easements in a four-township pilot project area in the center of Burlington County. The area, which has a total farm acreage of about 41,000 acres, was selected after a careful review of the entire state. The municipalities involved are Lumberton, Medford, Pemberton, and Southampton.

While the legislation was being de-

bated and public hearings conducted, an information and education program was begun among landowners in the pilot project area to be sure they understood the issues. A local steering committee comprised of representatives from interested groups in each of the municipalities was organized. This committee has proven most helpful in giving direction to the format of the program to be followed.

Regional meetings were also held across the state to inform the general public of the nature of the pending legislation and to solicit advice and guidance.

#### A Law Is Passed

The final legislation to implement the pilot project was passed by the New Jersey Assembly (48-9) and the Senate (31-0). The governor signed

the bill on July 22, 1976.

With the availability of \$5 million for the demonstration proposal, a project manager, with adequate supporting services, will be hired immediately to implement the program. The next action will be to ask each farmland owner in the demonstration project area that has land under the Farmland Assessment Act to submit offers on the value of his development easements. This will be that value representing the difference between what the land is worth for market versus farming purposes.

Whether or not a landowner submits an offer to the State Department of Agriculture for consideration is voluntary. The offer will be binding only for a limited period of time if not accepted by the state. Each landowner will be asked to obtain his own official

it means that U. S. farmers have used up much of their readily available "expansion" acres and now have less flexibility than ever before. It also means that our current expansion has not been without its environmental costs.

Meanwhile, if these are accurate interpretations, what about all those other acres of potential cropland? The 1967 CNI identified a total of some 631 million acres of Class I, II, and III land. This indicated at least another 200 million acres above the 400 million being cropped. Why are these acres still in grass or trees? The answers are complex, of course, but it is obvious that economic factors play a heavy role in whether or not private owners decide to go into crop production. Good land may exist in small units, or small ownerships, or in areas where the agricultural infrastructure does not exist. It may be held for other important land uses, or by owners who have no intention of using it for crop production.

About 2 million acres of farmland are being "irreversibly" lost each year to urban buildup, with an additional 1 million acres going under water in ponds, lakes, and reservoirs, according to the potential cropland study.

We learned some other interesting things in our potential cropland study. There may be about 385 million acres of "prime farmland" in the nation. Of that total, about 250 million acres are currently cropped, leaving roughly 135 million acres of land that rate as prime farmland, but are not now being farmed. Why is this in light of apparent demand for food? We asked SCS field people to identify these reasons, and their answers provide some important new insights.

Twenty-four million acres were said to have no apparent reason for not being farmed. No significant development problem could be identified. In addition, 45 million acres were estimated to be committed by the landowners to noncropland use. If these estimates are

accurate, they indicate a whopping 70 million acres of prime farmland that are not being cropped simply because the current land users do not see it to their advantage to do so.

What does this tell us? Do we really have over 200 million acres of potential cropland that can be fairly rapidly brought into production if needed? The answer appears to be that we do not—that an estimate somewhere around 100 million acres is much more realistic.

First, 24 million acres of "prime farmland" could be converted simply by beginning tillage. These soils would require little or no protection from erosion and, with normal rainfall, should produce high yields.

Second, there are an additional 54 million acres of "high potential" land that would require some soil and water management to prevent erosion and sedimentation or to dispose of unwanted water.

Finally, there is another 33 million acres with "medium potential" for conversion to crops. These acres pose more serious erosion hazards and water disposal problems and would cost more to convert. Nevertheless, soil conservationists see no reason why, with application of current technology, these acres could not be used for crops if the need arises.

This still sounds like a lot of land, but keep in mind that almost half that amount has been added to the cropland harvested in just the past four years. So while it appears that we still have an ample land base for the reasonable future under normal conditions of climate, demand, and foreign trade, it is equally obvious that the days of complacency about America's cropland supply are over. Prime land is no longer a surplus commodity, if indeed it ever was. It is time to rethink programs, policies, and priorities? — *NORMAN A. BERG, Associate Administrator, Soil Conservation Service, U. S. Department of Agriculture, speaking at SCSA's 31st annual meeting on August 3, 1976, in Minneapolis, Minnesota.*

appraisals of his development easements before submitting them to the state.

In the meantime, the state will conduct some test appraisals by hiring independent certified appraisers. Using these appraisers, the state will evaluate the parcels in question and determine whether or not it can negotiate an agreed-upon value. The state will also determine at this point if the parcels submitted fit into the overall plan. All proposals will then be reviewed for reasonableness and whether or not they are contiguous and constitute a large enough area to be put into an agricultural open space preserve.

A comparison of the offers and the state-obtained appraisals will then determine whether or not the state purchases the easements. No easements will be purchased until all offers have been evaluated to determine whether or not the goal of an approximately 5,000-acre preserve can be reached. If at this point in time, about one year after the beginning of the pilot project, it seems feasible to move forward with the purchase of the easements, the balance of the \$5 million will be used for this purpose. Attached to each deed will be a deed covenant indicating that no development can take place on this land except that directly related to the farming enterprise itself. Construction of a home for the owner's children and buildings for livestock, equipment sheds, etc., as long as they constitute a part of the farming operation, will be permitted.

The legislation includes one important safeguard. If at any point during the 12-month period of the demonstration project the state finds that the farmland preservation demonstration project is not being accepted to the extent that it will be successful, the state can terminate the project and proceed to develop other approaches for preserving New Jersey's farmland.

At this time there seems to be considerable enthusiasm and support for the project. Many landowners across the state are interested in what is happening and what the possibilities are for the project's success.

If successful, the project should provide additional public understanding of the procedure that could be followed to fund a development easement purchase program on the balance of the state's prime farmland acreage. This might well be a return

to some other tax, such as the 4-mill real estate transfer tax, or one or more Green Acres bond issues that would be used specifically for this purpose.

Only time will tell whether or not the pilot project, as proposed, will work. There is no subsidy to the farmer involved. The law requires only that he be paid the fair market value for the development easement portion of his land value at the time the easement is sold. Once the state purchases an easement, the farmland can be sold to other individuals for farming purposes only.

If at some point in time it is determined, for reasons beyond a landowner's control, that the value of his particular acreage is below the appraised farm value at the time the easements were sold, the Green Acres legislation provides that the landowner can buy back his easements. To do so, he must state his reasons for wanting to get out of the program to the Department of Agriculture. The department, in turn, will review his reasons. If they seem feasible, the department will present its findings to the State House Commission, which represents a group that oversees all Green Acres expenditures. If the commission agrees that a hardship and/or emergency is involved, it will authorize the farmer to purchase back the development easements at the current appraised fair market value. This is the only way a person can get out of the program. So for all practical purposes, once

easements are purchased, the farmland will remain farmland in perpetuity.

Obviously, there are many advantages to a program of this type. Not only will it bring about a balance between rural and urban development and make prime farmlands available for generations to come, but it will provide open space, aquifer recharge areas, green belts, badly needed capital for expansion, a market for farmland in a period of slack real estate demand, a lessening of the impact of estate taxes, and a way for young farmers with limited capital resources to get into farming.

Those involved in the program, both inside and outside of government, seem enthusiastic about the plan that has been developed. All hope the plan eventually will evolve into a program that will preserve much of our prime farmland, which is still being lost far too rapidly each year.

There seems to be a feeling of urgency among the state's citizens that prime farmlands must be preserved if we are to cope with the pressures of the future. The real question is how to do it before it is too late.

The Garden State's main hope for balanced growth and development in the future is finding ways and means to preserve our prime farmland. Our experience to date has been frustrating, exciting, and challenging. We believe what we are doing could become a model for many other states. □

## Important dates to remember

**November 28-December 1**  
**World Wildlife Fund Fourth International Congress**  
San Francisco, California  
Contact: World Wildlife Fund, 1319 18th Street, N.W., Washington, D. C. 20036

**November 28-December 3**  
**American Society of Agronomy Annual Meeting**  
Houston, Texas  
Contact: ASA, 677 South Segoe Road, Madison, Wisconsin 53711

**December 13**  
**Symposium on Drainage for Increased Crop Production**  
Chicago, Illinois  
Contact: American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, Michigan 49085

**December 14-17**  
**American Society of Agricultural Engineers National Meeting**  
Chicago, Illinois  
Contact: ASAE, 2950 Niles Road, St. Joseph, Michigan 49085

**February 6-10**  
**National Association of Conservation Districts 31st Annual Convention**  
Atlanta, Georgia  
Contact: NACD, 1025 Vermont Avenue, N.W., Washington, D. C. 20005