Advancing Soil Health Through Agricultural Conservation Easements and Referenced Plans

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The Agriculture Law Education Initiative (ALEI) is a partnership of the Francis King Carey School of Law at the University of Maryland, Baltimore (UMB); the College of Agriculture & Natural Resources at the University of Maryland (UMCP); and the School of Agriculture and Natural Sciences at the University of Maryland Eastern Shore (UMES). ALEI is an initiative of the University of Maryland: MPowering the State, a strategic alliance between UMB and UMCP created in 2012 to significantly expand research collaboration, business development, and student opportunities at both universities.

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Conservation Practices on Leased Farmland

• Approximately 40% of farmland both nationwide and in Maryland is leased.

• Conservation practices are less prevalent on leased acres.

• Why?
  – Communication
  – Leasing uncertainty
  – Knowledge deficit

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Leasing as a Tool

-Who- the roles of the state and federal players and contact info (UME, NRCS, SCD, NGOs)

-What- leasing and communication strategies for each party to consider

-How- sample lease language to support specific practices

Agricultural Conservation Leasing Guide

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go.umd.edu/conservationleasing
Structuring a Lease to Support Conservation

- Communicate to assess goals and reach consensus
- Consider the lease term
- Set farming standards
- Address specific practices
- Consider the costs and compensation
- Agree to review and revise
Kick starting Communication

• To the Landowner: What are your future plans for the farm?
• To the Farmer: Are there characteristics of the farm that could be improved?
• See Appx. B of Ag Conservation Leasing Guide.
Length of Lease

- Short leases discourage conservation practices
  - Farmers are not guaranteed a long-term interest in the leased land
  - Conservation practices often take time to create yield results
  - A year-to-year lease doesn’t give farmer assurance that he/she will benefit from the practices
Tenant shall follow the farming best practices of the State Department of Agriculture and the __________ County Soil Conservation District.

Tenant shall, to the maximum extent possible, implement the best management practices and natural resource strategies outlined in the farm’s soil conservation and water quality plan dated __________ and as amended from time to time.
Address Specific Practices

• Example: Conservation Tillage
• Explain and define the practice
• Considerations
  – Does the farmer have the necessary equipment?
  – Would starting as reduced-till while phasing to no-till be beneficial?
  – What are the disease and weed management challenges and implications in a reduced-till and no-till system?
Tenant, in consultation with SCD, NRCS, and/or the State Department of Agriculture, shall reduce tillage as much as possible in accordance with the farm soil conservation and water quality plan. Tenant shall maintain at least [insert percentage such as 30] % residue cover on the ground surface at planting.
Consider the Costs

• Possible costs include
  – Initial implementation/construction
  – Yield/Profit losses
  – Maintenance

• Consider addressing costs in the lease
  – Rent can be discounted
  – Program payments can be shared
  – Non-monetary benefits (ex. longer lease term)

• Don’t forget about the tax implications!
Sample lease provision: To compensate Tenant for the time and expenses contributed towards the creation of a ____________, rent in year one of the lease shall be reduced by $______ or %______.

Alternative: The rent for the first year of the term will be reduced by 15% and the reduction shall diminish by 5% each year until the full rental amount is due and owing.
Troubleshooting

- Right to inspect and take soil samples?
- Share Nutrient Management Plan?
- Agree to meet annually to verify practices
  - Revise as needed!
Thanks

I am happy to take questions.

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