

How Land Tenure Shapes the Future of U.S. Agriculture

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Farming is Changing



We Don't Farm Like Our Parents



Farming has changed but the land – and values - remain



All things change with time



All things change with time



Considering the Context of Land Tenure

Agricultural land tenure concerns how property rights in farmland are held by individuals. Ownership and the productive use of land define our agriculture history and are at the center of historic U.S. laws such as the Public Lands Survey, the Homestead Act, the Morrill Act, and the 16th section provisions.

It is hard to overstate the role of farmland ownership in developing our nation – in providing autonomy for farm families and as a mechanism for creating wealth and transferring it across generations.

Challenges of Land Tenure

While land tenure patterns may vary by region the defining characteristic of U.S. land tenure has been family ownership over multiple generations.

Agricultural land tenure is unique from other forms of property such as residences, because farmland ownership has historically included both the family dwelling and the farm business on working land

Decisions relating to land tenure are very personal and private, contributing to a relative lack of attention to land tenure in public policy and research.

Challenges of Land Tenure

Four central questions about land tenure - who owns the land, who farms it, how it is farmed, and who benefits from its production – determine the performance of the farm sector and the returns to landowners.

But other questions are critical to our nation's ability to maintain a stable, sustainable system of farming and food production – such as: will those who want to farm have access to land; will existing family farms be successfully transitioned to the next generation; and will the public interest in how land is cared for be respected?

Grant Wood's - *Fertility*



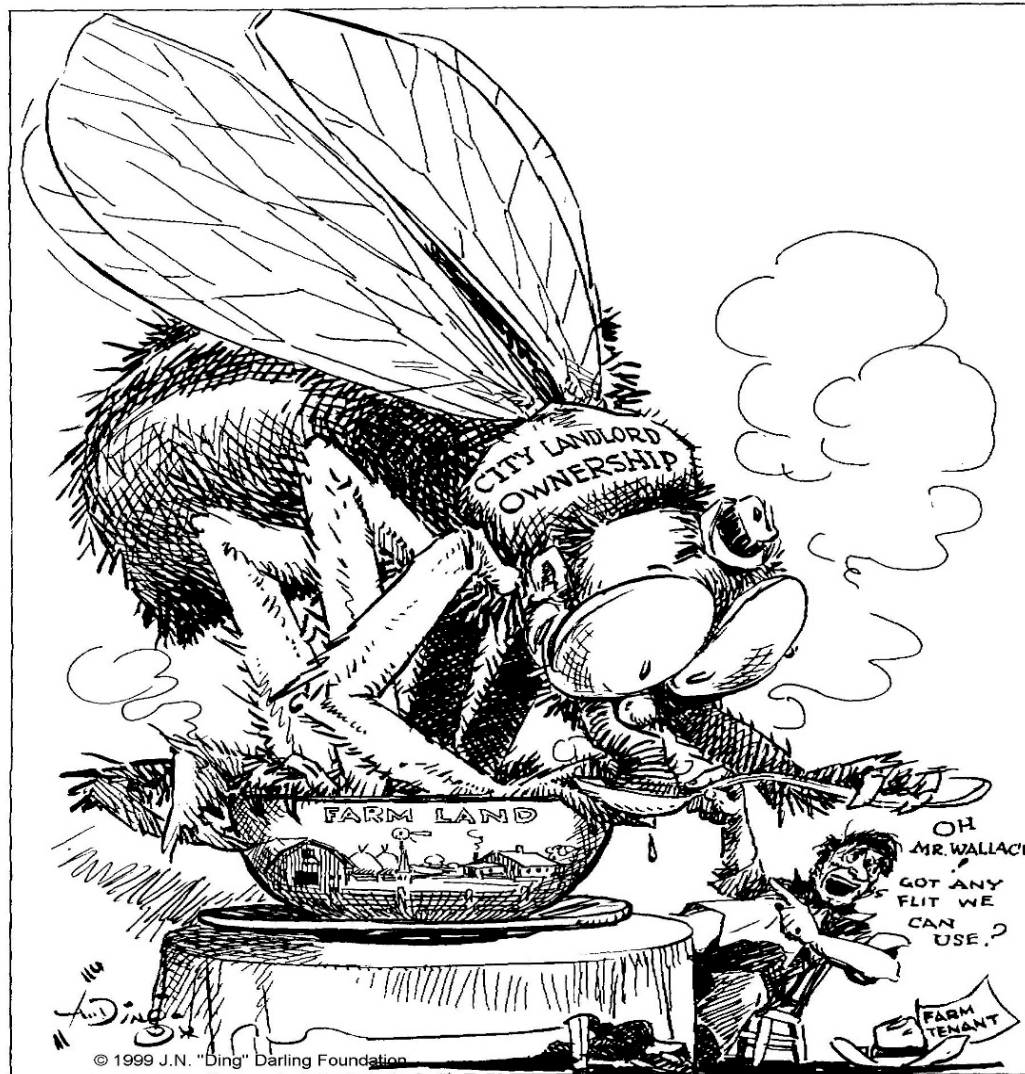
USDA and Historic Concerns for Land Tenure

In the mid 1930's President Roosevelt and Secretary Wallace convened a national study concerning how changes in farmland ownership and the rapid increase in farm tenancy were impacting farm security. The 1937 Farm Tenancy Report remains an important and timely example of how sound research and investigation can help identify valuable public policy recommendations – especially those requiring a long-term perspective.

Land Tenure Issues are not new – as Ding Darling’s drawings show

It is natural we assume the land tenure issues we face today are new and unique, but this isn’t true. These editorial cartoons by J. N. “Ding” Darling, one of our nation’s leading conservationists and a fellow Iowan, show how outside investment in farmland and the challenges farm tenants face to pay rent and survive were concerns in the 1930’s.

“A big fly in the ointment” – July 1936



“And bonusing
agriculture won’t
fix it” -
July 1936



“The only
critter on the
farm that
seems to thrive
on drought and
grasshoppers”
- Aug 1936



Land tenure implications for USDA

Farmland tenure raises important questions for USDA:

- who are the clients for FSA farm programs,
- how does NRCS locate and communicate with a new generation of NOLO's, and
- how do the income protections offered by RMA influence land stewardship on fragile ground farmed under short term cash leases?

These are some of the reasons why Secretary Vilsack created a land tenure subcommittee of the Beginning Farmer and Rancher Advisory Committee. They also illustrate why better data like TOTAL is so important.

Critical Issues Impacted by Land Tenure

- How can we help a new generation of beginning farmers become landowners and access the wealth creation it offers?
- If an increasing share of land is owned by those who don't farm it or may never set foot on it, how can we achieve a stable and sustainable agricultural future – one responsive and resilient to the forces of climate change, to the needs of environmental stewardship, to the pressures of fluctuating land values and farm incomes, and to the demands of international trade?
- How will the economic structure of rural society and the inequalities in wealth be impacted if farming is performed by a growing network of tenants and farm workers with little long-term connection to the land or incentive to care for it?

Ten Important Trends in Land Tenure

1. Increasing age of land owners and compression of more land in the hands of older owners. The concentration of land is in part driven by tax considerations, such as capital gains taxation of increased land values, reducing incentives for owners to sell land during their lifetimes.
2. Retaining ownership of land increases economic security for retirement and to address health care costs, but many landowners no longer engage in farming or live on the land.

Ten Important Trends in Land Tenure

3. Compression of land wealth in the hands of older people means a significant amount of land and rural wealth will change hands in a short period, creating challenges and opportunities for those who farm or want to buy land.
4. Increasing the land farmed under tenancy, mostly short term agreements, and the impact this has on farm operator decisions to invest in long-term conservation measures. There is nothing inherently wrong with farm tenancy if stewardship is integrated into lease but we need to recognize few people wash rental cars.

Ten Important Trends in Land Tenure

5. Increasing cash leasing shifts economic risks of weather and market fluctuations to tenants, as compared to more traditional crop share leases.
6. Increasing farmland owned by more non-operator landowners (NOLOs) – retirees and next generation heirs inheriting land from aging parents. Many new landowners are off-farm siblings with little involvement in the farm operation, other than some form of land ownership and an interest in knowing how or when the economic value of the farm and land can be realized.

Ten Important Trends in Land Tenure

7. Fragmenting farm ownership into multiple owners with differing objectives may challenge long-term viability of many operations due to difficulties on-farm heirs face in purchasing land from off-farm siblings or in reaching mutual decisions with others who have legal ownership interests, e.g., as tenants in common. One result is a marked increase in the number of court cases involving bitter intra-family disputes over farm estates and trusts.

Ten Important Trends in Land Tenure

8. Increasing the role of NOLO's, combined with livestock production by contracting, means much of the profits from farming are shipped to “owners” who often reside elsewhere. The social impacts of low paying, custodial like farm jobs, and the environmental impacts of concentrated animal production are left for the small towns and rural areas to absorb.

Ten Important Trends in Land Tenure

9. Poor economic performance in parts of agriculture as reflected in large crop surpluses, declining prices and lower net farm incomes – trigger greater reliance on the so called “safety net” of federal farm programs and income transfers. One result is pressure to maximize production in the hope higher yields can overcome lower prices, all contribute to continued deterioration of soil and water resources, overuse of nitrogen, reliance on chemical intensive crop systems, and pressure to continue converting grassland to cropland.

Ten Important Trends in Land Tenure

10. Combined, these land tenure trends create serious obstacles for those interested in entering agriculture as new and beginning farmers, and makes the potential of wealth access through land ownership more difficult to obtain. The economic trends challenge the structure, operation and even the very idea, of traditional federal farm payments and conservation programs.

Examples from the Future of Land Tenure

Developing an effective, organized response to land tenure issues is challenging. In 2015 the USDA Economic Research Service issued the Tenure, Ownership, and Transition of Agricultural Land (TOTAL) study documenting trends in landownership and farm leases (see <https://www.agcensus.usda.gov/Publications/TOTAL/>). The information is a valuable and interesting snapshot of ownership, although the report does not suggest how different policy objectives might be approached.

USDA Land Tenure Subcommittee

In 2015 Secretary Vilsack formed a land tenure subcommittee under the USDA Beginning Farmer and Rancher Advisory Committee. I co-chaired the subcommittee, and after several meetings, we produced a set of recommendations for actions USDA could take relating to land tenure (See <https://www.outreach.usda.gov/committees/2015-8-21%20final%20copy.pdf>). To their credit several USDA staff in FSA are very supportive of efforts to focus on land tenure and many recommendations for USDA administrative changes were enacted. One example is an FSA led pilot project in several Iowa counties to communicate with NOLO's concerning their possible interest in transferring land to new and beginning farmers.

Sustainable Farmland Investing?

There is growing interest by non-farm investors to purchase farmland. One wrinkle in some investment vehicles is to couch them in terms of “sustainable” and “socially responsible” farmland investment. [See the People’s Land Company report from Iowa, [https://peoplescompany.com/pdfs/2015/NEW%20Socially%20Responsible%20Farmland%20Investment%20\(EDJE%202\).pdf](https://peoplescompany.com/pdfs/2015/NEW%20Socially%20Responsible%20Farmland%20Investment%20(EDJE%202).pdf). See a related report from Yale http://cbey.yale.edu/sites/default/files/Sustainable%20Farmland%20Investment%20Strategies_Nov%202016.pdf]

Sustainable Farmland Investing?

The theme here is the idea new owners will work to see conservation and other environmental objectives incorporated into the management of the land. It is unclear why investors believe their ownership of the farmland will result in the significantly different returns needed to afford spending on conservation or other “costs” associated with using more sustainable production methods?

“New” Ways to Own Land?

Another interesting development concerns attempts to develop new and “innovative” forms of land ownership, an idea prevalent among those hoping to support new and beginning farmers. Various experiments with forms of farm trusts and co-ownership structures are in play, though most involve only a handful of properties. [See e.g., Report on community land trusts - <http://community-wealth.org/strategies/panel/clts/index.html>]

Economic and Legal Realities of Owning Land

The economic and legal reality is there are only so many ways you can slice and dice farmland ownership – and there are limits to the amount of income any tract of land can generate. The more people involved and the more entities expecting some “return” on investment make inventing ‘new’ ways to own farmland a daunting challenge.

“It is always difficult to support two wives
on one income” – August 1928



© 1999 J.N. "Ding" Darling Foundation

Land Trusts Offer Hope

This is why perhaps the most significant development in the search for new “owners” of farmland interested in maintaining working land, is the land trust movement. These groups use traditional property law tools of ownership and conservation easements, but combine preserving farm land with protecting other natural features. Innovative public efforts such as in Boulder County illustrate what is required for effective farmland – and farming – protection. [See <http://www.bouldercounty.org/os/openspace/pages/agriculture.aspx>]

Our nation has historically well understood the economic structure needed to profitably operate a family-based farming system. Unfortunately, the current reality of land tenure challenges our ability to maintain a traditional family farming and land owning structure.

How Well Does Our Land Tenure System Perform?

From the perspective of those who own farmland a primary focus is on how they will be able to transfer or transition the land and the farm to another.

From the perspective of someone who does not own land but would like to farm, the focus is primarily on how they can access land and the capital to afford it.

From the perspective of the general public who have no plans or interest in owning land, the focus is primarily on how well the current owners or operators care for the land and how its use impacts the environment.

We did not get here by accident

We need to acknowledge our land tenure system must perform exactly like we want it to because we created it over time with our laws, politics and practices! We did not get where we are today by accident.

Our land tenure system performs its basic functions admirably – our land surveys and measures are clear, our systems for recording and transferring titles and interests to land are well refined and understood, our mechanisms to resolve disputes over land ownership are accessible, and our markets for land function smoothly and efficiently. However, if we ask a different question – can we improve how our land tenure system functions – then we may find many other suggestions.

Asking provocative questions about the future of U.S. land tenure

1. As we changed our attitude to farm leasing from being a necessary but only intermediary step on the path to farm ownership and instead came to embrace increasing reliance on tenancy did we lose sight of the national goal our farmland is best owned by those who farm it?
2. What is the appropriate role – if any – for the USDA in helping current landowners understand the importance of farm succession or in considering opportunities to transfer land to new and beginning farmers, other than family?

Asking provocative questions about the future of U.S. land tenure

3. Given the on-going generational transfer of farmland, is it reasonable to expect state and local land link programs to reach the scale needed to be a significant force in direct farmland transfers to beginning farmers?
4. Can we reconcile the conflicting goals and hierarchy of priorities in our land tenure system, such as the value we give to placing no restraints on land alienation, i.e., few protections for farm tenants; or how our rhetoric on the need for new farmers doesn't match our willingness to improve their land access?

Asking provocative questions about the future of U.S. land tenure

5. Are we repeating across the U.S. the confusing landownership problems found in Indian country or the fractionated heir lands in the South, by our widespread use of trusts, corporations, and legal devices separating land ownership by natural people and dividing decision-making among multiple parties with limited interests?
6. Did we spend the last thirty years putting farm families and their land into increasing complex business structures, with the primary goal to avoid taxes only to create unworkable and unnecessary obstacles to smooth farm successions and farmland transfers?

Asking provocative questions about the future of U.S. land tenure

7. Does the continuing increase in farm size contribute to the growing economic and class divides in rural areas, where a stark division into “haves and have not’s” based on landownership is exacerbating the social tensions and ills related to wealth inequality?
8. Can USDA programs for farm income support, crop insurance, lending, and conservation be designed and administered to adequately address how shifting land tenure arrangements influence who receives the benefits and who decides how the land is used?

Asking provocative questions about the future of U.S. land tenure

9. Is it healthy for the long-term prosperity of American agriculture to have pension funds and other investors purchasing farmland and how does increased competition in the land market impact families and individuals hoping to buy land to farm themselves?
10. Powerful sentimental reasons explain why those who grew up on farms may want to continue “owning the farm”, but is the separation of ownership from operation good for the land or for a society interested in seeing a new generation of farmers working and owning the land – or is this goal no longer valid?

Henry Wallace on Our Duty to the Soil

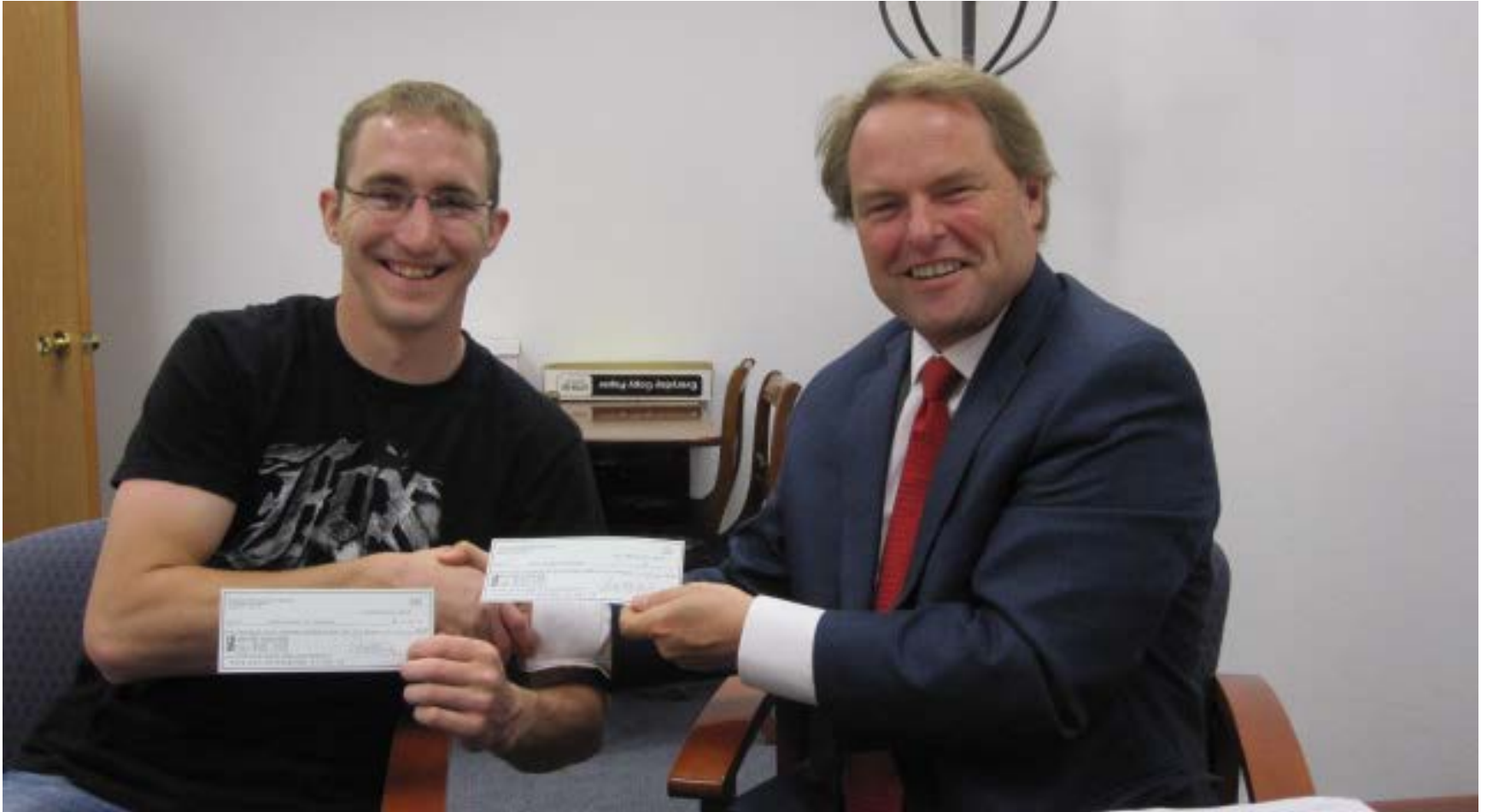
The social lesson of soil waste is no man has the right to destroy soil even if he does own it in fee simple. The soil requires a duty of man we have been slow to recognize.

Henry A. Wallace, Secretary of Agriculture, writing in the forward to Soils and Men, the 1938 Yearbook of Agriculture

Take Responsibility for How Your Land is Farmed



Make Room for New Farmers



Make Room for Nature



