

Chapter 8

THE FUTURE OF COMPENSATORY PROGRAMS IN CALIFORNIA

Using public funds to compensate landowners for conserving agricultural landscapes is a well established approach in California and elsewhere in the United States. It originated in the 1930s when national legislation created the USDA Soil Conservation Service (SCS) and conservation payments in response to declining farm income and dust bowl conditions. Land retirement programs and water, air and habitat protection goals were added to the USDA repertoire in later years, and the SCS became the NRCS. In the 1960s, state governments began to focus on protecting farmland from urbanization by offering property tax relief to agricultural landowners for foregoing development as seen in California's Williamson Act. More recently, state and local governments and land trusts have initiated agricultural easement programs to buy landowner development rights in perpetuity, the most expensive and lasting of all market tools for conservation purposes.



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Over time, the compensatory approach in the United States acquired a diverse set of supporters. They include agricultural landowners and operators, environmentalists, residents of urban communities and regions, Congress, the federal administration, state and local governments, land trusts, and other nonprofit conservation organizations. This is a very loose coalition divided on occasion by differences over landowner-public sector tradeoffs and program details. What keeps it together is a common desire to see farms and ranches maintained as working landscapes and a belief in the public merits of paying landowners for the conservation services they provide.

What can we expect in the future? Here is a brief and somewhat speculative summary of the likely direction of compensatory programs.

Unquestionably, the public demand for protected agricultural landscapes will expand as urban pressures on rural land continue. And as the need for supplemental income and familiarity with programs increases, more agricultural landowners will be receptive to participating in compensatory programs. At least two questions are pertinent to speculating about the future details of programs:

- How will conservation efforts be funded, both in volume and specific revenue sources?
- What changes will occur in the design and details of individual programs, including eligibility standards and landowner requirements?

FUNDING

The availability of compensatory programs to California agricultural landowners depends largely on the federal budget. It seems clear that federal spending on the conservation of agricultural lands will continue to increase for both the programs directly administered by USDA and the federal contribution to state and local agricultural easement purchases. This trend is suggested by the significant increase in conservation funding in the 2002 Farm Bill and several developments that point to even larger funding allocations in the next Farm Bill later this decade.

One such development is the expanding political coalition, including major environmental organizations, behind this effort. They include such agricultural-related groups as the American Farmland Trust and key congressional allies. Although the next farm bill is several years away, the coalition is already working on the design of the legislation and program implementation including appropriation levels.

Complementing these actions are international trade agreements, such as the World Trade Organization, which, in the interest of free trade and boosting the economies of poor countries, seek to reduce commodity subsidies U.S. and European governments give to their agricultural sectors. These international arrangements instead are more supportive of “green” payments that compensate farmers for conservation services provided by their land. If the trade agreements on this topic influence U.S. policy, commodity program reductions are likely in the next Farm Bill, accompanied by further increases in conservation payments. Much will depend on the political effectiveness of the groups promoting this direction and their congressional allies. They were generally disappointed that the 2002 Farm Bill continued the traditional emphasis on commodity payments, even while increasing spending on conservation programs.

Increased funding for farmland conservation from state and local sources in California is less certain. This largely concerns support for agricultural easement acquisitions, including the ability of California programs to match federal funds. Unlike the other states that are most active in the purchase of development rights on farms and ranches, California programs lack dedicated revenue sources (such as a property transfer tax or a specific property tax) for agricultural land and open space easement purchases. Rather, they depend on statewide voter approval of periodic bond issues payable from the state’s general fund. Funds from the last bond issue approved in 2002 are largely spent or committed. It is not known when the next funding measure will be placed on the ballot, considering the state’s ongoing budgetary deficit. A further obstacle to funding easement programs is the near impossibility of obtaining tax support at the community level because of California’s limits on the property tax and the two-thirds voter requirement for increasing other public revenues. There is some promise in the mitigation technique, in which new urban development pays for resultant farmland conversion by protecting comparable agricultural easement acres elsewhere, although very few cities and counties so far have implemented this technique.

By contrast, California’s popular tax preference programs (the Williamson Act and its younger offshoot, the Farmland Security Zone Program) are not dependent on annual public appropriations for their basic operations. They are firmly established and enroll far more farmers and ranchers than all other compensatory programs combined. However, continued

county government participation in the programs could be threatened by the cutoff of state subventions that partially offset the property tax losses to local governments.

PROGRAM DESIGN: AGRICULTURAL EASEMENTS

Certainly the “no free lunch” basis of landowner compensation is a permanent fixture. Landowner requirements, whether carrying out certain conservation practices or foregoing land development, will continue to accompany the cash and other economic benefits of participation. What may change are the scope and nature of some requirements and the incentives offered farmers and ranchers to enroll in programs.

Concerning the agricultural easement technique, the most far-reaching idea receiving attention is the possibility of a less-than-perpetual duration for the removal of development rights from covered parcels. This is an answer to the criticism that permanent restrictions ignore the potential of external forces that impact viable agricultural operations, such as urbanization that can surround an easement-protected parcel and severely damage its farming value. Of course, there are major legal, practical, and philosophical obstacles to abandoning the standard perpetual arrangement. They include the restrictions in federal law under which landowner donations of all or a portion of an easement value are eligible for income tax benefits, and the difficulty of determining the reduced public value and hence the public funds paid for development rights that are only temporarily retired.

One possible scenario for an alternative arrangement with more flexible timing is to retain the permanent nature of an easement when created, but allow later periodic review at lengthy intervals - say 30 years or a generation—of the merits of continuing the restriction. To obtain a return of the development rights, the review would have to follow a careful and legally prescribed procedure, including such steps: (1) agreement by both the landowner and the land trust or other agency holding the easement that the restriction no longer makes sense, as expressed in certain required findings of fact; (2) approval by a court; (3) landowner buyback of the development rights or payment of a penalty to the easement agency or funding government, representing a formula-determined portion of the economic benefit received by the original seller of the easement.

The 1996 legislation that established the Farmland Conservancy Program, California’s principal state funding source for agricultural easement purchases, does contain a provision for review any time 25 years after the creation of an easement. The first opportunity to exercise this option is more than 17 years in the future.

PROGRAM DESIGN: CONSERVATION PAYMENTS

A fundamental change in the design of programs is to greatly expand the conservation purposes for which landowners are compensated. Although they provide California agricultural operators with a substantial menu of compensatory options, existing programs reach only a limited number of landowners. In part this is due to scarce funding and tough eligibility standards for the USDA and agricultural easement programs. But existing programs also fall far short of valuing the full range of public benefits derived from retaining working landscapes,

especially those located close to urban populations. In an ideal world, many more landowners with active agricultural operations would be able to supplement their commodity earnings with an ongoing income stream for the conservation services supplied by their land, as priced according to location, specific public benefits, and stewardship activities.

The ideal as expressed by some advocates for increased funding calls for annual public payments to landowners for conservation services, in effect “renting” the land for its non commodity values. Certainly, this is not a new concept; the various USDA programs described in this guide generally operate on multi-year compensation schedules, whether funding cost-share practices or the temporary retirement of farmland from cultivation. What is different in the ideal scenario is more flexibility in the range of conservation benefits covered, longer-term arrangements, and more funding for exemplary landowner stewardship activities (see California Wilderness Coalition, 2002).

A partial model for this approach is USDA’s new Conservation Services Program, established by the 2002 Farm Bill. The CSP was meant to reward at relatively high levels of compensation farmers and ranchers who have a track record of exemplary stewardship marked by multiple environmental accomplishments—a turn from the emphasis in other programs on cost-sharing for specific practices and retiring land from production. As legislated, the CSP was almost a form of entitlement for eligible recipients—regular “green” payments for high-performing agricultural operators. The 2002 legislation called for spending about \$ 2 billion nationwide annually through 2013. But in its implementation, the program was delayed until 2004 and funding was reduced, with the first annual appropriation capped at \$ 40 million. As a result, NRCS-USDA downsized the scope of the program to focus on select watershed areas, starting with a few states and others to be added in later years. California will come on line in 2005 with five watersheds. Interest in rewarding high-level stewardship is still strong among many conservation groups and it is certain that the scope and form of the CSP will be a major issue in the development of the next farm bill.

A related technique is the Farmland Stewardship Agreements developed recently by a Florida-based organization, Stewardship America. Such an agreement involves a “service contract” between a private landowner and a public or nonprofit agency, under which the landowner provides one or more conservation services in return for “market rate” fees. It is a flexible arrangement in that one agreement can combine multiple revenue sources and thus participation by several different agencies. Landowner compensation can include annual base payments, direct fees for specific services, and/or annual per-acre stewardship fees (see Stewardship America Web site).

One limitation of green payment programs is that so far they have mainly focused on habitat conservation purposes, especially endangered species protection, and on water and air quality objectives. Public funding and landowner interest flow naturally to these resource areas since they involve a great deal of federal and state regulatory activity. Far less attention is paid in conservation circles to the variety of other conservation services provided by farms and ranches where regulatory imperatives are not present. They include scenic amenities, green belts, and flood control. These other public benefits of maintaining working landscapes are no less valuable, certainly from the perspective of nearby urban populations.

References

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