

How Land Tenure Will Shape the Future of U.S. Agriculture

Prof. Neil D. Hamilton, Director, Agricultural
Law Center, and Opperman Distinguished
Professor of Law, Drake University Law School
Des Moines, Iowa

Farming is Changing



We Don't Farm Like Our Parents Did



Farming has changed but the land – and values - remain



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 Section 16 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.

Grant Wood - *Fertility*



Understanding the dual dimensions of property rights

It is important to recognize under U.S. law, property ownership – and land tenure have two components:

First, is the private dimension - the rights of owners and those with legal claims, such as tenants, to possess and use land as they desire, and to sell and transfer it.

Second, is the public interest in how land is used and how landowners actions can help promote and protect shared public goals.

This duality balances the opportunities and rights of owners with public obligations and responsibilities.

How Duality of Property Rights Relates to Land Tenure

The duality is readily apparent in agricultural land tenure. On the private side you have buying, selling and leasing farmland; using mortgages and installment contracts to finance it; and various issues in organizing or moving farms between generations.

On the public side you have the duty to pay property taxes, to observe land use laws, and to comply with rules to protect soil and water resources.

To understand most agricultural policies, it is necessary to recognize this duality as the intellectual fulcrum for public and private interests.



Henry Wallace on our Duty to the Soil

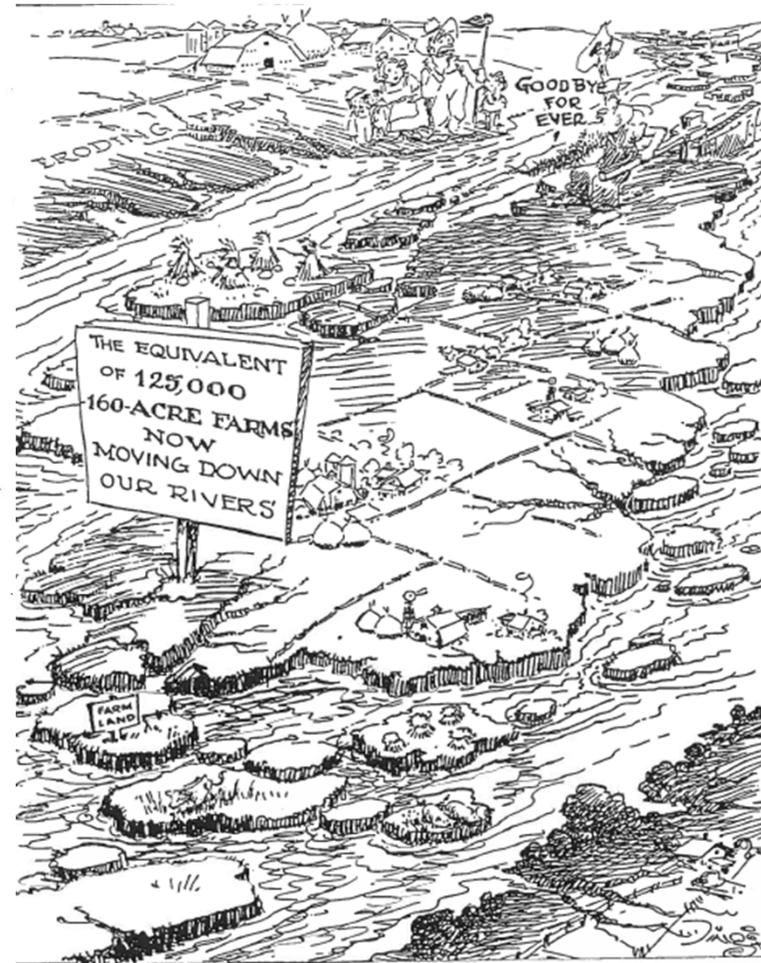
The social lesson of soil waste is no man has the right to destroy soil even if he does own it in fee simple. The soil requires a duty of man we have been slow to recognize.

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

Ding Captured Our Challenges



Bank Robbers, Little And Big



WHAT THAT MUD IN OUR RIVERS ADDS UP TO EACH YEAR

Important land tenure trends shaping U.S. agriculture

A series of trends shaping U.S. agriculture (or at least Iowa's) relate directly to land tenure. These include:

- the increasing age of owners and the compression of more farmland ownership with aging citizens;
- the increasing amount of farmland owned by non-operator land owners (NOLOs), such as retired farmers, widows, heirs, or off-farm investors;
- the corollary of the increased use of farm leases – and the increased reliance on cash rentals; and
- an apparent increase in intra-family legal disputes over the transfers of farmland assets.

Land tenure trends raise important questions

These developments vary by state and may defy simple explanations but each has its potential implications.

Compression of ownership with older people means the impending transfer of wealth and land is near; separation of ownership from operation by leasing impacts who makes decisions for how farmland is used and the time horizon involved; the use of cash renting increases economic risks for tenants; and the proliferation of family disputes over farmland transfers highlights, among other things, the need for succession planning.

Land tenure and the USDA

Farmland tenure raises important questions for USDA in delivering price and income supports and conservation - such as who make the decisions, who is the client, and where do the benefits flow?

Land tenure also impacts our ability to achieve important national goals – perhaps none more so than helping create the next generation of farm families.

These are 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.



USDA Historic Concerns for Land Tenure

The Secretary's action was in keeping with USDA's history and the federal government involvement with land tenure. In 1938 President Roosevelt and Secretary Wallace convened a national study concerning how changes in farmland ownership and the rapid increase in farm tenancy was 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 Challenges and Opportunities Ahead

Land tenure issues are at the heart of many of the most important issues shaping the future of agriculture:

- Delivering conservation programs, from CRP to CSP to EQIP, involves entering long-term legal agreements with those working the land.
- Helping create the next generation of farmers will involve access to land and the economics of farming.

Recent actions like FSA expanding the “micro-loan” program to finance land acquisition illustrates how USDA can help people get a start in farming.



Land Tenure Impacts if Farm Finances Deteriorate

Farmland values trending down and deteriorating farm incomes may also have land tenure implications:

- These factors put downward pressure on rental rates and may create volatility in the land market;
- These forces may increase the need for refinancing and impact the ability to make land payments;
- Declining income from farming or landowning may lead to decisions to exit farming or sell land;
- But times of trouble can create opportunities and lower priced land may make entering farming possible and increase landlord flexibility.



Protecting the Environment and Addressing Climate Change

Other issues critical to the future of agriculture will also involve land tenure questions. Efforts by the U.S. to address climate change will focus in part on improving soil health, increasing soil carbon, and building more resilient farming systems – all will require the active involvement of farmers and landowners. Addressing critical environmental issues and protecting water quality – whether in the Mississippi River or the Chesapeake Bay – will require the involvement and cooperation of farmers and landowners whose actions impact the resources.

Aldo Leopold and Sustainability

The writings of Iowa native Aldo Leopold, most notably his book *Sand County Almanac* and the essay “The Land Ethic” set out what many observers view as the principles and foundation for environmental protection and today’s attention to sustainability. The Leopold Center for Sustainable Agriculture at Iowa State University is named in recognition of his work and leadership.

Reading *Sand County* and *The Land Ethic* can change your life, they have mine.

Leopold's Conclusion

An ethical obligation on the part of the private owner is the only visible remedy for these situations.



Taking Responsibility for How Your Land is Farmed





Taking Advantage of USDA Conservation Programs





Making Room for New Farmers



Making Room for Nature



