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**CULTIVATING OPPORTUNITY: LAND TRANSFER TOOLS TO SUPPORT LAND  
ACCESS FOR BEGINNING FARMERS**

**By**

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Bachelor of Arts, Michigan State University, East Lansing, MI, 2011

Thesis

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Cultivating Opportunity: Land Transfer Tools to Support Land Access for Beginning Farmers

Chairperson: Neva Hassanein

This is an exciting, but precarious, time for the generational transfer of agricultural land in the US as established farmers are aging and transitioning out of farm ownership. Beginning farmers, however, the next generation of agrarians, face numerous obstacles to land access – finding and purchasing property. Two of the greatest barriers include the high price farm property commands today and the steady loss of agricultural land. Conservation easements are vital tools in the effort to protect agricultural land, and land transfer tools that enhance conservation easements stand to be crucial instruments for supporting beginning farmers' access to land. There are two land transfer tools in particular that show great promise: conservation buyer programs and the option to purchase at agricultural value (OPAV). Existing research on these tools, though, is severely limited. I sought to address this dearth of research and set out to conduct case studies on two entities that use OPAV and two that use conservation buyer programs to evaluate whether these tools improve access to agricultural land for beginning farmers. Interviews with professionals and beginning farmers that have worked with these tools through the entities of focus informed my case studies. My research found that these tools improve access to agricultural land for beginning farmers under certain circumstances. I also found that these tools are not the only tools in use by the entities of focus, nor have these tools necessarily been more effective at addressing the land access challenge than others in use by the entities.

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## CHAPTER ONE: CULTIVATING OPPORTUNITY

Given the aging population of American farmers today, and the expected transfer of agricultural land to new landowners as current farmers transition out of ownership in coming years, ensuring beginning farmers have access to agricultural land is one of the most pressing issues in food systems work. The United States Department of Agriculture (USDA) defines beginning farmers as, “those who have operated a farm or ranch for 10 years or less either as a sole operator or with others who have operated a farm or ranch for 10 years or less” (Ahearn and Newton 2009: i). Access, in this context, refers to the ability for beginning farmers to find and purchase agricultural land at a price that is not severely inflated beyond its agricultural value — the value of land for commercial agricultural production — by non-farming market forces. Considering both the ability to find and purchase agricultural land is important because land is not only costly, but it is often exceedingly difficult for beginning farmers to identify available property for purchase. The capacity to afford the purchase of property is only relevant if beginning farmers can find land for sale. Furthermore, this paper is concerned with the purchase of agricultural land in the context of land access because other methods of getting on the land, such as rental agreements or ground leases, are often impermanent and tenuous. Securing land tenure through property ownership is important if farmers aim to root themselves in a place, construct permanent infrastructure, and develop a sustainable business. Two of the greatest barriers impeding beginning farmers’ access to agricultural property are the steady conversion of agricultural land to other uses and the high price this land typically commands today.

One vital tool used in the effort to protect agricultural land is the conservation easement, and land transfer tools that enhance conservation easements stand to be crucial instruments for supporting beginning farmers as they look to purchase agricultural property. Conservation

easements are voluntary, incentive-based approaches to private lands conservation that involve the restriction of certain rights, such as the right to subdivide property or conduct oil and gas extraction, into perpetuity. These rights are often referred to as development rights. Third party entities, including government agencies and non-profit organizations, such as land trusts, facilitate conservation easements. Land trusts are non-profit organizations that put conservation easements in place and monitor their enforcement over time. Landowners may donate conservation easements, receiving federal income tax deductions, sell conservation easements, or receive a combination of these forms of financial compensation. Land transfer tools are approaches to the design and implementation of conservation easements that are intended to improve the accessibility of agricultural land for working farmers. Two of these approaches in particular have shown great promise: the option to purchase at agricultural value (OPAV) and the conservation buyer program.

OPAV is a provision included in a conservation easement that gives the administering entity the right, in the event of a sale, to ensure that easement-encumbered land is sold to a qualified buyer at its agricultural value, as opposed to a price influenced by non-farming market demand. Qualified buyers are determined through an application review process that generally considers a proposed buyer's agricultural experience and business plan. Only two US entities use OPAV in all of their conservation easements: Vermont Land Trust (VLT) and Massachusetts Department of Agricultural Resources (MDAR).

Conservation buyer programs, on the other hand, are widely used and take various forms. This research focuses on conservation buyer programs where an entity purchases a property with conservation values, places a conservation easement on it, and then sells the property to a conservation buyer — a buy, protect, and sell approach. These conservation values may include



stream frontage or prime farmland, among other attributes. A conservation buyer is considered an individual dedicated to land stewardship and invested in a property's conservation values. Conservation entities that work extensively with agricultural properties in their conservation buyer programs often look to resell protected properties to qualified buyers following an application review process as well.

This thesis explores how these two land transfer tools can be used to target beginning farmers and improve their access to agricultural land. My central research questions are: Do OPAV and conservation buyer programs improve the accessibility of agricultural land for beginning farmers? What successes and challenges have administering entities experienced with OPAV and conservation buyer programs? I conducted and analyzed case studies of entities that use OPAV and conservation buyer programs to answer these questions. The qualitative methods I used to guide my research are detailed following the literature review.

### **Literature Review**

A number of advocates and scholars have identified the critical need to address barriers to land access for beginning farmers (Ahearn 2011; Beckett and Galt 2013; Johnson 2008; Mishra, Wilson, and Williams 2009; Parsons, Ruhf, Stevenson, Baker, Bell, Epley, Jess, Hinton, and Keller 2010; Shute, Anderson, Bernhardt, Creech, Fleming, Oakley, and Shute 2011; Schwartz, Shute, Ackoff, and Kane 2013; Wagner and Ruhf 2013). Yet, questions around strategies for addressing these access issues have largely remained on the margins of research. There are few exceptions, including Wagner and Ruhf (2013), where the authors evaluate OPAV's success keeping land in the hands of farmers, with a focus on new farmers, as well as Johnson (2008), who details the use of several land transfer tools in California. Additionally, there is Beckett and

Galt (2013) who study land trusts in California that seek to support beginning farmers' access to land by providing these farmers leases to land trust-owned property. Finally, Schwartz et al. (2013) focus on several land transfer tools and offer the most comprehensive profiles of these tools.

This literature review details the current demographic of beginning farmers and the circumstances that have given rise to the challenges beginning farmers face to accessing agricultural land with a focus on barriers to obtaining credit and capital. Additionally, this review considers the steady erosion of the US agricultural land base, describes how conservation easements are used to stem this loss by protecting private land, and examines how OPAV and conservation buyer programs are used to help beginning farmers purchase agricultural land, while highlighting gaps in the aforementioned existing research on land transfer tools.

## **The Transition**

A major transition looms on the horizon of the US agricultural sector today. The average age of principal farm operators in the US is 58 years old (USDA/NASS 2014a: 2). In the next 20 years, around 25 percent of US farmers will retire and 70 percent of private agricultural land will change hands (Schwartz et al. 2013: 9). Over two-thirds of farmers have not identified successors for their businesses and 90 percent of farm owners are without an "exit strategy," or knowledge of how to develop one, as they look towards retirement (Parsons et al. 2010: ii). Our nation's food security and the character of rural landscapes lie in the hands of beginning farmers.

Nationally, about 25 percent of the 2.1 million farmers in the US were beginning farmers in 2012 (USDA/NASS 2014b: 1). These beginning farmers are more likely than established farmers to be young, college-educated, women, and ethnically and racially diverse. Still, 77

percent of beginning farmer principal operators are non-Hispanic white males, and 64 percent have completed high school and some college (Ahearn 2011: 2-3). Additionally, while beginning farmers have set roots across the country, starting and operating successful businesses, they experience higher than average expense-to-sales ratios, receive less money in government payments, and make less in sales than established farmers (USDA/NASS 2014b: 2). Beginning farmers are also twice as likely than all other farm operators to rent land, and a greater portion of beginning farmer households work off-farm, as 74 percent of primary operators and 59 percent of spouses hold off-farm jobs (Mishra, Wilson, and Williams 2009: 163-165).

While the average age of established farmers continues to increase, several studies found that entry rates of beginning farmers into agriculture have declined over the past decades, compounding the farm transition problem. The 58-year-old average age of farmers today is four years older than in 1997 and about three years older than in 2002 (USDA/NASS 2014a). Moreover, twice as many principal farm operators are over the age of 75 than under 35 (Parsons et al. 2010: 4). As the average age of established farmers continues to rise, the number of beginning farmers is declining. Between 2007 and 2012 the number of beginning farmers in the US decreased from 652,820 to 522,058, a loss of nearly 20 percent. Beginning farmers with five years or less on their current operation decreased by 22 percent over this same period of time (USDA/NASS 2014a: 1). Mishra, Wilson, and Williams (2009: 161) attribute this declining rate of entry to increasing barriers facing beginning farmers interested in starting agricultural businesses. One of the greatest barriers facing beginning farmers working to establish an agricultural business is access to land, which many find cost prohibitive to buy.

## **New Agrarians and Land Acquisition**

Agricultural land values have grown substantially in the past two decades. Nickerson, Morehart, Kuethe, Beckman, Ifft, and Williams (2012: 3) note that from 1994 to 2004, agricultural land values increased between two and four percent annually. A more substantial increase occurred between 2005 and 2006, where values grew 16 and 11 percent respectively. Significant growth in land values continued into 2007 and 2008, though at a slightly slower rate, with increases between six and seven percent. On a national scale, agricultural land values had doubled between the start of 2000 and the end of 2010, growing from an average of \$1,090 per acre to \$2,140 per acre (Shute et al. 2011: 27). Land values vary greatly across regions, however, and are highly influenced by many factors, including improvements, soil profiles, and proximity to urban areas.

Schwartz et al. (2013: 12) sketch this variation, pointing to several farms across the country that present differing acreages and prices. For instance, their research highlights a 30-acre farm in Ancram, New York. This farm includes a house as well as a barn, is located 108 miles from New York City and boasts a hefty price tag of \$525,000. For comparison, they offer a farm in Mansfield, Georgia, that is more than double the size of the Ancram property, at 77 acres. While the Mansfield farm includes neither a house nor buildings and is located just 45 miles from Atlanta, it is valued at \$500,000. Not only are land values highly variable across the country, as this example suggests, but it is also true that in many regions, conventional economic standards do not consider agriculture to be the best use for land (Parsons et al. 2010: 7). The value of land, consequently, is often set by a property's potential development value — its value for a subdivision, a rural estate, or retail, such as a mall — which is generally significantly greater than its value for commercial agricultural production.

Even in some rural communities where agricultural production is deemed the highest and best use of land, and commercial agricultural potential sets land values, beginning farmers still struggle to access property. In those areas, they are often forced to compete against larger and more established farmers to purchase land (Parsons et al. 2010: 7). Established farms can spread their fixed costs over large acreages, increasing marginal profits per acre, which raises the amount of money they can bid on parcels of land. Those beginning farmers who are looking to transition into land ownership, or whose businesses are in the nascent stages of development, however, are constrained by tight budgets that limit their competitive bidding capacity. Consequently, beginning farmers are often outbid on parcels of land by established farmers (Parsons et al. 2010: 7). On top of the challenges posed by high land prices and competition from established farmers, beginning farmers face a challenging economic climate that makes it difficult to obtain the financial resources necessary to purchase property.

Purchasing agricultural property generally requires considerable capital and access to significant credit. Ruhf and Immerman (2002: 8) maintain that beginning farmers generally have low net worth and few assets, and if they are in the nascent stages of starting their businesses, they likely do not have significant financial history and may lack a business plan. Ahearn (2011: 4-5) reports that only 22 percent of those beginning farmers who have started farm businesses earned positive returns after depreciation in 2009, emphasizing that it is not until farms earn between \$25,000 and \$30,000 in gross production that they have positive net cash returns. Few beginning farmers, including those who own property, achieve these earnings and Ahearn and Newton (2013: 4) note that less than one quarter of all beginning farmers earn more than \$25,000 in gross sales. These factors often inhibit beginning farmers' ability to obtain the loans necessary to acquire property. Kauffman (2013) explains that beginning farmers held more than 20 percent

less equity than the average agricultural business in 2011, and the liabilities of younger farmers was more than twice that of all farmers, compounding beginning farmers' lending challenges. Lower equity levels create greater risks for lenders due to the dearth of assets available for collateral.

In addition to the difficulty of acquiring credit and capital, the continued conversion of agricultural land to other uses puts the future of farming at risk, as opportunities for beginning farmers to access property diminish with each acre lost. Exploring agricultural land conversion trends lays the framework for highlighting the important role conservation easements play in protecting agricultural land and provides context for understanding the influence land transfer tools may have in improving the accessibility of agricultural land for beginning farmers.

### **The Agricultural Land Base**

Since World War II, development patterns in the US have been characterized by urban sprawl, the emergence of vast suburban rings leapfrogging out from urban centers. Urban sprawl swallows immense tracts of the rural landscape, leaving shopping malls, condominium complexes, and office parks in its wake. One of the principal victims of this "suburban juggernaut" is agricultural land (Daniels and Bowers 1999: 1). The US lost 458,955 acres of total cropland between 1982 and 2012 (USDA/NASS 2014a; USDA/NASS 1984).

For decades now, scholars and other professionals have recognized the problems that result from the conversion of agricultural land to other uses (Daniels 1991; Esseks et al. 2009; Olson and Lyson 1999). Conversion stymies economic development (Wyatt and Halpin 2009: 54) and increases the cost of public services (American Farmland Trust 2010; Daniels and Bowers 1999). Moreover, Libby and Stewart (1999: 150) maintain that the continuation of this trend will put the

future of US food security at risk. The loss of agricultural land to development is often irreversible, and development, Olson and Lyson (1999:2) contend, “forecloses any options for agriculture on a particular piece of land.” Once agricultural land is paved over, returning it to productive agricultural use is improbable and extremely expensive. Interest in conservation easements has grown amongst conservation advocates and landowners in the latter half of the twentieth century as an instrument to slow this suburban juggernaut and stem the loss of agricultural land.

### **Conservation Easements**

Today, conservation easements are used across the nation as voluntary, incentive-based approaches to permanent agricultural land protection. A conservation easement restricts a landowner’s development rights. For example, a landowner may limit their rights to build additional structures or graze riparian areas, but retain unencumbered rights to other uses of their land, such as the right to farm or hunt. Rights restricted depend on the provisions outlined in a conservation easement that are determined by a landowner working in conjunction with a conservation entity. Conservation easements are not universal, however, and are designed to meet the conservation goals of the parties involved. Whether a landowner sells rights or donates them, receiving federal income tax deductions, or pursues some combination of both, their property remains on the tax rolls. Additionally, while most conservation easements last into perpetuity, they can be designed with expiration, though this is rare.

In recent decades, the use of conservation easements has gained popularity amongst advocates and landowners for many reasons. First, the non-compulsory nature of easements as a conservation strategy is attractive to many landowners (Daniels 1991; Merenlender, Huntsinger,

Guthey, and Fairfax 2004; Stoms, Jantz, Davis, and DeAngelo: 2009). Conservation easements are entirely voluntary, and the decision to establish a conservation easement can be viewed as an “exercise in private property rights” (Knight 2004: 2). Additionally, the financial incentive conservation easements offer is attractive for several reasons (Gustanski and Squires 2000; Merenlender et al. 2004). The sale of a conservation easement can be particularly valuable for farmers in need of capital (Daniels 1991), while farmers developing succession plans may also look to a conservation easement to provide financial security for retirement and to reduce the value of their property for estate tax purposes. Finally, conservation easements permanently close certain land use options and most often last into perpetuity. This assurance exists in contrast to other methods of agricultural land conservation, like zoning for agriculture, which is impermanent, malleable, and politically vulnerable. Zoning policies can be initially challenging to put into effect, and, once instated, can be removed or dismantled and rendered obsolete by political process. On the other hand, Daniels (1991: 425) argues, conservation easements provide legal grounds for permanent protection.

Although conservation easements provide for permanent land protection, they do not ensure that these private lands remain in the hands of working farmers nor do they make certain that the land remains in agricultural production (American Farmland Trust 2010; Schwartz et al. 2013). In a study of 223 entities in the US that work with conservation easements, 24 percent of survey respondents indicated that, “traditional conservation easements are not keeping farms in agricultural production” (Schwartz et al. 2013: 26). Several explanations cited for this loss include: “properties selling to non-agricultural buyers, landowners lacking successors and easement protected properties selling at prices ‘too high for farmers to purchase’.” While the value of properties protected by conservation easements may no longer be influenced by their



development potential, Equity Trust (2012) contends that “amenity values” such as scenic views, open space, and recreational opportunities can still significantly drive up the price of land, foreclosing its accessibility to working farmers as, “farmers simply cannot compete with the buying power of people seeking rural estates.”

Sokolow, Heflin, Schmidt, Speka, Richter, and Cotromanes (2006) echo this contention, concluding that while conservation easement restrictions do lower the market value of land, this value is often not low enough to be affordable for commercial agricultural use. This often results in the resale of easement-encumbered properties to non-farmers. Counter to the findings in Schwartz et al. (2013), however, Sokolow et al. (2006) write that the properties sold to non-farmers often remain in agricultural production after their resale, as land is, in turn, leased to farmers. Although, Schwartz et al. (2013: 16) do note that once agricultural land is purchased by non-farmers who may add expensive improvements — from a new driveway to a home addition or irrigation system — that drive up the price of a property, the land will likely never be owned by working farmers or ranchers again.

Conservation easements do protect agricultural land from development and degradation, but do not guarantee land will remain under the ownership of farmers and in agriculture. Land transfer tools, however, work to address these limitations.

### **Land Transfer Tools**

Entities using land transfer tools such as OPAV and conservation buyer programs have sought to expand the impact of conservation easements beyond land protection. While these tools are both used to support land access, they work fundamentally differently, and the former is far more common.

**Conservation Buyer Programs** Entities operating conservation buyer programs, such as land trusts, often maintain online, publicly accessible databases of properties available on the market, or properties owned by the conservation entity, that have conservation values, such as prime soils or stream access. These databases provide information about a property, such as cropping or pasture history, aerial photographs with demarcated property lines, and relevant details concerning residences or outbuildings on the land. The previously mentioned survey of 223 US entities that use conservation easements found that 62 percent of respondents work with conservation buyers (Schwartz et al. 2013: 27).

My research focuses specifically on entities that purchase agricultural properties, then purchase conservation easements on these properties and sell the properties to qualified buyers through the entity's conservation buyer program. The targeted sale of properties to qualified buyers is meant to ensure a property remains in the hands of a working farmer and in agricultural use. Additionally, a property may become more affordable for a working farmer once it is protected with a conservation easement, as the value of a property is reduced due to restrictions placed on land use. The chief strength of this buy, protect, sell approach is that it allows entities to target beginning farmers as qualified buyers with the sale of protected properties whose values have been reduced by conservation easements.

**The Option to Purchase at Agricultural Value** OPAV significantly reduces the price of affected properties, more so than a standard conservation easement, and observers often consider this tool the strongest approach for maintaining land affordability for beginning farmers (Equity Trust 2012; Johnson 2008; Schwartz et al. 2013). Wagner and Ruhf (2013: 3) describe OPAV as a restriction that “requires when affected land is sold, it be sold at a price that reflects its

agricultural value, rather than a price that may be influenced by any non-farming market demand, for example for rural estates.” A conservation easement with OPAV can be valued as much as 10 to 40 percent more per acre than a standard conservation easement. Ultimately, a conservation easement with OPAV generally captures between 60 or 70 percent of a property's fair market value (Johnson 2008: 48).

OPAV is “triggered” when the affected property is offered for sale. Landowners must notify administering entities when the landowner has entered into a purchase and sale agreement with a buyer. When the buyer is either a family member or determined to be a qualified buyer, the administering entity will waive its right to purchase. If the buyer is neither a family member nor a qualified buyer, the administering entity can opt to purchase the property at its agricultural value and sell it to a qualified buyer. A buyer’s qualified status is generally determined through an application review process.

**Existing Research on Land Transfer Tools** Research that details the use of land transfer tools in practice or explores their effectiveness in supporting access to agricultural land for beginning farmers is surprisingly limited. There are, however, four studies to note.

First, Beckett and Galt (2013) examine the relationships between land trusts working to support land access for beginning farmers in California, with a focus on beginning farmers that lease land from these entities. The authors found that not only do tenuous relationships between the land trust community and beginning farmers arise through these lease arrangements, due to competing views on land use and conservation, but the authors concluded that land trusts likely cannot provide land access assistance to all of the beginning farmers that sought support from the entities.

Johnson (2008) discusses the challenge of using conservation easements on agricultural land in California to keep agricultural land as working land, and highlights three land transfer tools that can be used to keep agricultural land affordable. The tools Johnson (2008) highlights include OPAV, the exclusion of residences and other infrastructure from a conservation easement, which reduces the total fair market value of properties, as well as affirmative agricultural language (AAL). AAL is a provision included in a conservation easement that requires effected land to remain in active agricultural production. This affirmative covenant increases the value of a conservation easement by further restricting land use, thereby capturing a greater portion of a property's value, and significantly reducing a property's fair market value. Johnson (2008) does not, however, evaluate the use and effectiveness of these tools in practice, nor does Johnson (2008) consider conservation buyer programs, as my research does.

Schwartz et al. (2013) conducted a study for the National Young Farmers Coalition. The authors provide the most comprehensive discussion of the structure and function of land transfer tools and the role land trusts can play in supporting access to agricultural land for beginning farmers. This study explores the use of conservation buyer programs, AAL, and OPAV. Schwartz et al. (2013) write on the challenge of generational land transfer, including the advantages and disadvantages of owning versus leasing land. They also outline the results of a land trust survey concerned with land transfer tools, and offer a host of land transfer tool and land access policy recommendations for federal and state policymakers as well as land trust practitioners. Overall, this study provides an excellent overview of land transfer tools and their uses today. Schwartz et al. (2013), however, offer minimal evaluation of the effectiveness of the land transfer tools discussed in their report.

Wagner and Ruhf (2013) author the only study to date that assesses the effectiveness of a

land transfer tool. The authors consider whether OPAV ensures protected agricultural land is accessible to working and beginning farmers and conclude that while OPAV makes certain that effected land is available for agriculture into the future, “it cannot ensure access to this land by new and beginning farmers who typically cannot compete against well-established farmers.” They add that OPAV succeeds in keeping land in the hands of working farmers, but that the tool does not ensure land is affordable to all farmers interested in purchasing that land. Like Schwartz et al. (2013), the authors outline recommendations for policymakers and private lands conservation practitioners in support of addressing gaps identified in the use of the OPAV to address land access for beginning farmers.

Beckett and Galt (2013), Johnson (2008), Schwartz et al. (2013), and Wagner and Ruhf (2013) paint a detailed picture of the current land access climate for beginning farmers, and discuss both how land transfer tools are used as well as how they can be improved. My paper complements this existing research on beginning farmers and land access by focusing on the specific experiences of individual land transfer tool practitioners and the beginning farmers they work with. Unlike previous studies, my research focuses on giving a voice to beginning farmers and practitioners who are on the ground engaging with these land transfer tools first hand. I rely directly on their experiences to develop a narrative that considers whether land transfer tools improve land access for beginning farmers. Given the impending mass generational transfer of agricultural land, there is perhaps no more important question in agriculture today. While it is undoubtedly important to continue protecting agricultural land with conservation easements, it is equally as important to make sure this land is accessible to the next generation of agriculturalists — farmland needs farmers.

## **Conclusion**

While researchers have identified and explored the myriad barriers beginning farmers face to acquiring agricultural land, research on mechanisms that can support land access for these aspiring agrarians is limited. It would seem that research in this field, however, is growing, especially given that the first paper on the topic of land transfer tools was published in 2008.

My research found that land transfer tools such as conservation buyer programs and OPAV can improve the accessibility of agricultural land for beginning farmers, but that these tools are not always successful. Only two of the four entities reported successfully facilitating the transfer of land to beginning farmers using either OPAV or a conservation buyer program. All entities, however, have facilitated the transfer of land to beginning farmers using land transfer tools aside from OPAV and the conservation buyer program. This research also found that beginning farmers believe that the challenge of finding land available for purchase is as great of a challenge as being able to afford the purchase of that land. I also learned that affordability is relative to the capital resources one has access to. Land that is affordable for one farmer is certainly not affordable for all farmers. Moreover, I discovered a robust and multi-faceted array of funding sources buttress the use of OPAV and conservation buyer programs at the entities of focus. These tools are not only expensive, but the process of land transfer that these tools facilitate is complex, and wrought with difficulties. In many ways, my research reveals that land transfer tools are simply complicated. No two property transactions are exactly alike, and while some entities have the use of these tools dialed in, they are still in the nascent, or even experimental stages, of development in the hands of others.

This paper extends the literature on land transfer tools and provides for a better understanding of how these tools work in practice. I hope my research will enrich the discussion

of land transfer tools and inform entities interested in implementing OPAV and conservation buyer programs into the future. There is no better time than now to consider how we can improve support for beginning farmers and protect the agricultural land we all depend upon. Supporting agricultural communities means taking new steps in conservation. The time is ripe and the field is primed for entities facilitating conservation easements to invest in innovative tools and cultivate opportunities for beginning farmers to purchase agricultural land today.

## **CHAPTER TWO: METHODOLOGY**

This project relies on a qualitative approach that emphasizes the value of building research from information obtained directly from people with certain life experiences in order to produce exploratory and descriptive knowledge on a particular topic (Hesse-Biber and Leavy 2006: 4-5). I set out to conduct case studies on two entities that use OPAV and two that use conservation buyer programs.

These case studies are informed by in-depth interviews with professionals and beginning farmers that have experience working with OPAV and conservation buyer programs through the conservation entities of focus. In addition, I reviewed relevant documents, such as conservation easement deeds and programmatic materials from the entities. This data was used to elucidate how OPAV and conservation buyer programs are employed in practice, making possible a comparison between how the professionals and beginning farmer interviewees view the impact of these tools on agricultural land access for beginning farmers.

### **Case Studies**

As mentioned, many entities across the US administer conservation buyer programs, though only two use OPAV in all of their conservation easements. The entities included in this project were chosen for their diversity of location and program structure, although my choice of entities to examine for case studies of OPAV was necessarily limited to two that regularly employ the tool: MDAR and VLT. I chose two separate organizations that use conservation buyer programs to examine: Maine Farmland Trust (MFT) and Puget Consumer Cooperative Farmland Trust (PCCFT). During the course of my research, however, I learned that not only does VLT use OPAV, but the Land Trust has found success facilitating conservation easements



with OPAV through a conservation buyer program as well. This finding added an additional layer of complexity to my research, enriching the analysis and conclusions. Despite the overlap the Land Trust presents in its use of both tools of focus, VLT is presented in this paper alongside MDAR in Chapter Three: The Option to Purchase at Agricultural Value. The four cases are briefly introduced below.

### **Conservation Buyer Program: Puget Consumer Cooperative Farmland Trust**

PCCFT is a non-profit organization located in Seattle, Washington, that was founded in 1999 by Puget Consumer Cooperative Natural Markets. Puget Consumer Cooperative Natural Markets, however, maintains a separate office and Board of Directors from the Farmland Trust. From the implementation of standard conservation easements to a conservation buyer program with a purchase, protect, and sell component, which it refers to as Acquire, Conserve, Transfer, (ACT) PCCFT is a leader in agricultural land conservation in the Pacific Northwest. To date, the Farmland Trust has conserved 11 farm properties, totaling 1,343 acres and 15 working farms. One particularly unique component of the Farmland Trust's work is its historic preference for promoting certified organic agriculture and protecting land that is cultivated in accordance to sustainable agricultural practices. The case study of PCCFT provided valuable insight into a dynamic, private lands conservation program in the west with 15 years of experience and a focus on supporting the sustainable agriculture movement.

### **Conservation Buyer Program: Maine Farmland Trust**

MFT got its start in 1999 with the intention of conserving the state's agricultural land by facilitating conservation easements. The entity emphasizes that the future of agriculture in Maine

depends on the affordability of land for beginning farmers and established producers alike.

According to the Farmland Trust, protecting agricultural land into perpetuity with conservation easements is the best way to ensure land is affordable and available for farmers into the future. In 2007, in an effort to expand the entity's impact, it implemented a conservation strategy designed around four program areas: farmland protection, farm viability, farmland access, and public outreach and policy. MFT created Buy, Protect, Sell, (BPS) a purchase, protect, and sell initiative, to advance its land protection strategy (MFT Background and History 2015). BPS has led to the protection of 35 properties since its founding. The Farmland Trust also operates Maine Farms Realty (MFR), an in-house real estate brokerage, which functions as MFT's representative in property transactions. MFR works as the driving force behind the BPS program. This case study of MFT presents an opportunity to explore a bold entity with an expansive conservation portfolio. Moreover, as PCCFT and MFT reside on geographic poles in the US, case studies of these entities allowed me to compare and contrast the entities' approaches to protecting land and promoting land access given different regional characteristics and constraints.

### **The Option to Purchase at Agricultural Value: Massachusetts Department of Agricultural Resources**

MDAR facilitates conservation easements with OPAV through its Agricultural Preservation Restriction Program, which was established by legislation in 1978. The Department has protected nearly 70,000 acres of agricultural land on over 800 properties with conservation easements since its inception. In 1994, it was the first entity to adopt the use of OPAV. A case study of MDAR offers insight into a massive governmental conservation machine and the first entity to begin using OPAV.

## **The Option to Purchase at Agricultural Value: Vermont Land Trust**

VLT has conserved more than 1,775 parcels of land on more than 535,000 acres since its founding in 1977. This acreage amounts to eight percent of the private, undeveloped land in Vermont and more than 775 agricultural, forestland, and publicly accessible properties. Under the mentorship of the American Farmland Trust and Equity Trust, the VLT adopted OPAV in 2004, modeling it after MDAR's use of the tool. The Land Trust has also developed the Farmland Access Program, a unique initiative that uses seven different strategies incorporating conservation easements with OPAV to support beginning farmers' purchase of land. Through a couple of these strategies, VLT actually takes a conservation buyer program approach to facilitate a conservation easement with OPAV. It is the only organization to use both tools of focus in this research, OPAV and a conservation buyer program. This case study on VLT highlighted the effectiveness of OPAV when paired with another land transfer tool and brought to light similarities and differences between the only two entities that regularly use OPAV.

## **Gathering Data**

### **Semi-Structured Interviews**

In 2015, I conducted 13 interviews with 17 people, all of which were face-to-face except one, which was over the phone. This included eight beginning farmer interviews and five interviews with staff at the entities. These interviews were recorded in-person and later transcribed to facilitate analysis and ensure accuracy. I used a semi-structured approach, which relies "on a certain set of questions and tries to guide the conversation to remain, more loosely, on those questions (Hesse-Biber and Leavy 2006: 125). A semi-structured interview allows an interviewee room to talk about what they find of interest or feel is important in relation to

questions asked, promoting a guided conversation that can move in new or unexpected directions, leading to new insights.

I also took an inductive approach to research question design. Hesse-Biber and Leavy (2006: 49) explain that the inductive approach “focuses on describing...or generating theories or ideas about a given social phenomenon.” Inductive research aims are exploratory, as well as descriptive. Interview questions for entity staff inquired as to why the entities adopted the use of a conservation buyer program and OPAV. I asked them to detail the structure of the tools, focusing on the tools’ purpose, framework, and funding sources. In exploring the function of the tools, I asked interviewees to describe any enforcement issues and to outline the application process involved in purchasing effected properties as well as how the transfer of property takes shape under the land transfer tools of focus. Additionally, I asked staff to evaluate whether their entity’s use of the respective land transfer tool had improved land access for beginning farmers. Interview questions also delved into the underlying factors that contributed to the successes and challenges of OPAV and conservation buyer programs, as well as how the entities have worked to address these challenges.

Interview questions for beginning farmers focused on their experiences working with both the respective entity and land transfer tool. I asked beginning farmers to describe their experience looking to purchase agricultural land prior to partnering with a conservation entity, and to explain how and why they came to work with the particular entity. Additionally, interview questions inquired as to how the beginning farmers obtained the credit or capital to purchase property and whether the beginning farmers felt the land transfer tool they worked with did in fact improve their access to agricultural land. Finally, questions explored shortcomings as well as potential avenues for improvement in the land transfer tools.

I relied on two different approaches to selecting interviewees. Initially, I took a purposive sampling approach, contacting four individuals associated with each entity whom I assumed could contribute to knowledge-building in the course of my research (Hesse-Biber and Leavy 2006: 70). I aimed to interview one professional from each conservation entity, seeking those who could speak to their experience working with beginning farmers through the coordination of OPAV or conservation buyer programs. To conduct my interviews, I traveled to each entity's office. In the case of MDAR and MFT, I had the opportunity to interview two staff at each entity. With the Farmland Trust, I conducted one interview with two individuals at the entity, while the interviews with the two professionals at MDAR were independent of each other.

Once I established contacts at the respective entities, I used the snowball sampling approach to select beginning farmer interviewees. Prior to my interviews with staff, I asked them to recommend beginning farmers who have worked with their entity and OPAV or a conservation buyer program. As the individuals on the ground, experiencing first hand the challenges of gaining access to land, beginning farmers offered a perspective distinct from that which staff were able to provide. Three of my eight interviews with beginning farmers took place at their homes, while the others were conducted in the field. Additionally, five of my eight interviews with beginning farmers were one-on-one, and the other three involved the two individuals who shared ownership of their farm and myself (See Table A).

## **Document Review**

The collection and review of documents supplemented the in-depth interviews. Hesse-Biber and Leavy (2006: 286) explain that there are two primary benefits to working with nonliving data, such as texts. They write, “(1) the data are noninteractive, (2) the data exist

Table A: Number and Structure of Staff and Farmer Interviews

	<b>Staff</b>	<b>One Person Interviews</b>	<b>Two Person Interviews</b>	<b>Farmers</b>	<b>Interview With Individuals</b>	<b>Couples</b>
<b>VLT</b>	1	1		4		2
<b>MDAR</b>	2	2		1	1	
<b>PCCFT</b>	1	1		1	1	
<b>MFT</b>	2		1	4		2

*This table outlines the number of staff and farmer interviewees featured in this paper, indicates what entity the interviewees were associated with, and notes how many people were involved in each interview.*

independent of the research.” Since the data had been collected using unobtrusive research methods and was not influenced by a researcher’s biases, it has a unique “authenticity.”

Documents gathered for the conservation buyer program component of this project included (1) listings of properties in an entity’s online property database, (2) requests for proposals (RFPs) for those properties, and (3) documents outlining policies and processes for determining whether a property is suitable for the respective program. The documents concerned with OPAV included (1) conservation easement deeds with the provision to provide insight into the structure of the tool, as well as (2) RFPs for properties and (3) outreach materials.

## **Analysis**

I used an inductive analytical approach to code interview transcripts and the documents I

collected. This began with open coding and moved into the development of categories. A grounded theory approach informed my analysis. Grounded theory, according to Hesse-Biber and Leavy (2006: 348), “starts from an engagement with the data and ends with a theory that is generated or grounded in the data.” This approach encourages a data driven analysis and presses the researcher to analyze data and test ideas throughout the research process. Moreover, grounded theory supports the creation of theory from that data, which describes events and experiences. As I developed my analysis, I focused on comparing the use of conservation buyer programs and OPAV between the respective practicing entities, sought to highlight the strengths and weaknesses of the approaches, and I explored when one tool may be more appropriate than the other.

### **Limitations**

There are several important limitations of the study to note. These limitations are general, and affect the whole study. They are concerned with operationalizing terminology, data collection, sampling, and analysis.

Disparities between who the entities and beginning farmers consider to be a beginning farmer affected my analysis. While I approached the study with the aforementioned USDA definition of beginning farmers in mind, it became clear over the course of my research that neither the conservation entities nor the beginning farmers themselves were concerned, or constrained, in any way by the USDA’s beginning farmer definition. In fact, MDAR and VLT developed both their own terminology and definitions for beginning farmers. Because the entity’s have either differing definitions of beginning farmers or are not concerned with definitions of beginning farmers, this research cannot verify that the farmers included in the case

studies, nor the various cases the conservation entity professionals used for reference in their interviews, fall within the confines of the USDA definition. Moreover, during the interviews with beginning farmers, while I was able to inquire as to how long and in what capacity the farmers had been involved in agriculture, the specifics of the USDA's beginning farmer definition, such as the "principal operator" qualification, was often nuanced and uncertain in an interviewee's mind.

Additionally, staff were often not aware of data concerning the number of beginning farmers their entity had worked with in any capacity. This includes data detailing how many beginning farmers they had helped to purchase property. Even if the entities were to maintain this data, it would be difficult to reconcile for comparison and contrast between the case studies given the groups do not maintain, or maintain different, definitions of what constitutes a beginning farmer.

The snowball approach to sampling created an additional limitation of this study. Because I asked staff to refer me to beginning farmers for the purpose of the study, staff were able to, in essence, self-select the perspective, or story, that I would likely hear from interviewees. It is possible, for example, that staff chose to not refer me to beginning farmers with whom land access transactions did not work out, given that each of the beginning farmers I spoke with successfully purchased property with the help of a land transfer tool. This limitation could have perhaps been remedied had I asked the professionals to specifically refer me to beginning farmers who were not able to successfully purchase property with the help of the entity. Speaking with individuals who were not able to purchase property through the entities would have broadened the scope of results for this research.

Additionally, all of the farmers interviewed operate small-scale specialty crop businesses



or work in niche markets. All but one of the farmers interviewed manage diversified mixed vegetable farms. The lone outlier operates a small pasture-raised livestock business. Moreover, none of these farms are larger than 100 acres. Ahearn and Newton (2009: 11) report that the average beginning farmer farm size is 174 acres. This is double, or close to double, the farm size of any interviewee's operation. Furthermore, the majority of beginning farmers in the US, at 57 percent, raise "General commodities," while only six percent raise "High-value crops," which would include mixed vegetable farms. Although they may experience similar challenges, the businesses of the beginning farmers interviewed do not look like the majority of beginning farmer businesses today. In this sense, the beginning farmers interviewed are outliers.

Finally, there are no existing criteria against which to compare entity or beginning farmer experiences in order to measure the success of the land transfer tools. Because the entities are all effectively pioneers in their fields, given they are either trailblazers in their focus on land access for beginning farmers or in their use of an uncommon tool, and research on this topic is limited, there is not an existing standard against which to measure success. Of the entities in this research, however, VLT has undoubtedly been the most successful at using land transfer tools to support beginning farmers' purchase of agricultural land.

## **CHAPTER THREE: THE OPTION TO PURCHASE AT AGRICULTURAL VALUE**

There are a number of similarities between VLT and MDAR's use of OPAV. These include the way that the entities have structured and facilitated the tool. Additionally, both entities have conserved a tremendous amount of land, have robust and reliable funding sources for their conservation work, and, of course, they are the only two entities in the US that regularly use OPAV in their conservation easements. The starkest difference between the entities stems from their engagement, or lack thereof, with beginning farmers. While MDAR's staff reported beginning farmers have not purchased a property protected with a conservation easement and OPAV, nor has MDAR ever exercised its OPAV, VLT has not only exercised its OPAV on several occasions, but the Land Trust has helped dozens of beginning farmers purchase agricultural land through its Farmland Access Program with the help of OPAV as well as a conservation buyer program. Providing land access support to beginning farmers is a priority of VLT's. These case studies inform a comparison between VLT and MDAR that provides a deeper look at the similarities and differences between the entities, and offers insight into why VLT has had more success than MDAR at getting beginning farmers on the land.

### **Vermont Land Trust**

VLT works statewide, with several offices across Vermont, and has protected more than 860 properties with conservation easements. Of these 860 conserved properties, 320 are farms protected with conservation easements and OPAV. I spoke with Jon Ramsay, the Director of the Land Trust's Farmland Access Program, at the Land Trust's office in Richmond. According to Jon, OPAV has a dual purpose. He said, "the intent [of OPAV] is to keep some land in the hands of people who are actually going to be the ones farming that land, and to also keep land

affordable for those people.” Jon added the caveat, however, that agricultural value is not necessarily an affordable value for all farmers. VLT began using OPAV in an effort to support access to agricultural land for working farmers. The land access support the Land Trust provides these farmers goes beyond simply including OPAV in conservation easements as VLT actively facilitates land transfers for working farmers, with a focus on new and beginning farmers, through the Farmland Access Program (VLT Farmland Access Program Summary 2014).

The Farmland Access Program helps beginning farmers start or expand their farm businesses. VLT’s website also reads, “Supporting local communities, local food production, and the long-term productive use of farmland are all objectives [of the Farmland Access Program]” (VLT Farmland Access 2015). Jon is responsible for managing the Program today, and he explained that the Farmland Access Program employs seven different strategies, including buying and selling property through a conservation buyer program, to help beginning farmers get on the land. Since its inception in 2009, the Program has helped over 40 beginning farmers purchase or rent farm property.

## **Purpose**

VLT began using OPAV in order to level the playing field for working farmers looking to purchase agricultural land. OPAV ensures that when land is sold, it is sold at its agricultural value, a more affordable value, which VLT defines as “what a farmer earning his or her income from the land would pay for it” (VLT Conservation Easement 2014: 9). By reducing the value of agricultural land, Jon explained, “OPAV levels the playing field, giving farmers a shot regardless of their economic resources.” Fairness is at the root of the Land Trust’s concerns around affordability and keeping agricultural land in the hands of working farmers. Moreover, leveling

the playing field and giving farmers a shot is part of a bigger picture for VLT: supporting Vermont's rural economies.

Jon sees a connection between keeping land at its agricultural value and supporting the economies of rural communities in Vermont. He said, "farm affordability is a real issue if we're wanting keep agriculture as part of our economy, and Vermont has really stood behind keeping agriculture as part of our rural economy." Farms are a significant source of employment in rural Vermont, providing jobs not only for principal operators and owners, but for ancillary businesses and industries like equipment dealers and food processors as well. Jon pointed out a cheese maker that employs around 40 people in his hometown as an example of this relationship between farms and ancillary industries. Vermont's dairies provide milk to the cheese maker and the cheese maker provides jobs to members of its community. Keeping agricultural land affordable for working farmers not only helps farmers purchase farm properties, but the affordability of land is tied to job creation in ancillary industries and the viability of rural communities as a whole for VLT.

### **Introducing Beginning Farmers**

I interviewed Betsy and Arthur of Red Oak Farm and Sara and Matt of Full Moon Farm who worked with Jon through the Farmland Access Program and conservation buyer program transactions with OPAV to purchase their farm properties. All four farmers credited the Farmland Access Program and the property value reduction that OPAV conveyed for enabling them to purchase their land.

Betsy and Arthur at Red Oak Farm got their start working at a farm incubator in Vermont before purchasing their property. They met while working for the incubator and teamed up to

start a farm business themselves through the incubator not long after. Working on one acre, they started a mixed vegetable farm and sold their produce at two area farmers markets, through a 10 member Community Supported Agriculture (CSA) subscription service, and to area restaurants. Today, they run a mixed vegetable farm on Red Oak's 89 acres, which they bought from VLT in 2006. Their business has grown substantially since their time on the incubator farm, as they operate a 117 member CSA today. They still sell through farmers markets and area restaurants, and have added sales to a local market to their business as well. Betsy and Arthur started Red Oak Farm with a strong educational mission, and offer farm tours, an orientation workday for the local college, and internships. They also offer an open house-like venue for the portion of their CSA members that pick up their shares at Red Oak. These CSA members have an opportunity to experience and learn about the farm first hand, with family and friends, while meeting other CSA members when they pick up their CSA shares.

Sara and Matt started farming together on a land trust-owned farm in New York. Initially working as volunteers at the farm in their spare time, they later rented land from the same farm for mixed vegetable production, with one acre the first year, three the next, and 10 the following growing season. The farm, however, would not allow Sara and Matt to sign onto more than a five-year lease, nor would it allow them to construct infrastructure on the property, like hoophouses or storage sheds. Deciding after four years that this farm was not a viable location for building a long term business, they returned to Vermont, where they had attended college.

In 2013, Sara and Matt purchased Full Moon Farm's 87 acres from VLT while working as managers on another Vermont farm. They now run Full Moon as a mixed vegetable farm and sell their produce at their farm stand, through their 25 member CSA — though they have hopes of expanding to 100 members — at three to four farmers markets over the course of the year, and

to wholesale buyers. Sara and Matt were excited, though a bit nervous, when they told me 2015 would be the first year they will be able to make it through the winter without holding off-farm jobs. While money is tight, their business is growing, and they are able to focus all of their energy on the farm right now.

### **Finding Agricultural Land as a Beginning Farmer**

All four farmers and Jon maintained that simply finding agricultural land for purchase is extremely difficult. Arthur was particularly adamant about this issue. He said that Vermont was seeing a decline in the overall number of farms and growth in the size of existing farms. According to Arthur, “[Farms] never go on the market... basically, access to the prime soils is almost non-existent now. It's all kind of passed between families or friends, this farm included.” It is especially difficult for farmers who are not coming from agricultural backgrounds, which includes all four farmers, because they often do not have extensive connections within the agricultural community that they can rely on to find land. Furthermore, Arthur suggested that finding a farm with good soils is even more difficult. In fact, neighboring dairy farms all bid on Red Oak Farm before the previous owners even put it on the market.

Jon pointed to northwestern Vermont to highlight the challenge of finding agricultural land. In this remote and predominantly agricultural region, land often passes from one established farmer to another. Few farms ever even hit the Multiple Listing Service for real estate, Jon said, adding, “if a farmer's selling [land], they know they can call up a half dozen other larger-scale dairy farms, and call up their six guys, and all the sudden they have a bidding war on their hands.” The bidding war not only drives up land prices and crowds out farmers with

limited capital resources, but the insular nature of the sales inhibits outsiders from having an opportunity to even take part in the bidding.

Sara and Matt said that the farms that they did manage to find prior to working with VLT through the Farmland Access Program were often not in great condition. Matt said, “We looked at places where the houses were falling down, just ingrained with cigarette smoke, or dog hair. So, they were just nasty, and the prices were insane.” Continuing, he commented that the location of farm properties they were able to find were often not ideal either, “Up in the hills, not in close proximity to anything.” Around their current location, he said, which is in close proximity to several urban hubs, “There wasn’t anything, maybe 100 acres for \$400,000, with no infrastructure at all.” According to Matt, if you were looking for properties in close proximity to markets in Vermont, you were out of luck. Moreover, the properties that were on the market needed to be refurbished, which was not a viable prospect for beginning farmers with limited capital resources. For these reasons, the role VLT plays in facilitating the purchase of agricultural land through the Farmland Access Program is particularly important to beginning farmers.

### **The Option to Purchase at Agricultural Value and the Farmland Access Program**

**Finding Land** The Land Trust relies primarily on two sources to identify properties for protection with a conservation easement and OPAV through the Farmland Access Program. VLT relies heavily on landowners and farm seekers, and Jon said, “our Farmland Access Program now has reached a level of awareness within Vermont that some farmers are calling us.” Landowners looking to sell their farm properties have come to see VLT as a potential buyer or resource for facilitating the purchase of a property by another farmer. Jon explained that he also

relies on members of the Land Trust's database of farm seekers, which includes more than 350 people, and others VLT knows are looking for land, to bring land opportunities to the organization. He said, "a lot of the land that we find out about is because somebody's in a community where they're farming and they knock on their neighbor's door and say, 'Hey, I'm so and so, and I'd be interested in buying your farm if you're ever thinking of selling.'" VLT will evaluate properties farm seekers bring to the Land Trust and these properties can turn into Farmland Access Program projects.

Jon said that VLT also relies on real estate listings to identify properties for the Farmland Access Program. The Land Trust has a complicated relationship with the real estate community. He said, "obviously, we have an interest in making farms affordable and [a real estate agent's] job is to sell farms for as much as they can sell them for. So, inherently there's a tension there." The real estate community takes a favorable view of VLT when the Land Trust works with an agent to purchase a property for the Farmland Access Program, but takes an unfavorable view of the Land Trust when VLT steps in to enforce its OPAV on a property an agent is trying to sell. In these instances, when VLT informs an agent that the farm they are selling is encumbered by a conservation easement and OPAV, and that it cannot be sold for \$500,000 because its agricultural value is \$300,000, the agent's commission takes a hit and they take an unfavorable view of VLT. While real estate listings are an important resource for identifying farms for purchase, working through the real estate community has its pitfalls. Once VLT identifies a property for protection with a conservation easement and OPAV through the Farmland Access Program, it consults a criteria to determine a property's eligibility.

VLT is concerned with four criteria when considering properties for protection, which the Land Trust outlines on its website (VLT Land Protection 2015). The first criterion is the land



resource. This criterion is concerned with soil quality as well as the land's topography and suitability for a diversity of agricultural use. Second, VLT considers the farm's location. If the farm experiences a significant threat of conversion to non-agricultural use, and if the farm's loss will be a detriment to the community, the farm is offered special consideration. A third criterion is concerned with farm infrastructure. VLT values farm buildings and equipment that are in good condition. Finally, VLT considers a property's current management, noting that it wants to see landowners practicing sound resource management that will contribute to the "long-term productivity of the farm's natural resources."

**Funding** VLT has significant and dependable sources of funds to support its use of conservation easements with OPAV. The Land Trust primarily relies on funds from two sources in order to purchase conservation easements. This includes the Vermont Housing and Conservation Board (VHCB) and USDA/NRCS' Agricultural Land Easement (ALE) program. ALE is part of the broader Agricultural Conservation Easement Program (ACEP). Together the Programs are referred to as ACEP-ALE. This national Program is funded by the Farm Bill and offers annual grants that cover up to 50 percent of the value of a conservation easement's purchase.

VHCB is funded by a portion of Vermont's property transfer tax, and has the dual goals of funding the purchase of conservation easements and affordable housing in Vermont. Forty percent of the funds VHCB grants are applied to conservation and 60 percent are applied to affordable housing. In most cases, VLT will apply to VHCB for up to 50 percent of the value of conservation easements it facilitates on agricultural land, acquiring the other 50 percent from ACEP-ALE. VLT is occasionally able to bring in significant funds from local sources to

leverage VHCB funds. This may amount to 25 percent of the cost of a conservation easement in some cases. If local funds contribute 25 percent towards the purchase price of a conservation easement, VHCB will generally contribute 25 percent, while ACEP-ALE will contribute 50 percent. Over the past several years, VLT has raised \$5,500,000 in local funds to support the purchase of conservation easements. These local funds are vital as they help the VHCB funds go further, and allow VLT to do more conservation easement projects. Without VHCB, though, Jon said, “Then we'd be really sunk.” Access to reliable sources of funds for the purchase of conservation easements enables VLT to not only build upon its tremendous record of land protection, but the Land Trust needs reliable sources of funding to cover the premium it pays for OPAV, as the tool adds between 10 and 40 percent per acre onto the costs of a standalone conservation easement (Johnson 2008: 48).

In addition to funds acquired for the purchase of conservation easements, VLT also relies on revolving loans to fund the purchase of properties that it later sells to farmers through the Farmland Access Program, as public funding sources cannot be used to purchase property. Jon explained, “we've used, over the last five years a little over \$13,000,000 in revolving land acquisition funds to purchase farms, hold them, and then sell them to farmers.” VLT seeks conventional loans through traditional lenders like farm credit service agencies or the Conservation Fund, as well as interest free loans through philanthropic donors, in order to purchase properties through the Farmland Access Program. The Land Trust has honed its ability to fund the acquisition of land, and over time VLT has also fine-tuned its OPAV enforcement and the sale of property through the Farmland Access Program, rounding out a highly refined land transfer model.

**The Transfer of Property** The owners of property protected by a conservation easement and OPAV must let VLT know when they have accepted an offer for the sale of their property. Once VLT has been notified of a property's sale, the Land Trust has 30 days to decide if it will exercise its option to purchase (VLT Conservation Easement 2014: 10). As of 2014, VLT has exercised its OPAV in several instances, but most often waives OPAV, which it has done 57 times. VLT waives its OPAV if a farm is transferring within a family or to a qualified buyer. A qualified buyer, according to VLT, is defined as someone earning at least half of their annual gross income from farming (VLT Conservation Easement 2015: 9). When effected land transfers, VLT considers a proposed buyer's business plan as well as their agricultural experience and requires them to submit documentation providing evidence for both. Since VLT began using OPAV, five of 87 beginning farmers have qualified to buy encumbered farms (Wagner and Ruhf 2013: 5). This is, of course, far fewer than have purchased land through the Farmland Access Program, and only a fraction of the total property transfers, but enough to demonstrate that beginning farmers have the capacity to compete for property protected by a conservation easement and OPAV.

While VLT has given notices of its intent to exercise its OPAV on multiple occasions, it has only gone through with its purchase on several properties. VLT has exercised its OPAV in cases where, as Jon said, people have hoped to "cash in twice." By "cash in twice," Jon was referring to owners who have looked to sell their encumbered property at its fair market value, despite the restriction placed on the property's sale price. In one instance, a family entered into a purchase and sale agreement for \$400,000, while the property's appraised agricultural value was around \$315,000. Although it upset the family in this case, VLT exercised its OPAV and did ultimately purchase the property for resale to a qualified buyer at the property's agricultural

value. Jon also recalled several instances where landowners of encumbered properties have looked to sell to non-qualified buyers. VLT has given its notice of an intent to exercise its OPAV in a few of these cases, he explained, and the landowners have said ““Oh no, no, no. We don't want to actually go ahead with the sale. Please don't exercise your OPAV. We want to continue on and don't want to sell the farm now.”” At the end of the day, Jon said, VLT does not want to be in a position where it is “kicking people off the land” by exercising its OPAV. He added, however, “there have been people who have backed out of a sale with other people because we've given them our notice of intent to exercise, and it's almost...like they're waiting to see if the land trust is going to call their bluff.” OPAV enables VLT to ensure that encumbered property is sold to working farmers at its agricultural value. The tool alone, however, does not directly address beginning farmers, though the Farmland Access Program does.

**The Farmland Access Program** The Farmland Access Program is the primary mechanism by which VLT facilitates the transfer of land to beginning farmers. VLT uses the Program to connect beginning farmers with available farm properties, and the Land Trust uses conservation easements with OPAV to make those properties more affordable. The Program addresses both components of the land access issue: finding and purchasing agricultural land at a price that is not severely inflated beyond its agricultural value. Jon explained that typical Farmland Access Program clients are individuals that have been running a farm business and want to scale into full-time farming but are without the resources to do so. He has more interest in the Program than he can handle as Jon said, “Everybody’s looking for land, and VLT can’t even come close to meeting demand.”

The Farmland Access Program employs seven different strategies to support land access for beginning farmers (See Table B). Table B outlines each of these strategies and notes how many times they have been used between 2009 and 2014. VLT uses a conservation buyer program through strategy (1) and through the pre-acquisition approach described in strategy

Table B: The Seven Strategies of Vermont Land Trust’s Farmland Access Program and the Number of Times Each Strategy Has Been Used from 2009-2014

Strategy	Primary Strategy
1 VLT acquisition of land and a farmer identified through RFP, together with a conservation easement purchase;	15 of 44
2 VLT financial assistance or VLT pre-acquisition for a farmer that identified the farm, together with a conservation easement purchase;	8 of 44
3 Technical assistance and support services to a farmer that identifies a farm together with a conservation easement purchase;	4 of 44
4 VLT acquisition and long term hold of land	3 of 44
5 Conservation easement purchase to facilitate a transfer to a new farmer	10 of 44
6 Matching new and beginning farmers with conserved landowners looking to transfer	3 of 44
7 Utilizing the OPAV preemptive right	1 of 44

*This table outlines the seven strategies Vermont Land Trust uses to facilitate property transfer through its Farmland Access Program, and notes how many times these strategies have been used between 2009 and 2014.*

(2), as the Land Trust purchases land, protects it with a conservation easement and OPAV, and sells that land. Additionally, the financial assistance paired with a conservation easement approach of strategy (2), as well as strategies (3) and (5) take shape as simultaneous sales. This is a land transfer tool that is also used by Maine Farmland Trust (MFT) as well as Puget Consumer Cooperative Farmland Trust (PCCFT) and discussed in depth in Chapter Four: Conservation Buyer Programs. Through a simultaneous sale, an entity will purchase a conservation easement on a property at the same time a beginning farmer purchases that property at its restricted and

reduced value. Strategy (1) has been VLT's most successful approach, and was the approach used to help Betsy and Arthur as well as Sara and Matt purchase their farms. All four farmers submitted to the Land Trust's extensive RFP process prior to purchasing their properties.

**The Application** All four farmers learned from acquaintances about the Farmland Access Program. VLT lists properties that are for sale through the Farmland Access Program on its website. The Land Trust owns some of the properties that are listed, as was the case with Red Oak Farm and Full Moon Farm. Third parties own other properties listed, and VLT facilitates their sale. Regardless of the circumstances, VLT posts an RFP for each property and asks interested farmers to submit applications. The RFP provides relevant information about the farm property for sale, such as price, acreage, current and past land use, as well as information about the terms of the conservation easement that does, or will, encumber the property. An RFP will also detail the selection process and criteria, as well as the requirements of the proposal (VLT Request for Proposal 2015).

VLT asks applicants to provide six items in their proposal (VLT Request for Proposal 2015). These include: (1) The applicant's offer for the property and an estimated closing date as well as any conditions on the offer, if selected; (2) Evidence of adequate financing for the property's purchase that substantiates the offer on the property; (3) A preliminary land use plan indicating immediate and long-term plans for the farm. This should include any changes a purchaser plans to make to the farm as well as documentation substantiating financing for the planned improvements; (4) A three-year income and expense projection; (5) Qualifications indicating a purchaser can carry out their business plan. Agricultural references are recommended in support of this component of the proposal; (6) Additional information important

for VLT to consider. Ultimately, VLT is looking for individuals who are producing food or fiber for human use, can meet the asking price and demonstrate farming experience, and are planning a farm business that is well suited to the property's size, soil, and infrastructure. Beyond the proposal itself, VLT requires applicants participate in interviews as well, and more than one interview if applicants advance far enough into the application process. Betsy and Arthur as well as Sara and Matt agreed that VLT's RFP was challenging, but they saw the difficult application as an important component of the Farmland Access Program.

### **Buying Agricultural Land as a Beginning Farmer**

Although the application process is daunting, Arthur and Matt said that they found value in the intense process. Matt said, "I could see it deterring people that are not sure if they're going to get the property because it's a lot of work." He added, "[VLT] wants to make sure that people are really serious." The prospect of an extensive application process functions as a vetting tool in and of itself, turning away interested parties who may not be serious or prepared to buy property, even before VLT gets to reviewing applications. Arthur expressed similar sentiments, and said "I think part of it is that it should be hard. It shouldn't be easy." Continuing, he added that VLT does not want to end up with someone who does not have what it takes to make a farm business work. An extensive application process guards against buyers that are not ready to take on ownership.

While Sara and Matt discussed the importance of the challenging application process, VLT rejected their first application for a Farmland Access Program property. Prior to applying for Full Moon Farm, they applied for Grey Peak Farm, another farm in the area that VLT was selling through the Farmland Access Program. Their application was not rejected, however,

necessarily because it was lacking. Looking back at Grey Peak, Sara said, “I think that farm wasn’t suited for us, to be honest.” Matt added, “[VLT] had somebody, they wanted to have a dairy there.” He continued, speaking of VLT, “They kind of have their idea of what they want their farm to be, and that’s basically what it is.” An application is not necessarily rejected because the applicants are bad farmers. Rather, it might mean that their farm business was not best suited for that particular property, as was the case with Sara and Matt. While they were not chosen for Grey Peak Farm, Jon approached them after the application process finished and was adamant that he and VLT find them a property. According to Matt, Jon said, “Listen you guys, we want to find you a farm. Keep working with us and we’ll get you one.” Six months later, Sara and Matt bought Full Moon Farm through the Farmland Access Program.

A beginning farmer’s journey is only just beginning when they are chosen through the RFP process. Once an applicant has been chosen and VLT is ready to sell the farm, the Land Trust expects the applicant to be ready to go ahead with the purchase. Betsy mentioned that her and Arthur’s ability to walk away, no strings attached, from their current work at the farm incubator was important to successfully making it through the RFP process. She said, “We didn’t have a commitment. We didn’t have to sell a property. We didn’t have to sell a house... So, to be able to shift your life around so quickly [was valuable].” On the other hand, when Sara and Matt were granted the opportunity to purchase Full Moon Farm in July of 2013, they were still working for another farm in the area, and had committed to working there through the growing season. Their situation turned out to be more complicated than Betsy and Arthur’s.

Sara and Matt commuted 45 minutes each way through November to the farm they were working for from their new home at Full Moon Farm. On top of a challenging commute, VLT encountered a snag in its fundraising that delayed its closing on the Full Moon Farm project.



Consequently, Sara and Matt had to pay to lease the farm for eight months until VLT could complete the sale. Not only did the lease cost them \$8,000, but they could not count their rent towards the purchase price of the farm. Their finances were tight after paying \$8,000 they had not budgeted for, and the only way they could cover the cost of rent was by spending all the money they saved from their work that growing season. Although Sara and Matt faced a unique challenge in finalizing the purchase of their farm, they were steadfast and agreed with Betsy and Arthur that the application process is a valuable aspect of the Farmland Access Program. Even more valuable, was the price reduction that a conservation easement and OPAV conveyed.

All four farmers cited affordability as a central barrier to their ability to purchase property, though Jon issued an important caveat about OPAV and affordability during our interview. As mentioned, he said that OPAV does not make agricultural land affordable for all beginning farmers and emphasized that agricultural value is not the same as affordable value. Jon also pointed to Wagner and Ruhf (2013), which concluded that while OPAV does reduce land values, the tool does not ensure agricultural land is affordable for beginning farmers. While agricultural value may not be synonymous with affordable value in every instance, OPAV did make the difference for Betsy and Arthur as well as Sara and Matt.

After paying their rent, Sara and Matt used nearly all of their savings to put a down payment on Full Moon Farm. Sara said that afterwards, “We, like, had nothing to our name after that, but we had a farm.” Full Moon Farm’s fair market value was priced at \$315,000. After it was encumbered by a conservation easement with OPAV, the farm’s value was reduced to \$150,000. This reduction in value made the difference for the couple. For those beginning farmers looking to purchase property in Vermont, Matt said, speaking of VLT and OPAV, “Outside of the land trust it is very difficult.” Given the price of land and what is available,

beginning farmers need a helping hand. Before they worked with VLT, the couple said, nothing compared in size, quality of the residence, and price, to what they could get with Full Moon Farm once it was conserved with a conservation easement and OPAV. Sara spoke to the important role OPAV played in their purchase of property, when she said, “We really lucked out in terms of price on this property, seriously. We couldn't have done it [without the conservation easement]. We would have struggled more.”

Betsy and Arthur said that the most valuable aspect of the Farmland Access Program is that it connects farmers with affordable agricultural land. Arthur said that he was fortunate to have an inheritance to put towards the cost of buying Red Oak Farm. He explained, though, that there was a limit as to how much he would have been willing to ask his family for. A price tag of \$500,000, to cover what was the fair market value of Red Oak Farm, would not have been feasible for him to purchase even with family investment. A conservation easement with OPAV made the difference and reduced the property's value to \$240,000. In 2006, the year they bought Red Oak Farm, Arthur said, “you couldn't get a four bedroom ranch and a half an acre for that price in a decent area.”

## **Conclusion**

VLT has not only successfully protected hundreds of farms with conservation easements and OPAV, but the Land Trust has also incorporated these conservation easements into creative strategies and helped dozens of beginning farmers purchase land through the Farmland Access Program. The Land Trust's use of OPAV sets it apart from all other private lands conservation entities, with the exception of MDAR, though its Farmland Access Program is truly one of a

kind. When paired together, the Program and OPAV have proved to be an effective combination for addressing the land access challenge.

Jon and the farmers interviewed agreed that finding agricultural land as well as the cost that land commands are the two primary barriers beginning farmers in Vermont face to purchasing property. OPAV and the Farmland Access Program address both of these challenges. Despite the fact that OPAV significantly reduces the value of agricultural land, Jon maintained that OPAV does not make agricultural land explicitly affordable for all beginning farmers. The agricultural values of Full Moon Farm at \$150,000 and Red Oak Farm at \$240,000 are greatly reduced from their fair market values, but these may not be affordable prices for all beginning farmers as each farmer has their own financial capacities and constraints. Moreover, OPAV alone does not ensure affected land is sold to beginning farmers. VLT developed the Farmland Access Program to offer more direct land access assistance to beginning farmers. With seven potential strategies, the Land Trust has developed a resilient and effective program that connects beginning farmers with available land. That said, five beginning farmers have been able to purchase land protected with a conservation easement and OPAV outside of the Farmland Access Program.

Finally, it is important to recognize that VLT's success has come with a big price tag. The Land Trust has spent millions of dollars in support of purchasing conservation easements with OPAV as well as property through the Farmland Access Program. Without a dependable and significant funding stream, VLT's land access work would not be possible. OPAV and the Farmland Access Program can be successful, but they are cash intensive solutions to a cash intensive problem.

## **Massachusetts Department of Agricultural Resources**

MDAR facilitates conservation easements with OPAV through the Agricultural Preservation Restriction Program. The Department has facilitated over 860 conservation easements through the Program to date. According to MDAR, the main goals of the Agricultural Preservation Restriction Program are to:

perpetually protect and preserve agricultural lands, encourage sound soil management practices, preserve natural resources, maintain land in active commercial agricultural use, and ensure resale of a land restricted by an Agricultural Preservation Restriction at an agriculturally affordable price for continuing agricultural use. (MDAR APR Program Guidelines 2015: 1)

The Program centrally seeks to conserve agricultural land while ensuring that land remains affordable and in agricultural production. I interviewed Ron Hall, the Agricultural Preservation Restriction Program Coordinator, the head of the Program, at MDAR's office in downtown Boston. Ron explained that protecting agricultural land, providing for its affordability, and keeping that land in agricultural use are vital to supporting working landscapes across Massachusetts.

While MDAR has conserved great swaths of Massachusetts' working agricultural land, the Department has never exercised its OPAV and staff interviewed reported that MDAR has not worked with beginning farmers to purchase land protected by a conservation easement and OPAV. Staff did indicate that the Department has helped one beginning farmer purchase land encumbered by a conservation easement and the Right of First Refusal (ROFR), a land transfer tool MDAR included in conservation easements prior to its use of OPAV.

### **Purpose**

MDAR began using ROFR in 1986 in an effort to prevent the sale of land protected through the Agricultural Preservation Restriction Program to non-farmers. Michele Padula is a

Field Representative for the Program and works with farmers on issues from conservation easement acquisition to stewardship. We spoke at MDAR's downtown Boston office as well. ROFR requires that landowners with effected property notify MDAR either 60 or 120 days — the time frame varied over the course of the provision's use — prior to closing on a property's sale. Once notified, MDAR would verify whether or not the buyer was a qualified farmer, which is determined through an application review process that is detailed later in this chapter. The Department would waive its ROFR and allow the sale to proceed if the buyer were determined to be a qualified farmer. On the other hand, if the buyer was unqualified, MDAR could find a qualified buyer to match the price of the purchase and sale agreement and assign the right to purchase to that buyer.

Michele said ROFR was not as effective as MDAR had hoped because the tool does not restrict the price at which a property must be sold. Even after a property is encumbered by a conservation easement and ROFR, she said, "You still have the issue of the rich doctor buying the farm in the Berkshires, just to graze his kids' pony, and willing to spend \$3,000,000 for it. He didn't care that he couldn't develop it." At this price, Michele said, "then the real commercial farmer is priced out." Most working farmers cannot match the price an estate buyer may be willing to pay for a farm property even if the Department were to exercise its ROFR.

Michele explained that OPAV was adopted out of need, in response to both the high cost of agricultural land and the issue of agricultural land selling to non-farmers. According to MDAR, OPAV's goal is to ensure that land "remains affordable for commercial agricultural production and that its market value for other uses does not preclude its profitable use for agriculture..." (MDAR APR Program Guidelines 2015: 1). Michele added that unlike ROFR,

OPAV not only restricts the value at which land can be sold, but it also gives MDAR the ability to make certain land sells to working farmers.

MDAR began using OPAV at the same time the Department began including affirmative agricultural language (AAL) in its conservation easements. AAL requires that an effected property “shall be maintained in active commercial agricultural use, and the land shall not be abandoned...Failure to maintain the Premises in active commercial agricultural use shall be a violation of this Restriction” (MDAR Conservation Easement 2015: 10). Michele said that OPAV needs AAL because AAL ensures that the protected land will remain in commercial agriculture regardless of who the owner is. Without AAL, someone may buy a farm at a steep discount as a commercial farmer, with the help of OPAV, and ultimately let their land go fallow and cease farming while retaining ownership of the property.

Yet, Ron and Michele have questions about enforcement of AAL. Michele asked, “What do you do when somebody stops using [the land] for commercial ag? What does active agricultural production mean?” She has difficulty interpreting AAL, and is unsure at which point MDAR would penalize a landowner for not doing agriculture on encumbered land. Ron said that MDAR evaluates AAL on a case-by-case basis, but understood the term to suggest that MDAR wants to see “the active devoted use of agriculture on the land.” Not surprisingly, appropriately and consistently enforcing AAL is an ongoing challenge for MDAR.

### **The Agricultural Preservation Restriction Program**

**Finding Land** MDAR relies on two primary sources to find agricultural land for protection through the Agricultural Preservation Restriction Program. Land trusts across Massachusetts are one of those sources. Michele said that land trusts have a particularly strong

presence in Western Massachusetts, and they often tip the Department off to potential conservation projects. She pointed to the Franklin Land Trust and the Deerfield Land Trust in particular. Land trusts along the Connecticut River Valley are especially active in providing MDAR with information about potential properties for protection.

The Department also relies heavily on the landowner community to identify potential conservation projects. Michele explained that in Worcester County, community members often call MDAR and say, “Hey, my neighbor told me about this Program.” In other instances, landowners familiar with the Department will refer MDAR to other landowners who may be interested in the Agricultural Preservation Restriction Program. Once MDAR finds a landowner with interest in conserving their farm, the Department consults its criteria for conservation to determine whether a property is eligible for the Program.

MDAR maintains a written criteria for conservation projects on its website. The Department posts a document titled “APR Program Criteria and Considerations” that outlines three “Primary Requirements,” as well as three “Other criteria considered.” The “Primary Requirements” are quantitative qualities of the property while the “Other criteria considered” are qualitative qualities. Under “Primary Requirements,” MDAR lists:

1. Farm must be at least five (5) acres in size
2. Land has to have been actively devoted to agriculture for the two (2) immediately preceding tax years
3. Farm must produce at least \$500 in gross sales per year for the first five acres plus \$5 for each additional acre or 50 cents per each additional acre of woodland and/or wetland. (MDAR APR Application Criteria and Considerations 2015)

Additionally, the “Other criteria considered” reads:

1. Suitability and productivity of land for agricultural use based on soil classification, physical features, and location.
2. The degree of threat to the continuation of agriculture on the land due to circumstances such as owner’s death, retirement, financial positions, development pressure, or insecurity due to rental agreements.
3. The degree to which the land is of a size or composition to be economically viable for agricultural purposes and

the likelihood that it will remain in agriculture for the foreseeable future. (MDAR APR Application Criteria: 2015)

The three “Primary Requirements” are concerned with size and agricultural use and the “Other criteria considered” are concerned with the productivity of the land and threat of conversion to non-agricultural use that the land experiences. In addition to these criteria, Ron said, MDAR considers the landowner and what type of relationship the Department has, or can build, with the landowner. Ron explained, “What we’re doing is trying to build a relationship with the current owners. An understanding of, ‘Okay, if you put this restriction on the property, this is what it means going forward into perpetuity’.” Building a foundation of trust between MDAR and the landowner will support the continued stewardship of an encumbered property over time.

**Funding** MDAR uses three public sources of funding to purchase conservation easements through the Agricultural Preservation Restriction Program. One of these funders is the USDA/NRCS’s ACEP-ALE. As mentioned, ACEP-ALE will pay up to 50 percent of a conservation easement’s cost, and requires that entities contribute the remaining 50 percent. The state of Massachusetts provides the Department with funds to match a portion of the ACEP-ALE funding. Occasionally, MDAR will partner with other conservation entities and ask them to contribute towards the purchase of a conservation easement as well.

If MDAR is working on a conservation easement within a municipality that has funding for conservation projects, the Department will ask for a contribution from the local unit of government. MDAR initially asks for a 20 percent contribution, but if the municipality has passed a Right to Farm law, the Department’s ask is reduced to 15 percent. If there is an Agricultural Commission in town, MDAR will reduce its ask to 10 percent. Finally, the ask can be reduced to 5 percent if the municipality maintains its own monitoring system for conservation



projects that it funds, which will help the Department enforce its conservation easement over time. In instances where MDAR is not able to find another match for the conservation easement, it will ask the landowner to donate a portion of the conservation easement's purchase price.

If there is money remaining from the state of Massachusetts to support the Agricultural Preservation Restriction Program that is not entirely spent on matching ACEP-ALE grants, MDAR can put the funds towards conservation easements that may not qualify for ACEP-ALE. ACEP-ALE has strict qualifying criteria for funding, and some properties the Department may prioritize for conservation are not competitive in the federal grant program. Leftover funds from the state of Massachusetts enhance the reach of the Department's land protection work.

Funding the purchase of conservation easements with OPAV is costly, and MDAR's Program is underpinned by funding from federal, state, and local governments. Even with access to substantial resources, Michele explained that the amount of land MDAR conserves through the Program is ultimately limited by funding, not by interest from landowners. The Program, like VLT's Farmland Access Program, has more interest than the Department can service.

**The Transfer of Property** Landowners of property protected by a conservation easement and OPAV must notify MDAR when they have entered into a purchase and sale agreement. The Department has 120 days from the time it is informed of a purchase and sale agreement to either exercise or waive its OPAV. MDAR will waive its OPAV in the event a property sells to a landowner's family member (MDAR Conservation Easement 2015: 12). If the farm threatens to sell at a price beyond a property's agricultural value, however, or to someone who is not a qualified farmer, MDAR will exercise its OPAV. A potential buyer's qualified status is determined through an application review process, which is detailed below.

Interestingly, if MDAR were to exercise its OPAV, the Department would actually have to assign the right to purchase to a third party, rather than purchase the farm, as MDAR cannot own Agricultural Preservation Restriction Program land. Regardless of whether the Department decides to waive or exercise its OPAV, MDAR must follow a similar application review process to ensure a buyer is qualified.

**The Application** When a property is going to transfer ownership, MDAR requires potential buyers submit to an application review process. Potential buyers must provide a Farm Plan that includes a five-year outline of how a property will be used as well as a Farmer Resume that details an applicant's farm experience and qualifications. In instances where the Department exercises its OPAV, which it has not yet done, and assigns its right to purchase, applicants are asked to demonstrate their ability to finance the purchase of a property within 120 days of MDAR's notice of its intent to exercise. Michele explained that MDAR is looking for, "somebody who has an agricultural background, either owned or managed a farm....". The Department wants to find a buyer who will not only use a property for agricultural production, but MDAR wants to find a buyer who will be successful on a property.

MDAR outlines three categories under which a potential buyer may qualify for the purchase of a property. These include (1) someone who owned and operated a farm previously; (2) a New Entry Farmer; or (3) someone who intends to lease the farm to a farmer or New Entry Farmer. MDAR does not rely on the USDA's definition of beginning farmer, and instead defines a New Entry Farmer as, "a Farmer who has less than two years experience managing or owning a farm" (MDAR APR Program Guidelines For Assignee 2015: 4). If the potential buyer is either a New Entry Farmer or an individual planning to lease the property, additional information is

required. A New Entry Farmer must cite relevant degrees, courses, workshops, education or training in their Farm Plan as well as a Financial Plan, which shows they can support their planned business while maintaining the farm property to the conservation easement's standards. A purchaser intending to lease the property must provide the planned lease agreement or a letter of intent from the lessor, as well as a Farm Plan and Farmer Resume from the lessor.

### **Beginning Farmers**

Michele and Ron recognized that it is not only difficult for beginning farmers to purchase agricultural land on the open market today, but it is difficult for beginning farmers to purchase land through the Agricultural Preservation Restriction Program as well. MDAR has never exercised its OPAV and neither Michele nor Ron were able to identify beginning farmers that have purchased agricultural land protected with a conservation easement and OPAV through the Program. They emphasized, however, that supporting land access for beginning farmers is not a goal of the Program's and, consequently, MDAR has not devoted resources to support these farmers. Michele and Ron did acknowledge that there is room for improvement in using the Program to address the land access challenge as well as a need to make changes within the Program to better serve beginning farmers. Ron said, speaking of land transfer through the Program, "the statistics at least are showing that [property] is getting into the proper hands, though it's not meeting all of the potential users." The potential users Ron was referring to are beginning farmers. In fact, he added, "in Massachusetts, we've seen an increase and uptick in beginning farmers' interest and we've got to pay attention to it."

Ron and Michele discussed why they believed OPAV and the Agricultural Preservation Restriction Program have not been successful at getting beginning farmers on the land. Michele

said that it is particularly challenging for beginning farmers to purchase Program land today because MDAR places an emphasis on ensuring protected farms remain in the hands of experienced farmers, which often works to the detriment of beginning farmers who are more inexperienced. Michele has been asked by beginning farmers, ““how do I become experienced if you guys won’t let me in the door?”” Similarly, although Ron said that the Department wants help beginning farmers, he added that MDAR is really just looking for the most qualified buyer in any situation where an encumbered property changes hands. He said that in situations where the Department exercises its OPAV, “we’re going to be looking for the beginning farmer, new entry, existing farmer, anybody that has the capability under the waiver to step in.” MDAR looks for a buyer that will satisfy the terms and conditions of the Program application, whether or not that buyer is a beginning farmer.

Ron saw the lack of a land link service that would connect buyers to sellers of encumbered land as one of the Agricultural Preservation Restriction Program’s shortcomings to adequately serving beginning farmers. A land link program, Ron said, would connect individuals looking to purchase agricultural land with landowners interested in selling their encumbered property, and MDAR’s new Commissioner has asked Program staff to explore the feasibility of starting such a program. Ron, however, highlighted a challenge that a land link program would face. He said, “Under the option, again, the only time a landowner is obligated to let us know that they’re thinking of selling [their land] is when they’ve maybe already signed a [purchase and sale agreement].” Resultantly, Ron continued, “we’re already behind in the notification process there...”. Unless a landowner voluntarily includes their property in the land link database, a land link program would only be relevant if MDAR were to exercise its OPAV, which the Department has yet to do, or ROFR. In these cases, the Department could use the database to

find a buyer. Regardless, a land link program would not change the land access equation for beginning farmers at MDAR.

Supporting beginning farmers' access to agricultural land is not a focus of the Agricultural Preservation Restriction Program and MDAR's use of OPAV. Moreover, the odds are in fact stacked against the often inexperienced beginning farmers interested in purchasing encumbered land through the Program. Although neither Michele nor Ron were able to identify beginning farmers that have purchased agricultural land encumbered by a conservation easement and OPAV, Michele did mention that she has worked with beginning farmers on land acquisition projects. One of the farmers, Andrew, was working with Michele to piece together a land protection and acquisition project at the time of our interview. The other farmer was George, a beginning farmer who purchased Sunset Farm. Sunset Farm was protected through the Program with a conservation easement and ROFR in the years before MDAR began using OPAV. MDAR has only exercised its ROFR once, and that was in George's case.

**George and the Right of First Refusal** George benefitted from MDAR's sole exercise of ROFR on an effected property. I interviewed George at a hotel along the Charles River in Boston. As a middle-aged man working in the biotech industry with an MBA and PhD, George defies most conventional perceptions of beginning farmers. He said that as an avid gardener for 25 years, it was only three and a half years ago that he decided to act on his passion to farm. Taking steps to turn his passion into a business, George took a farm business planning course with a Boston-area organization, and ran a mixed vegetable farm on a quarter acre of one of the organization' training farms the following summer. Over the next two years, he worked with the

same organization's farm incubator on a quarter acre the first year and half acre the following year. The next year, with MDAR's help, he bought Sunset Farm's 92 acres.

George had not been looking for property for long before he bought Sunset Farm. He said, though, that while there were a number of farms available for sale, it was difficult to find an agreeable purchase and sale opportunity. For each potential property George identified, he found either current owners that overvalued their properties or owners that had unrealistic expectations of a buyer. In one instance, George said, he was fond of a farm whose owner wanted to sell the property but retain a life-long lease on the on-farm house for their personal use, which was not an agreeable condition of purchase for George.

When George learned from an acquaintance of the opportunity to apply for Sunset Farm, time was short to act on the application. MDAR exercised its ROFR as the original farm buyer was planning on running Sunset as a hobby farm. A clerical error when the ROFR paperwork was processed, however, left just 16 days, rather than 60, for MDAR to find a buyer through an application review process and close on the sale. Fortunately, George had already prepared information similar to that required in MDAR's application during his previous farm business planning course.

George applied and was chosen to purchase the property. By his own account, however, he was surprised he was chosen to purchase the farm. He said, of being awarded the farm:

I don't really want to know the reasons why. Because there's, you've heard my farming experience. I took a couple classes. I mean I've been very engaged in the farming community in Massachusetts for the three years I've been involved. But I was clearly not a very experienced farmer. And I'm an enthusiastic farmer, and I'm hopefully going to be an educated farmer. But I'm not a, you know, a hugely experienced farmer.

Despite his surprise, George could finance the property's purchase immediately, which was important in this transaction given the 16 day timeframe MDAR had to work with. While the

farm was protected with ROFR, not OPAV, Michele said it was appraised and sold at its agricultural value, though there was no legal imperative for the seller to do so. Conveniently, George had both recently refinanced his home mortgage and set up a home equity line of credit for \$250,000. It happened that \$250,000 was the appraised agricultural value for the farm, which allowed for a quick and clean cash transaction. George credited the generous appraisal for bringing the farm down to an agricultural, and thus affordable, value for his purchase.

While George now owns his own farm, he is not planning a complete career transformation just yet. During our interview, he was fond of saying, “Farming is a use of cash, not a source of cash, at this point in my life.” He works long weekends on the farm, and with two kids in college and a good day job, George thinks it will be at least four years until he transitions to more hours on the farm. Once he is no longer in need of significant income in his personal life or for debt service, and once he gets more infrastructure up on the farm, he will be farming full time. Shock and awe are common responses today when George talks about Sunset Farm with friends and acquaintances. “People are always quick to applaud someone following their passion,” he said, “but scared to death to do it themselves.”

## **Conclusion**

MDAR has never exercised its OPAV through the Agricultural Preservation Restriction Program, though Michele and Ron indicated that the Program has been quite successful at achieving its primary goals: protecting agricultural land, providing for its affordability, and keeping that land in agricultural use. Consistent and ample sources of funding underpin this success and enable the Program to achieve these goals, as the Department has access to federal, state, and local sources of funding to pay for conservation easements with enhanced value. The Program, however, is not designed to engage beginning farmers or support their access to

agricultural land, though Michele and Ron agreed that the program should better serve this constituency. To this point, Michele and Ron reported that beginning farmers have never purchased encumbered property, although Wagner and Ruhf (2013) suggest otherwise.

Michele and Ron made it clear that MDAR is not focused on serving beginning farmers through the Agricultural Preservation Restriction Program. Even though Michele and Ron acknowledged that the Program is not meeting the needs of all interested parties, Ron emphasized that when land protected through the Program changes hands, and potential buyers submit their applications for MDAR's evaluation, the Department is looking for the best candidate. The potential buyer's capacity to purchase a property and develop a successful farm business is MDAR's primary concern. According to Michele, the best possible candidate is often the buyer with the most experience, which places beginning farmers at a disadvantage.

Michele and Ron pointed to one successful land access project where MDAR exercised its ROFR and assigned the right to purchase Sunset Farm to George, a beginning farmer. By his own admission, however, George is not only an inexperienced farmer, but he seems to be more of a hobby farmer than the working farmer-type the Department prefers. With only three years of experience and a plan to spend long weekends at the farm until he is no longer in need of an income to sustain his personal life or for debt service, George does not appear to be a picture of the experienced commercial farmer Michele and Ron described. While MDAR is not meeting the needs of all beginning farmers today, George found a way to break into the fray as the only successful land access project involving beginning farmers to date at the Department.

Finally, although neither Michele nor Ron could identify beginning farmers that have purchased Agricultural Preservation Restriction Program land protected with a conservation easement and OPAV, Wagner and Ruhf (2013) indicate that beginning farmers have bought land



protected through the Program. A review of the 98 Program properties that have changed hands to date found that four of these property transfers went to new and beginning farmers. It is unclear why neither Michele nor Ron were able to identify any of these instances. Perhaps reviewing these cases would shed light on how MDAR could better serve beginning farmers into the future.

### **The Option to Purchase at Agricultural Value Analysis**

MDAR and VLT have had tremendous success using conservation easements and OPAV to protect agricultural land and keep it in the hands of working farmers. VLT has also made land access for beginning farmers a central focus its work and the Land Trust has helped dozens of beginning farmers purchase agricultural land through the Farmland Access Program. According to Michele and Ron at MDAR, however, supporting land access for beginning farmers is not a priority of the Department's and MDAR has not had similar success helping beginning farmers get on the land. This analysis explores some of the other similarities and differences between these entities as it relates to their use of conservation easements with OPAV. It elucidates a comparison between the purpose of OPAV at VLT and MDAR, discusses how the entities both find properties for protection and fund the purchase of conservation easements with OPAV, and compares the work the entities have done with beginning farmers.

### **Purpose**

VLT and MDAR starting including OPAV in conservation easements in order keep land more affordable for working farmers. Jon explained that VLT began using OPAV because keeping land affordable is key to ensuring it remains in the hands of working farmers. He

emphasized, however, that keeping land at its agricultural value is not the same as keeping it at an affordable value. OPAV, Jon said, does not ensure land is affordable for all farmers. Michele explained that MDAR adopted OPAV over similar concerns for affordability, but neither she nor Ron made a distinction between agricultural value and affordable value. They seemed to use those terms interchangeably. OPAV, MDAR says, makes certain that land remains “affordable for commercial agricultural production.” Michele also said that OPAV is valuable because it allows MDAR to ensure that when land changes hands, it is sold to commercial farmers. Jon did not highlight the role VLT plays in the transfer of land as an impetus for developing the tool, though he did discuss instances in which VLT exercised its OPAV when encumbered land threatened to sell to non-farmers or for more than its agricultural value. MDAR does go a step further than VLT in order to ensure that land remains in agricultural production as the Department includes AAL in its conservation easements, which requires land remain in active agriculture. Both entities did also state that OPAV has an important impact on the agricultural communities in their states. Jon said that keeping agricultural land affordable is vital if agriculture is going to remain a part of Vermont’s economy as Ron explained that by conserving farms and keeping them affordable and in the hands of working farmers, MDAR is supporting Massachusetts’ working landscapes.

Finally, land access for beginning farmers is not a stated intention behind either VLT or MDAR’s use of OPAV. Each staff interviewee discussed OPAV as an affordability tool and a tool that ensures land remains in the hands of working farmers. There is no preference for beginning farmers that is built into the tool’s framework. In fact, Michele and Ron suggested that the Agricultural Preservation Restriction Program application process is stacked against beginning farmers, because the Program looks for the most experienced farmer in any instance

applications are reviewed. Jon did not discuss a structural bias against beginning farmers in VLT's use of OPAV. Rather, he explained that VLT developed the Farmland Access Program, in part, because OPAV is not designed with any preference for beginning farmers, and these farmers needed additional assistance in navigating land access barriers.

### **The Option to Purchase at Agricultural Value**

**Finding Land** Both entities rely on community members and word of mouth to identify conservation projects. Land trusts feed MDAR conservation projects while landowners and community members refer the Department to other farmers that would be interested in conserving their property through the Agricultural Preservation Restriction Program. Similarly, Jon said VLT often learns of conservation projects for the Farmland Access Program from landowners looking to sell their properties. Additionally, unlike MDAR, since VLT works in the purchase and sales of property, the Land Trust relies on the real estate Multiple Listing Service to identify potential properties for the Farmland Access Program, though working with the real estate community has its challenges.

VLT and MDAR evaluate properties in accordance to a certain criteria when considering farms for protection. MDAR considers both quantitative elements, like a property's size and agricultural use, as well as qualitative elements, such as the threat of conversion a property experiences. The Land Trust is primarily concerned with qualitative criteria, including whether a property will remain in agriculture and the landowner's resource management practices. Ultimately, both VLT and MDAR want to see their protected properties stewarded in accordance to a conservation easement's restrictions.

**Funding** VLT and MDAR have access to reliable sources of public funding for the purchase of conservation easements with OPAV, which is particularly important given the tool's great expense. This is particularly important since including OPAV in a conservation easement increases the conservation easement's value up to 10 to 40 percent per acre (Johnson 2008: 48). Both entities rely on ACEP-ALE at the federal level, and have access to state level funding for conservation easements. MDAR uses funds from the state of Massachusetts and VLT obtains funds from VHCB. Unlike VLT, MDAR also seeks contributions from the local level and, occasionally, from the landowners the Department is working with. VLT does, however, fundraise at the local level, and has raised over \$5,500,000 for the purchase of conservation easements.

VLT has also developed a durable funding stream for the purchase of property through the Farmland Access Program. The Land Trust, however, does not use public funds for this purpose. Instead, it relies on traditional lenders such as farm credit service agencies and the Conservation Fund. Philanthropic lenders have provided VLT with interest free loans for the purchase of properties as well. OPAV requires durable and bountiful sources of funding, and VLT's funding burden is even greater than MDAR's given that the Land Trust purchases property in fee. The Farmland Access Program would not be possible without such robust funding.

**The Transfer of Property** VLT and MDAR require potential buyers qualify for the purchase of farms protected with conservation easements and OPAV. Both entities ask interested buyers to submit documentation that gives evidence to their agricultural experience and planned use of property, and landowners of effected farms are required to let the entities know when they

have entered into a purchase a sale agreement with a third party. Additionally, both entities will waive their OPAV if a landowner is selling to a family member or a qualified buyer. While MDAR has never exercised its OPAV, VLT has in several cases. VLT has exercised its OPAV in cases where landowners have looked to, as Jon said, “cash in twice,” or if VLT determined a buyer was not considered qualified.

**The Farmland Access Program** VLT developed the Farmland Access Program to provide more targeted support for working farmers, with an emphasis on engaging beginning farmers. OPAV alone includes no provisions to ensure land is transferred to beginning farmers, and Wagner and Ruhf (2013) found that only five of the transfer of 87 properties encumbered by a conservation easement and OPAV at VLT to date landed in the hands of beginning farmers. The Farmland Access Program has enabled VLT to take an active role in facilitating the transfer of agricultural land to beginning farmers, and the Land Trust has been successful in doing so. Since the program’s founding in 2009, VLT has helped over 40 beginning farmers either purchase or lease agricultural land through the Farmland Access Program. Fifteen of these projects, including the two featured in this paper, took shape as VLT combined a conservation easement with OPAV together with a conservation buyer program. This success of the Program has come as VLT combines the enhanced value-reducing impact of a conservation easement with OPAV, restricting a property’s value beyond what a standard conservation easement achieves, together with the targeted transfer of land to beginning farmers through a conservation buyer program.

MDAR has no equivalent to match VLT’s Farmland Access Program. Michele explained that the Department has no recourse for facilitating the transfer of Agricultural Preservation

Restriction Program land into the hands of beginning farmers, though both she and Ron acknowledged that the Department should be doing more to address the needs of this constituency. As Ron said, “in Massachusetts, we've seen an increase and uptick in beginning farmers' interest and we've got to pay attention to it.” The Department may perhaps have had several successful cases of land transfer to beginning farmers that Michele and Ron are unaware of, as Wagner and Ruhf (2013: 5) maintain that four beginning farmers have purchased land protected through the Program with a conservation easement and OPAV. Further research into these cases may provide MDAR with data that could inform the Department’s work with beginning farmers going forward. It is clear from this analysis, however, that the Department’s use of OPAV alone is not sufficient to engage with beginning farmers and get them on the land. Until MDAR pairs its use of OPAV with an initiative like the Farmland Access Program, which actively seeks to connect beginning farmers with available land, the Department will likely not make great strides towards addressing the land access issue.

### **Beginning Farmers**

**Finding Land** George as well as the four farmers in Vermont found it difficult to find agricultural land that was for sale. Competition from established farmers is fierce in Vermont, and, in some cases, the best land does not even make it to the open market. On the other hand, George explained that while it was not necessarily difficult to find land for sale in Massachusetts, it was difficult to find land for sale without any strings attached. In light of the challenges they faced finding available property George turned to MDAR as Betsy and Arthur as well as Sara and Matt turned to VLT.

All of the farmers interviewed submitted to application processes before they were able to purchase their farms. Betsy and Arthur as well as Sara and Matt explained that the Farmland Access Program's application process was challenging, but nevertheless important. Sara and Matt's first application was actually rejected because VLT felt their business was not best suited for the property in question. The Land Trust of course later helped them to find and purchase another property. George was required to submit similar information as that required by VLT's application. VLT and MDAR centrally want to ensure that the selected buyer has what it takes to make a farm business work as the entities are making an investment in whomever it grants the opportunity to purchase the farm and they want to ensure the buyer will be successful.

George was the only farmer who explained that he felt surprised he was selected to purchase his farm, and his case raises several important questions. He was adamant about the fact that he is not an experienced farmer and, during our interview, it seemed he assumed that he was chosen over someone with more agricultural experience. I do find it surprising that George was chosen to purchase Sunset Farm, given his inexperience and Ron and Michele's emphasis on ensuring that experienced and working farmers are awarded opportunities to purchase Agricultural Preservation Restriction Program properties. Additionally, in comparison to the Betsy and Arthur as well as Sara and Matt, George is the only farmer whose primary income does not come from a farm business. Moreover, as George noted, he is not planning on transitioning to more hours on the farm until he is not in need of significant income in his personal life or for debt service. At this time, George would be better described as a hobby farmer. George's background and plans seem inconsistent with the importance Ron and Michele placed on finding experienced and working farmers to purchase encumbered property.

**Buying Land** All of the farmers interviewed said that the price reduction that a conservation easement with either ROFR or OPAV conveyed made their property affordable for purchase. George as well as Arthur and Betsy were able to make cash transactions for the purchase of their farms, while Sara and Matt mortgaged their property. George was fortunate that the seller of Sunset Farm, though protected with a ROFR, appraised the property at its agricultural value. It is also quite remarkable that George had the right amount of cash on hand after refinancing his home to purchase the farm. Arthur's family investment enabled him and Betsy to purchase their property and left them with no debt. Even with family to help him and Betsy, though, Arthur said that he would not have been willing to ask his family to fund the fair market purchase price of Red Oak Farm. Finally, Sara and Matt also said that they would not have been able to purchase their farm without the help of a conservation easement and OPAV. Still, even with the value reduction that OPAV conveyed, they not only took on debt to buy their property, but they ended up nearly broke after spending their savings on both the down payment for Full Moon Farm and the rental costs they incurred as VLT struggled to line up financing to complete the project. Jon did say that agricultural value is not the same as affordable value. While a conservation easement and OPAV significantly reduced the value of Full Moon Farm, given the difficulty of financing its purchase, the price of the farm could hardly have be called affordable for Sara and Matt.



## **CHAPTER FOUR: CONSERVATION BUYER PROGRAMS**

Maine Farmland Trust's (MFT) Buy, Protect, Sell (BPS) and Puget Consumer Cooperative Farmland Trust's (PCCFT) Acquire, Conserve, Transfer (ACT) are conservation buyer programs. Only PCCFT has used its conservation buyer program to successfully support beginning farmers' purchase of agricultural land as the Farmland Trust completed one land access project to date with beginning farmers through ACT. Moreover, unlike MFT's BPS program, PCCFT has made addressing the land access issue a focus of its ACT program. MFT and PCCFT have both, however, assisted beginning farmers in purchasing agricultural land through simultaneous sales, a land transfer tool that is also used by VLT in its Farmland Access Program. Simultaneous sales take shape when an entity purchases a conservation easement on a property as a beginning farmer buys that property at its reduced value. These case studies provide context for a comparison between MFT and PCCFT that illustrates what it takes to use conservation buyer programs to support beginning farmers' purchase of agricultural land, and sheds light on why these organizations have struggled to use these tools successfully to address the land access challenge.

### **Maine Farmland Trust**

MFT works across the state of Maine, maintaining a home office in Belfast. The Farmland Trust has conserved more than 225 farms and 36,500 acres of agricultural land since the organization's founding in 1999. BPS was developed in 2007 and has become an important tool in the conservation toolbox. The program involves the purchase, protection, and sale of a property to a qualified buyer. A buyer's qualified status is determined through an application review process, which is detailed later in this case.

I interviewed Erica Buswell and Nina Young together at MFT's office in Belfast. Both are members of MFT's Land Protection staff, and Erica also serves as MFT's Beginning Farmer Coordinator while Nina is the General Manager of Maine Farms Realty, MFT's in-house, for-profit, real estate brokerage. Nina is also involved with Maine FarmLink, a matchmaking service working to bring together farm seekers, those looking for agricultural land, and landowners who are selling, or looking for lessees, of their farm properties. Ron from Massachusetts Department of Agricultural Resources (MDAR) discussed starting a similar program. Erica and Nina have also both worked with the BPS program.

Erica and Nina explained that BPS was developed to conserve vulnerable farms and support Maine's rural agricultural communities. They emphasized that BPS was originally designed to support land protection, not land access for beginning farmers. Although MFT has not successfully completed a BPS project with beginning farmers, the Farmland Trust has worked with beginning farmers to purchase property through simultaneous sales.

## **Purpose**

MFT uses BPS as a land protection tool, and the Farmland Trust does not specifically target or seek to engage beginning farmers through its BPS work. The original intention behind BPS was to protect "vulnerable key farms." Vulnerable farms are, Erica said, those farms that "cannot be protected in some other way." Nina explained in these cases, if MFT does not step in to purchase, protect, and then sell the property to another farmer, the farm will likely "go out of farming and, in some places, into development of some kind." Vulnerable farms may be located in regions where development pressure is high or zoning ordinances to prevent the conversion of agricultural land to non-agricultural use are lax. Or, these may be farms where the landowners

are not interested in pursuing a conservation easement. As MFT's website explains, conservation easement projects require landowners to be both willing and patient enough to work through the lengthy process of implementation. Some landowners may be deterred if they have financial goals or other time constraints. BPS is MFT's response to these challenges, as the process associated with purchasing a property in fee often moves more quickly than the process of facilitating a conservation easement.

The key farms MFT seeks to protect through BPS are those whose existence impacts other farms. According to Nina, protecting communities of farms supports other businesses associated with farming. The loss of a key farm can affect surrounding farms as well as ancillary businesses, such as grain stores and farm equipment retailers or repair shops. Nina also highlighted that farms need markets for selling their products, as well as processors for their products. Keeping farms as part of agricultural communities is vital to the long-term viability of those communities. Finally, Nina said, "the more [farms] you protect then the more they'll naturally be able to survive there... With a certain amount [of farms] protected, then the others will have a better chance of surviving there." By protecting vulnerable key farms through BPS, Nina said, the Farmland Trust "helps keep those communities intact as ag communities."

While MFT had been doing purchase, protect, and sell projects for some time before establishing a BPS program in 2007, the Farmland Trust felt the need to formally develop BPS within the organization for several reasons. Nina explained, "we were doing [BPS] without benefit of real estate agents for a while, and it was cumbersome to be buying and selling properties without any kind of legal, established business." Erica said that MFT could legally sell properties in a "for sale by owner" framework. Once the Farmland Trust started completing five or six real estate transactions in a single year, she added, MFT needed to avoid "the appearance

of practicing real estate without a license.” The Farmland Trust grew concerned about the legality of selling multiple properties a year as BPS-like real estate transactions became a common component of their land protection work.

Beyond the potential legal ramifications of practicing real estate without a license, Nina said there were public perception issues as well as financial losses associated with each transaction. She said, “it was the perception amongst the real estate world...if a buyer came to you through another broker, they were very confused. Their broker was very confused about how can you be doing this if you’re not a licensed [broker], or if you don’t have an agency.” MFT needed to find a way to address this uncertainty and concern. Additionally, the Farmland Trust could not capture commission on the real estate it sold because properties were sold without a license. Nina pointed out that the sale of a \$2,000,000 farm brings in a significant commission check that could be used to support future conservation projects. To address these issues, Nina earned a real estate license and the purchase, protect, and sell initiative became institutionalized as the BPS program. The Farmland Trust also established an in-house, for-profit real estate brokerage called Maine Farms Realty (MFR). Today, MFT buys and sells properties as part of its BPS program through Nina and MFR.

MFR works in support of BPS’ goals – buying and selling properties for the BPS program – and also serves as a resource for Maine’s real estate community. Nina said that conventional brokerages “want to sell all the property they can – it doesn’t matter what it is.” On the other hand, MFR’s goals are quite different. The MFR website reads:

Through traditional and a la carte Real Estate services, we believe that Maine Farms Realty can aid in the continuation of farming as a Maine way of life. Maine Farms Realty is also working to create new opportunities to educate Real Estate Agencies about farmland protection and to engage those Agencies in partnership with Maine Farmland Trust. (MFR About Maine Farms Realty 2015)

Nina reiterated these goals during our conversation and added that in addition to supporting Maine's farm communities, she wants MFR to set an example and serve as a resource for the traditional real estate community, demonstrating how to work with farmers and the value of agricultural land protection.

### **Introducing Beginning Farmers**

To learn a bit about farmers' perspectives, I interviewed Nancy and Chris of Sleeping Bear Farm and Phil of Good Harbor Farm who worked with MFT to purchase their properties through simultaneous sales. As detailed in the Vermont Land Trust (VLT) case, a simultaneous sale sees an entity purchase a conservation easement on a farm at the same time a beginning farmer buys that property at its restricted and reduced value. Phil and I spoke at his farm in Maine, while I interviewed Nancy and Chris at a coffee shop in Missoula, Montana. Our conversations covered their experiences looking for and purchasing agricultural land as well as the role MFT played in this process.

Nancy and Chris decided they wanted to farm while they were living in Montana a number of years ago. They were ready to branch out and start their own farm business after working on several farms over the years, and were drawn to Maine for two primary reasons. First, Nancy's family lives in the state and, second, Nancy and Chris were eager to connect with a network of organizations in Maine that offer support to beginning farmers, such as the Maine Organic Farmers and Gardeners Association (MOFGA). MOFGA sponsors the Journeyperson Program, a mentorship and capacity-building initiative for new farmers looking to start farm businesses. Nancy and Chris took part in the Journeyperson Program once they moved to Maine, and consider the program a tremendous resource for new farmers.

After leasing land for several years, Nancy and Chris worked with MFT to purchase Sleeping Bear Farm's 40 acres through a simultaneous sale in 2014. Their business consists primarily of root vegetables, which they market to wholesale retailers, and heritage dry goods, such as wheat, buckwheat, flint corn, and beans. They sell their dry goods through a once-a-season CSA program. As musicians, they also travel the country and perform during the off-season. Not only do Nancy and Chris see their off-season touring as an important break from farm work, but it has also become a significant source of their income.

Phil's family raised a vegetable garden in their backyard throughout his youth, and he remembers always being infatuated with growing food. Although he studied environmental biology and earth science and worked at a greenhouse and display garden in college, it was not until a brief tenure working for an automation laboratory in California's Bay Area that he realized his true passion was agriculture and growing food. He left his job and pursued a graduate degree in soil science back in New England. While in school, Phil maintained a large backyard garden, and found ways to continuously scale up his growing operation. When his wife, Ellie, was offered a job in Portland, Maine, and Phil learned of MOFGA and the Journeyperson Program, Phil and Ellie knew they found a great fit.

Phil spent his first growing season in Maine working for a small farm on Maine's coast and tending an acre of his own land. He sold his produce and eggs from laying hens at a roadside stand and to a CSA. Once he was ready to buy his own property, Phil worked with MFT to purchase the 75-acre Good Harbor Farm through a simultaneous sale. Today, Phil's mixed vegetable business is thriving. He sells his produce at farmers markets, to a wholesale retailer and to area restaurants. While the farm is able to pay for itself, Phil said that having a spouse with a "nine-to-five" off-farm job brings in important income for his family.

## **Finding Agricultural Land as a Beginning Farmer**

All the farmers I spoke with identified finding agricultural land as a major challenge when they were looking to purchase property. Phil said that looking for a farm as a new resident of Maine made his search particularly challenging. Recalling his search for land, Phil explained that he “hit the road” and kept his eyes open. “I searched online through mainelistings.com,” Phil said. “I told everybody that I met that I was looking for land, drove around the state with a camera, map, GPS, looking for ‘For Sale’ signs or just things that looked neat, or just trying to get to know the lay of the land.” Similarly, Nancy and Chris said that they had been searching for land for the past two or three years. In the last year, as they grew more serious in their search, they were looking at real estate advertisements everyday and spent a lot of time looking at properties. They checked in with other land trusts and attended an agricultural land mixer for landowners selling their property. Like Phil, they also spread the word that they were looking for land, but did not pursue any lead seriously until they found Sleeping Bear Farm.

Phil thought the process of finding land was made particularly difficult because he was a transplant without connections to Maine’s agricultural community. He said, “It’s easier for somebody that has farming already going on in the family because they know somebody that knows somebody with viable farmland.” It is challenging to find available farm properties without relationships to farmers or other members of the agricultural community who might be able to refer or connect a land seeker with someone selling land. Nancy and Chris as well as Phil’s search was made even more difficult as they all mentioned their search criteria included finding land in close proximity to an urban hub.

Living near an urban center was an important aspect of these farmers’ search for property. Nancy and Chris felt isolated when they were living in a rural and particularly sparsely

populated area of Maine for four years before moving to Sleeping Bear Farm, which is located near the coast and a small city. Chris said, “At some point, we were thinking, ‘Where do we really want to be long term? What are our values?’ Turns out, we really like community.” They were seeking people, Chris said, so they started looking for land closer to the coasts and closer to population centers. Phil expressed a similar interest in living close to an urban center.

Phil and Ellie drew an hour radius around Portland on a map and began looking for farm properties within that radius. They primarily limited their search area for the sake of Ellie’s commute to work each day, but there were other benefits to restricting their search to an hour radius around Portland, Phil said. This included access to markets for his produce, proximity to family in the area, and access to urban amenities. As the farmers looked for land closer to the city, property values increased and viable land became sparser. The search was not easy, and for additional assistance finding land the farmers turned to MFT’s FarmLink.

MFT’s FarmLink program is designed to facilitate connections between farm seekers and landowners. Individuals interested in using FarmLink access a database of farm seekers and landowners online at [MaineFarmLink.org](http://MaineFarmLink.org). Farm seekers create profiles of themselves and what they are looking for while landowners create profiles of their properties, and detail the terms of their sale or lease offer. MFT ensures proper use of the site, vets properties for accuracy, provides “personal contact and customized support” to users, and will help cultivate connections between farm seekers and landowners. The Farmland Trust will also connect FarmLink participants with additional resources as requested.

Participation in FarmLink laid the groundwork for a relationship between Phil and MFT. Phil provided FarmLink with his information, including the first iteration of his business plan. He thinks that although he never seriously pursued any properties he found in the database,



displaying his business plan “proved to [MFT], or gave evidence that I was serious about finding working farmland.” At one point, when Phil found a property outside of FarmLink, Yellow Trail Farm, that he was interested in, he asked if MFT could help him purchase it through a simultaneous sale. Although MFT agreed, that sale fell through because another buyer outcompeted them. MFT later approached Phil with the opportunity to buy Good Harbor Farm, which was not listed on FarmLink, through a simultaneous sale, and Phil suggested MFT may not have brought Good Harbor to his attention had he not initially participated in FarmLink.

Nancy and Chris initially relied heavily on FarmLink in their search for land, spending time with the database nearly everyday. Nancy said they needed to be on FarmLink everyday in order to keep up with what properties were available. Chris said, however, that he and Nancy discovered the profiles of a number of the properties in the database to be inaccurate when they visited the farms. The profiles cited erroneous details about a property’s acreage or aspect. Still, Nancy and Chris’ participation in FarmLink laid the foundation for the relationship they built with MFT. The previous owner of Sleeping Bear Farm only listed their property on FarmLink. Nancy and Chris were not aware of the farm until Erica brought it to their attention because Erica knew Nancy and Chris as well as what kind of property they were looking for. Erica connected them with the farm’s previous owner who worked with Nancy, Chris, and MFT to do a simultaneous sale. As with Phil, even though Nancy and Chris were not able to find a property through the FarmLink database, their participation in the FarmLink program was step towards developing a relationship with MFT that ultimately helped them to purchase their farms.

## **Buy, Protect, Sell**

**Finding Land** There are three ways that MFT identifies properties for the BPS program. Nina said FarmLink is an important resource for the BPS program as FarmLink crowdsources information about properties that are for sale. The Farmland Trust evaluates FarmLink profiles to determine if the properties listed would be suitable for BPS. Additionally, MFT learns of potential properties by word of mouth from its community, as individuals bring potential properties for purchase to the Farmland Trust. Erica also said that farm seekers often approach MFT and say, “I’m working on trying to acquire this property under these conditions. This is what’s working, this is what’s not working. Is there a role for you to play in my plan through the Buy, Protect, Sell program?” An interested buyer, Erica explained, may look to MFT to see whether the Farmland Trust can purchase a farm and hold the property as the buyer obtains financing to purchase the property. In other cases, interested buyers approach MFT to see if a conservation easement could reduce the price of a property for purchase. However MFT identifies farms for BPS, the property must fall within the Farmland Trust’s conservation criteria.

The criteria MFT uses to determine if it will purchase a property through BPS is outlined in its “Buy/Protect/Sell” document. According to the criteria:

- a. Property must contain adequate farmland of suitable quality to warrant protection...
- b. Property is located in an area where there is sufficient critical mass of farms and farm infrastructure to support agriculture.
- c. Property is expected to be able to support at least one viable farm operation.
- d. Property must be such that MFT can reasonably expect to meet its farmland protection goals and still recoup all project costs. (MFT Buy/Protect/Sell 2012: 1)

Presumably, MFT leaves these criteria intentionally vague so as to allow the organization flexibility to determine what agricultural land is considered “of suitable quality” or whether a property would meet MFT’s “farmland protection goals.” MFT relies on several sources of funding to purchase and protect land that meet these criteria.

**Funding** While MFT can use public funding it acquires for the purchase of conservation easements through the BPS program, the Farmland Trust does not have access to public funds for the purchase of land in fee. The goal from the outset of the BPS program was to develop a financial model that would enable BPS to pay for itself. Erica said, “The intention was, we buy these properties, and when we resell them, that replenishes our pool for purchasing the next property.” MFT hoped BPS would be self-sustaining once the organization developed a cash reserve, or “pool” as Erica said, for the program. The Farmland Trust relies heavily on debt financing and charitable lending to fill its cash reserve.

Private sources of funding are vitally important for the BPS program. Nina explained that MFT borrows money in support of BPS “just like anybody else.” It was tough for the Farmland Trust to establish sources of capital for the purchase of property at the outset of the BPS program, Nina said, but MFT has been successful at bringing in funds from a variety of sources. She noted, “We borrow some from commercial banks, some from foundations, some from private lenders.” According to Nina, some philanthropic lenders have even provided the Farmland Trust with a regular line of credit that can be used for each project, and said, ““on every BPS deal, every BPS farm you get, you buy, we’ll lend you 50 percent of your down payment, or, we’ll give you a loan for the first \$100,000’.” In addition to lining up credit for the purchase of property, MFT looks to purchase property at a bargain price so its dollars go further.

The Farmland Trust will rarely pay “top dollar” for a farm. According to MFT, “Generally, land owners sell to MFT because they want to see their land stay in farming; many of these landowners are willing to sell to MFT at a slight discount” (MFT Buy/Protect/Sell 2012: 1). Selling land at a slight discount is synonymous with donating a portion of a property’s value.

Landowners donate a portion of their property's value by selling their farm to MFT at below its fair market value.

MFT relies heavily on public funds for the purchase of conservation easements. The Agricultural Land Easement program of the USDA/NRCS' Agricultural Conservation Easement Program (ACEP-ALE) will fund a portion of a conservation easement's purchase. Nina said, however, that the Farmland Trust rarely makes use of ACEP-ALE because there is not enough money in Maine's share of the program to fund the Farmland Trust's conservation easements. MFT does rely heavily on funding from the statewide Land for Maine's Future fund. Land for Maine's Future will pay 50 percent of the value of conservation easements, like ACEP-ALE, which the Farmland Trust matches with its own privately raised funds. MFT has been able to reliably raise local funds to match Land for Maine's Future funding, but three towns in southern Maine also have municipal bond programs that can be used towards the purchase of conservation easements. MFT accesses these funds when it can. This municipal funding is an important asset as well. Although the Farmland Trust has developed a reliable and consistent funding scheme for the purchase of property and conservation easements, purchasing conservation easements through the BPS program comes with certain challenges.

Public funds cannot be used to purchase conservation easements on Farmland Trust-owned property — MFT cannot purchase a conservation easement from itself. The Farmland Trust is not even eligible to apply for public funds until it sells the target property to a qualified buyer. To complete a BPS transaction, MFT must first sell the target property to a buyer at the property's fair market value. The Farmland Trust and the buyer then enter into a two year purchase and sale agreement at the time of the property's sale, which states that if MFT is unable to secure external public funds to purchase a conservation easement from the buyer after two

years, the Farmland Trust will pay for a conservation easement out of pocket. Only once MFT sells a property can it can apply for public funds to purchase a conservation easement.

Erica said that convincing buyers to purchase the target property at its fair market value with the promise of compensation from selling a conservation easement on the target property later is not an appealing arrangement. Beginning farmers with limited resources who are seeking the price-reducing impact a conservation easement conveys would likely find this arrangement not only unappealing, but also unfeasible. MFT is working with partners and advocating for a change to this system of public funds administration so that the Farmland Trust can buy conservation easements from itself and circumvent this complicated arrangement.

**Selling Land** MFT lists and sells BPS properties through its realty arm, MFR. MFT waits at least 15 days before accepting any offers so multiple parties have time to submit offers. The list price is firm, and will go neither up nor down regardless of the circumstances. The price of a property is based on the value of the property as encumbered land plus the “carrying costs.” Carrying costs include the cost of the appraisal, survey, property taxes, debt service, and stewardship. Despite these added costs, the price of the property will be lower than the property’s fair market value because of the price-reducing impact of the conservation easement (MFT Resale of Protected Farm Properties 2015: 1). Furthermore, the Farmland Trust notes that even though it factors in these carrying costs, “MFT seldom recovers all of its costs. In fact, MFT loses money on most projects, once all costs are factored in” (MFT Resale of Protected Farm Properties 2015: 1). Although the Farmland Trust factors project costs into the purchase price of properties, the cost of a property’s purchase as well as its carrying costs often outweigh a farm’s purchase price.

MFT requires interested buyers to submit a detailed application for the purchase of a BPS property. Erica said the Farmland Trust modeled its decision making process after what Vermont Land Trust (VLT) does in its application. She said, “we’re asking [applicants] to submit us proposals and convince us why they’re the best.” Nina said MFT is essentially looking for potential buyers to demonstrate that they can pencil a property’s purchase and that they have a plan that works with conservation. Each application must include a signed “Offer” as well as a “Supplemental Information Form.”

A signed “Offer” must have three elements, outlined in MFT’s “Resale of Protected Farm Properties” document. These include: (1) Conditions of the offer, such as a closing date or the buyer’s need to secure financing; (2) Documentation that the buyer can finance a property’s purchase; (3) A financial commitment of one percent of a property’s purchase price, which demonstrates to MFT that a potential buyer is serious.

The “Supplemental Information Form” requires interested buyers to provide more detailed information about their agricultural experience and business plan for the future. This form asks for: (1) A summary of the buyer’s farming background; (2) Details concerning past challenges the farmer has experienced, like failed businesses; (3) The buyer’s vision for the property (4) Three personal or professional references as well as any other relevant materials the buyer thinks would be of use in evaluating their application.

This application process is relevant to situations where MFT is looking to sell a property through the BPS program. In cases where MFT works with a farmer through a simultaneous sale, MFT does not require these forms.

## **Buying Agricultural Land as a Beginning Farmer**

Erica and Nina said that conservation easements do not ensure land is affordable for beginning farmers to purchase. According to Erica, a conservation easement “doesn’t solve the affordability problem by itself.” Conservation easements do reduce the price of effected property, but they do not make land affordable for all farmers. Erica added, however, “I think the price still isn’t necessarily the problem. It’s their ability to access the capital that is the bigger problem.” She said, “if it was easier for a beginning farmer to obtain financing, then it would be easier for us to use Buy, Protect, Sell to their advantage...So I see financing as being the primary barrier.” For those beginning farmers that are early in their tenure, Erica said, they may not have been able to qualify for a property loan. Interestingly, conservation easements did make farms affordable for Nancy and Chris as well as Phil, although they worked through simultaneous sales to purchase their properties. A conservation easement has the same effect on a property through a simultaneous sale as it does through a conservation buyer program, and each of the farmers interviewed said they would not have been able to afford their properties without the help of a conservation easement. Moreover, although these farmers encountered initial resistance to acquiring loans, they did obtain mortgages from private lenders. It would seem, then, given Erica’s comments, that the farmers interviewed are outliers.

The farmers all encountered challenges when working with traditional commercial lenders to obtain loans to purchase their respective farms. MFT was an important ally for these farmers during the mortgage negotiating process. Before approaching traditional lenders, however, Nancy and Chris as well as Phil sought to work with the Farm Service Agency (FSA) to obtain a loan. Even though the FSA offered subsidized loans for beginning farmers, the farmers interviewed said that the agency’s loan programs would require significant waiting

periods. Since the farmers felt as though they were working within tight timeframes, they opted to work with private lenders. In Phil's case with Good Harbor Farm, he thought back to Yellow Trail Farm, the farm he lost to another buyer. Phil said of the previous owner of Good Harbor Farm, "this dude wants to sell me the land, and as I found out before, anybody can come up and say, 'I'll buy it without all this muss and fuss with these dipshits who don't have the money'." He feared that if he waited too long, and worked to obtain an FSA loan, he would risk losing the farm to another ready buyer. On the other hand, Nancy and Chris' timeline was short as the previous owner of Sleeping Bear Farm's health was failing, and they needed to sell their property. Nancy and Chris feared something could happen to the owner that would complicate the sale. Moreover, Nancy said that because her parents were willing to cosign on a loan with them, "it was a lot easier and faster to just go the traditional bank way instead of, sort of, applying through FSA and waiting." Working with traditional lenders meant the farmers could proceed with their sales more quickly, but that there would be additional roadblocks.

Phil explained that he called up a number of different banks, and ultimately returned to the first lender he reached out to in order to acquire a loan for Good Harbor Farm. That was Bangor Savings Bank. Recalling his experience, Phil said, "Most lenders got pretty freaked out when you'd say, 'Yeah, there's 75 acres and a one bedroom house.' That concept didn't, doesn't fit into any lenders' metrics at all." According to Phil, most banks consider owning a property beyond 10 acres a "strike." He said, "it's sometimes called 'excessive land' in lender speak." Phil also mentioned, "Banks don't fully understand conservation easements." Bangor Savings Bank initially struggled to reconcile the value of an encumbered property with the proposed value of the loan. Fortunately, MFT stepped in and successfully managed to ease the bank's concerns, which was "super helpful" to Phil. When Phil and Ellie offered to pay a 20 percent



down payment on the farm, they become more appealing to the bank. Without MFT to mollify the bank, Phil said, the simultaneous sale may not have happened.

Nancy and Chris encountered a similar issue when they looked to acquire a loan for Sleeping Bear Farm from The First Bank, another local lender. Apparently, The First Bank was concerned that Sleeping Bear Farm's resale value would not be sufficient to cover the mortgage if the farmers were to default. The bank thought the conservation easement would reduce the value of the property below the value of the lien. Again, MFT stepped in to explain how the conservation easement would impact the value of the property, and the Farmland Trust managed to allay the bank's concerns. The challenges were not over, however, as Nancy and Chris could not qualify for a loan on their own. Fortunately, Nancy's parents cosigned on the loan, and The First Bank lent Nancy and Chris funds to purchase their property.

## **Conclusion**

BPS was designed by MFT to function as a land protection tool, and since the tool's inception, MFT has developed an in-house real estate brokerage, in Maine Farms Realty (MFR), as well as a reliable funding structure to sustain BPS' use. The Farmland Trust depends on both public funds and locally raised dollars to purchase conservation easements, while a mix of traditional and philanthropic loans enable MFR to purchase property. While MFT has not completed a successful BPS project involving beginning farmers, it has been successful at getting beginning farmers on the land through simultaneous sales. Simultaneous sales helped the farmers interviewed both overcome the difficulty of finding viable farms for purchase and afford the purchase price of those farms. Erica and Nina were clear, however, when they said that BPS was not designed to address land access.

Instead, BPS' primary function is to conserve vulnerable key farms that cannot be protected in any other way. BPS' design and purpose, however, are not necessarily to blame for the fact that the tool has not yet been used to get beginning farmers on the land. The challenge, rather, is two-fold. First, Erica said that conservation easements do not necessarily make land affordable for beginning farmers in every instance. Second, and the primary barrier, is the farmers' inability to obtain the financing necessary to buy land.

The farmers in this case, however, were able to afford their property's purchase once they acquired financing from traditional lenders with significant help from MFT. This raises several important questions. Given that the farmers were able to navigate the two-parts of the affordability barrier Erica described, why did MFT not purchase either Sleeping Bear Farm or Good Harbor Farm through BPS? Second, could Nancy and Chris as well as Phil have successfully bought their farm through BPS? If MFT were to have purchased and sold either farm through BPS, the farms would have been slightly more expensive than a simultaneous sale given that MFT would have tacked on carrying costs. Additionally, the farmers would have had to purchase their farms at fair market value with the promise that MFT would purchase conservation easements within two years. Could the farmers have financed this transaction?

It is difficult to evaluate a hypothetical scenario like this, though it seems that these farmers may have been ideal BPS candidates even though a BPS transaction may also have been more costly. Maybe the right opportunity to engage a beginning farmer in BPS has not yet come along. Or, perhaps simultaneous sales will prove to be a more viable tool for supporting beginning farmers' purchase of agricultural land at MFT into the future.

## **Puget Consumer Cooperative Farmland Trust**

Puget Consumer Cooperative Natural Markets established PCCFT in 1999, and the Farmland Trust has since protected more than 1,300 acres of agricultural land across Washington. It owns and leases four agricultural properties and holds over 14 conservation easements (PCCFT Farms 2015). Acquire Conserve Transfer (ACT) is PCCFT's conservation buyer program that the Farmland Trust uses to purchase, protect, and either sell that land to a qualified buyer or arrange long-term lease-to-own arrangements on that land with a qualified buyer. A farmer's qualifications are determined through an application review process that is detailed later in this case.

I interviewed Hilary Aten, PCCFT's Conservation Director, at the Farmland Trust's office in downtown Seattle. She explained the purpose of the ACT program to me and said, "PCC wants to conserve more farmland while we have this window of time to do so before a lot of it changes hands, but also knowing that we wanted to do so in a way that helps make it available to new farmers." Referencing a window of time and a sense of urgency before agricultural land changes hands, Hilary alluded to the startling statistic that in the next 20 years, around 25 percent of US farmers will retire and 70 percent of private agricultural land will change hands (Schwartz et al. 2013: 9). According to Hilary, the ACT program has two goals: It seeks to both protect land in this limited window of time and support its transfer to new farmers.

### **Purpose**

Fee simple acquisitions and conservation easements have always been a part of PCCFT's work. In the early days of the Farmland Trust, Hilary said, the organization saw farmers struggle to purchase property, as land grew more and more costly. Moreover, PCCFT learned that

existing leases on agricultural land were at risk, as the outright sale of property for non-agricultural use and development was more lucrative for landowners than leasing agreements. The first couple projects that PCCFT did were fee simple acquisitions and involved lease arrangements with farmers. PCCFT owns these properties with the same farmer lessees today.

Hilary said that PCCFT began pursuing conservation easements on farms early on as well in order to prevent the loss of agricultural land to non-agricultural use and temper rising land values. She said, “In terms of farmland access, I think, affordability has always been a piece of what we’ve prioritized as part of the reason for doing easement acquisition.” Protecting a property with a conservation easement reduces the property’s value, Hilary said, which can make it more affordable for working farmers.

PCCFT has encountered some unique challenges to facilitating conservation easements. First, in Pierce County, south of Seattle, where the Farmland Trust does the bulk of its work, Hilary said the majority of agricultural landowners are around 80 years old and ready to retire. These landowners are more interested in selling their property than selling a conservation easement on their property while they continue to own their farm – they are ready to get out of agriculture. Consequently, conservation easements are not appealing to much of this constituency. The second challenge PCCFT has encountered is concerned with the USDA/NRCS’ Agricultural Conservation Easement Program’s Agricultural Land Easement grant program (ACEP-ALE). She explained:

it’s complicated and it’s not a quick process...so being able to get that timeline, to be able to line up with something like a simultaneous sale...can be incredibly difficult. If we’re needing to move faster...maybe we need to think about buying property more and if so what does that look like for [land] access?

In the face of these challenges, PCCFT developed ACT, melding its two conservation strategies: fee simple purchases and the purchase of conservation easements, despite ongoing difficulties

with ACEP-ALE. The purchase of land appeases the Farmland Trust's aging landowner constituency, while conservation easements ensure permanent land protection, while making land more affordable for working farmers.

Although PCCFT has worked to facilitate land transfers to several working farmers through the ACT program, the Tahoma Farms project was the only ACT transaction that PCCFT successfully completed involving beginning farmers. Kim and Dan Hulse's Tahoma Farms is a diversified vegetable farm that grew out of PCCFT's project on Orting Valley Farms, a 100 acre property. The Farmland Trust worked with Pierce County to purchase and subdivide the farm into three properties, which were protected with conservation easements and sold to working farmers. These three properties gave rise to three farm businesses, including Tahoma Farms. Kim and Dan, unfortunately, could not be reached for the purposes of this project.

I did interview Monica, a beginning farmer and co-owner of the Puget Sound's Platte Creek Farm with her husband Drew. The couple had unsuccessfully applied to purchase the Reise Farm, a 2014 ACT project. Yet, through the application process, they built a relationship with PCCFT, and eventually purchased a different farm through a simultaneous sale. Monica's story reveals not only the challenges she and Drew faced as beginning farmers working to purchasing agricultural land in the Puget Sound, but it also illustrates PCCFT's commitment to working with beginning farmers as well as the organization's capacity to find creative solutions to the land access puzzle.

### **Introducing Beginning Farmers**

I spoke with Monica of Platte Creek Farm over the phone from my home in Missoula, Montana. We discussed her experience working with PCCFT, the ACT program, and how she

and Drew came to find and purchase Platte Creek Farm with PCCFT's assistance through a simultaneous sale.

What started as a desire to raise sustainable meat for personal consumption slowly turned from a hobby into a livelihood for Monica and Drew. They got started in agriculture as backyard farmers with six hens and full-time jobs in Seattle. Their flock of chickens grew to 25 hens on rented land before long, and they slowly added other livestock as Drew took to farming full-time while Monica maintained her full-time job in Seattle. Today, Monica and Drew raise cattle, sheep, and pigs as well as laying hens on Platte Creek Farm's 95 acres south of Seattle in the Puget Sound. Monica said that because they have so much pasture, they would ideally be focused on ruminants, and anticipates that she and Drew will shift their business model for that reason in the future. They sell their meat through a CSA, at a seasonal farm stand, and directly to individuals and area restaurants on a pre-order basis.

### **Finding Agricultural Land as a Beginning Farmer**

Monica and Hilary agreed on the most significant challenges facing beginning farmers in the Puget Sound, where PCCFT has done the vast majority of its work. First, not surprisingly, is finding agricultural land. Hilary said that finding land in the Puget Sound region, an area encompassing a number of urban hubs and markets for agricultural products, including Seattle, was particularly difficult. Monica highlighted the same barrier, and said that while she and Drew could have moved to eastern Washington, a more rural part of the state, and found land without a problem, they were looking for property with certain characteristics. They wanted a farm that allowed her to commute to and from work in Seattle easily, and were particularly interested in living south of the city, which would allow Monica to commute via train to work. Living in close

proximity to Seattle was also important to Monica and Drew because it would allow them access to markets for their products and to a community of like-minded individuals. These conditions narrowed their search to a costly, and densely populated region, increasing the difficulties they faced to finding property. Despite these challenges, PCCFT's work finding and selling agricultural land through ACT was one of the reasons that Monica and Drew did not go looking for land elsewhere, and stayed in the Puget Sound.

### **Acquire, Conserve, Transfer**

**Finding Land** PCCFT purchases properties for the ACT program in couple ways. In most instances, Hilary said, "it's a product of meeting people and networking," as community members will point the Farmland Trust towards properties for sale. Sometimes, PCCFT is able to strike a deal with a landowner before a property even goes on the market. The Farmland Trust also provides a "Property Information Worksheet" on its website. Landowners interested in pursuing a conservation easement or selling their property fill out the worksheet with detailed information about their farm and submit it to PCCFT. The Farmland Trust will evaluate the worksheet to determine whether it is interested in pursuing the property (PCCFT Property Information Worksheet 2015).

PCCFT relies on a certain criteria to determine whether it will pursue properties for conservation easements or purchase (PCCFT Conservation Criteria 2015). The Farmland Trust notes it is interested in properties larger than 20 acres and in those that consist predominantly of tillable acreage and prime soils. Additionally, PCCFT notes, "We are interested in farmland with long-term viability for food production, including active water rights and proximity to other farms and agricultural infrastructure." Properties located near the urban fringe and those at risk for development are more competitive for consideration. Finally, the Farmland Trust prioritizes

the protection of farms that use sustainable agricultural practices. This final criterion has roots in the organization's origins and is a guiding principle for PCCFT's conservation work today.

PCCFT's preference for sustainable agricultural practices is tied to the Farmland Trust's origins in Puget Consumer Cooperative Natural Markets, a certified organic grocer. Hilary said that PCCFT's early conservation easements required certified organic agriculture specifically. Over the years, however, the Farmland Trust has dealt with a number of enforcement issues related to that requirement. One of the issues PCCFT faced, Hilary explained, is that there are "producers that grow by organic standards but have no interest in being certified." The Farmland Trust found it difficult to enforce the terms of its conservation easements on these landowners. Furthermore, the ACT program found it challenging to work within the certified organic requirement. When the Farmland Trust was looking to buy land, Hilary said, "you're pretty limited if you're talking about land that's already organic." PCCFT knew it could expand the scope of its work greatly if it did not restrict itself to properties that were already certified organic. The Farmland Trust ultimately dropped the provision requiring certified organic agriculture from its conservation easements, though it still requires certified organic practices on land it owns in fee. PCCFT has instead focused on getting best management practices tied to its conservation easements through stewardship plans it crafts with landowners, and maintains a bias towards conserving land cultivated in accordance to sustainable practices.

**Funding** PCCFT relies on both public and private sources of funding to support the purchase of conservation easements and property through the ACT program. Hilary explained that PCCFT is looking to develop a financial model like Maine Farmland Trust's (MFT), where funds circulate through its conservation buyer program as properties are purchased and sold.



PCCFT is still largely in the process of developing this funding model, though, and Hilary was uncertain whether the Farmland Trust could grow its program to the scale of MFT's work.

Several sources of public funding support the ACT program including local, state, and nationwide grants. A number of counties across Washington offer funding for the purchase of conservation easements and properties in fee through the Conservation Futures program, and the state of Washington offers the Wildlife, Recreation, and Conservation Program. PCCFT also applies to ACEP-ALE to support the purchase of conservation easements. Hilary explained, however, that the ACEP-ALE funds allocated to the state of Washington are significantly lower this year than they were last year, and, consequently, it is not a standby source of funding.

PCCFT also makes use of private sources of funds to purchase properties in fee, including charitable contributions and loans through traditional lenders. Hilary said that PCCFT is still refining its private funding and working to determine how debt financing and charitable contributions fit into its ACT program. She did not discuss the specifics of how successful PCCFT has been in securing charitable contributions or private loans.

The Farmland Trust is not, however, shying away from continuing its ACT work as it fine-tunes its financial model. Hilary said, "we've been trying to move ahead with a couple of projects and simultaneously looking at how to build [ACT's funding] over time." She discussed a current project the Farmland Trust is undertaking, a 40 acre farm it is considering for ACT, and described it as a pilot project to test the organization's debt financing model to determine how long PCCFT can hold the property for before getting a conservation easement lined up and selling the property. While it is clear that PCCFT is able to obtain funds to pursue ACT projects, the Farmland Trust is still refining its funding model to support the ACT program, and seems eager to take risks and learn by trial and error.

**Selling Land** PCCFT uses an RFP process to sell property through ACT. Like Maine Farmland Trust (MFT), Hilary suggested that PCCFT modeled its own RFP after Vermont Land Trust's (VLT) application process. An RFP from a 2014 ACT project for the Reise Farm, the property Monica unsuccessfully applied to purchase, outlined the five requirements for ACT proposals. The Farmland Trust was looking for an applicant willing to either purchase or lease the Reise Property. Applicants were asked to provide: (A) Evidence they could finance a lease or the property's purchase price; (B) A business plan that offered a three-year outlook; (C) Documentation of their agricultural experience;" (D) Three references; (E) Additional relevant information (PCCFT Reise 2014). The Farmland Trust wants to support farmers who have a record of success and who can demonstrate that they will continue to be successful. That said, Hilary emphasized that PCCFT maintains a commitment to the next generation of farmers through the ACT program, and she added, "I think the heart of our organization is in supporting young and beginning farmers."

### **Buying Agricultural Land as a Beginning Farmer**

Hilary and Monica highlighted the cost agricultural land commands today as the most prominent challenge facing beginning farmers looking to purchase property. This is particularly true in the Puget Sound, where Monica was looking for land. Monica said that without PCCFT's help, she and Drew would not have been able to afford land within the radius around Seattle they desired. In Pierce County, Hilary said, the southern Puget Sound, the Farmland Trust often sees agricultural land selling for \$20,000 per acre, but \$40,000 per acre values are not uncommon.

Hilary outlined a knowledge gap that some beginning farmers fall into as a barrier these farmers face to purchasing property through the ACT program in particular. She said that

beginning farmers are generally less experienced than established producers. Consequently, beginning farmers are at a disadvantage when it comes to the ACT application process as PCCFT looks for the most capable buyer. Michele and Ron of MDAR identified a similar challenge with their Agricultural Preservation Restriction Program and Hilary said that PCCFT is not able to help beginning farmers bridge this divide. While Monica and Drew may not have fallen within this knowledge gap, they applied and their application was rejected to purchase the Reise Farm before buying Platte Creek Farm through a simultaneous sale.

Although the couple was not selected to purchase the Reise Farm, Monica thinks Platte Creek Farm was truly a better fit for their business. She said, “I think [PCCFT was] right not to give it to us. Because, we wanted to do livestock and [the Reise Farm] wasn’t established pasture and it didn’t have fencing. It would’ve been a lot of work to get it ready.” Almost as soon as the couple was turned down for Reise Farm, the Farmland Trust turned the couple’s attention to Platte Creek Farm.

PCCFT did not own Platte Creek Farm, but the Farmland Trust knew a sale of the property was imminent and that it would likely be sold for non-agricultural use. In fact, the Farm was originally platted for development into 10-acre ranchettes, though the previous owner had difficulty finding buyers for the subdivision. The Farmland Trust negotiated with Monica, Drew, and the developer to do a simultaneous sale, but the cost of the property was high and unaffordable for Monica and Drew even once it was restricted with a conservation easement. A standard conservation easement on Platte Creek Farm would only have reduced the property’s value to between \$1,200,000 and \$3,000,000 from its fair market value. Hilary was not able to offer a more specific price, but did say, “even with an easement, farmland is still freaking

expensive.” Fortunately for Monica and Drew, PCCFT was prepared, as the organization had been exploring additional land transfer tools for situations just like Platte Creek Farm’s.

PCCFT has adopted additional land transfer tools in response to conservation easements’ limited ability to address exorbitant agricultural land values within the Farmland Trust’s service area. In order to enhance the value of conservation easements, PCCFT has considered OPAV, ROFR, and home size restrictions. While PCCFT found OPAV was not a feasible provision to adopt, ROFR and the home size restriction showed more promise.

Existing Washington real estate law prohibited PCCFT from including OPAV in its conservation easements. The Farmland Trust was initially interested in the tool as it would enhance PCCFT’s ability to accomplish two key goals: protecting agricultural land and supporting its transfer to beginning farmers. An attorney, however, concluded that the provision would violate Washington’s rule against perpetuities. OPAV is considered a real interest in property in the state of Washington, and the state’s rule against perpetuities maintains, “for an interest to be valid, it must vest...or terminate no later than twenty-one years after the death of someone alive at the creation of the interest...”. An OPAV provision is perpetual — it would not terminate — which is where the tool falls short. While PCCFT’s attorney suggested that this risk could be mitigated by carefully designing the OPAV provision, the Farmland Trust chose not to do so.

While OPAV was not a viable tool for PCCFT, its attorney found that ROFR showed promise. Pre-emptive rights, such as the ROFR, do not establish an interest in property in the state of Washington. Instead, pre-emptive rights are considered contractual rights, which are not subject to the rule against perpetuities. PCCFT decided that ROFR would be a viable

affordability provision for the organization going forward, and took to designing a tool that turned out slightly different than the ROFR once used by MDAR.

The Farmland Trust developed a term-bound ROFR. Term-bound refers to the fact that this tool is effective for 10 years following the acquisition of a conservation easement that includes the provision. PCCFT designed their version of ROFR to be preferential, in that it would allow the Farmland Trust to match an offer on a property at 90 percent of the property's appraised value in the event that PCCFT exercised its ROFR, which would happen if a property were threatening to sell to an unqualified buyer, such as a non-farmer. Since adopting the tool, PCCFT has included the provision in a conservation easement on one property and is preparing to use it in a conservation easement on a second property. In the first instances of the tool's use, ROFR added 10 percent to the value of the conservation easement, which, consequently, reduced the value of the effected property by 10 percent. When I asked Hilary if the ROFR would impact the value of a property beyond the 10 years of its term, Hilary suggested that time will tell, and said, "I don't think we know yet."

PCCFT has also found that using a home size restriction in a conservation easement to restrict the size of the residence, or residences, that can be built on that property can greatly reduce land values. Hilary discussed the intention behind the home size restriction and said, "The purpose of that is to take the property out of the estate market." By removing the property from the estate market, Hilary means to say that owners of a property encumbered by a conservation easement and a home size restriction cannot build the exceedingly expensive, large and often gaudy homes, or McMansions, characteristic of communities with high amenity values. Building an estate home on an agricultural property, even a conserved agricultural property, drives up the cost of that land, often placing it out of the reach of working farmers. Today, the restriction is a

voluntary option that landowners can choose to include in their conservation easement. The first time PCCFT used the provision was on Platte Creek Farm.

The conservation easement PCCFT used to protect Platte Creek Farm included a home size restriction that limited the home size on the property to 2,000 square feet. This restriction reduced the price of the farm to \$600,000 from the original post-conservation easement price, which Hilary estimated, of between \$1,200,000 and \$3,000,000, and made Platte Creek Farm affordable for Monica and Drew. Hilary did point out, however, that the value reduction the restriction conveyed in this instance was remarkable, likely because of the property's location and the scenic views it offered, and said that the impact of the home size restriction on property values will vary depending on a number of different metrics.

As Monica and Drew were working to acquire the funds necessary to purchase Platte Creek Farm, they initially looked to the FSA and its beginning farmer lending program. Monica and Drew learned that they qualified for a loan but found it would likely take more than a year to obtain the funds. Making matters more challenging, the farm's seller had received a competing offer for Platte Creek Farm, which meant time was short for Monica and Drew to act.

Fortunately, a significant investment from Monica and Drew's family meant they did not need to acquire financing and were able to quickly purchase their farm in the face of a competing offer. Monica said that she and Drew were lucky to have family investment that enabled them to purchase land. Reflecting on this investment in their property, she said, "this makes what we've done not accessible to everyone... I want to acknowledge that we got super lucky here, and that not everyone is going to be able to take this path." She added, "I think, if it weren't for PCC and related organizations, we wouldn't even be farming."

## **Conclusion**

PCCFT serves a region where available land is scarce and the price that land commands is exorbitant. Land access for working farmers has always been of concern for the Farmland Trust and the organization's early land access work grew from fee acquisitions and leasing land to beginning farmers to the purchase of conservation easements. The ACT program today is an amalgamation of these phases, and PCCFT operates the program with the dual intentions of protecting agricultural land and supporting access to that land for beginning farmers.

PCCFT has demonstrated that ACT can be used to support land access for beginning farmers, as it did for Tahoma Farms. This was, however, the only successful ACT case involving beginning farmers. The Farmland Trust has found, however, that simultaneous sales can be used as an effective land transfer tool as well, as it helped Monica and Drew buy Platte Creek Farm. Of course, it was not the simultaneous sale alone that made the Platte Creek Farm project possible, as the home size restriction enhanced the value of that conservation easement and made the farm affordable.

Hilary pointed out, like Erica at MFT and Jon at the Vermont Land Trust (VLT) that a conservation easement alone does not necessarily make agricultural land affordable for all interested farmers, as was true in the Platte Creek Farm case. It was for this reason that the organization explored affordability provisions like OPAV, ROFR, and the home size restriction. Even with the home size restriction, however, a substantial family investment was necessary to make Monica and Drew's purchase possible. Given that land in the Puget Sound can reach \$20,000 or even \$40,000 per acre, it would seem that additional land transfer tools may become more commonplace in PCCFT's work into the future. These tools, however, come with great cost. PCCFT has been able to fund conservation easements as well as the purchase of property in

the past, but Hilary said that the Farmland Trust is still working on refining its funding model today. Using costly additional land transfer tools to enhance conservation easements' value and purchasing land in the future will depend on PCCFT's ability to line up the necessary financing.

Finally, the Farmland Trust could have ensured Platte Creek Farm's protection against a competing offer by buying the land and taking it off the market through ACT. This would have also allowed Monica and Drew time to obtain debt financing through the FSA. But, Monica and Drew already had sufficient buying power, thanks to their family investment, and could make a quick transaction with the help of the home size restriction, which was still necessary even given their financial capacity. That said, the only difference between the simultaneous sale that took place and an ACT transaction, as far as Monica and Drew were concerned, was that PCCFT never came into ownership of the property. ACT likely would not have benefitted the couple when taking these factors into account. Moreover, if PCCFT had purchased Platte Creek Farm through an ACT transaction, this project would have been substantially more expensive for the Farmland Trust than the simultaneous sale that took place. Could PCCFT have afforded to take on a \$600,000 expense? As Monica pointed out, she and Drew were outliers. Capital and debt financing were not limiting factors in their ability to purchase encumbered property, and their financial capacity sheds light on why PCCFT was better off to not have purchased this property through ACT.

### **Conservation Buyer Programs Analysis**

MFT and PCCFT have been successful at protecting agricultural land through the use of their respective conservation buyer programs, though only PCCFT's ACT program has been used to help beginning farmers purchase property. ACT's sole success came when PCCFT



subdivided Orting Valley Farms into three separate properties and sold one of the three to Kim and Dan Hulse, beginning farmers who started Tahoma Farms. Both MFT and PCCFT have, however, been able to support beginning farmers purchase agricultural land through simultaneous sales. This analysis explores some of the other similarities and differences between these organizations as it relates to their conservation buyer programs, as well as the organizations' experiences working with beginning farmers through simultaneous sales. It compares the purpose and development of these conservation buyer programs, as well as how the organizations find, fund the purchase of, and sell land. Finally, I compare beginning farmers' experiences working with the organizations and discuss the similarities and differences between conservation buyer programs and simultaneous sales.

## **Purpose**

MFT and PCCFT developed their conservation buyer programs as land protection tools, though only ACT was designed with a focus on supporting land access for beginning farmers. BPS and ACT are used strategically by the organizations' to address unique community needs and urgent conservation goals. Erica and Nina emphasized that MFT began using BPS in order to protect vulnerable key farms in Maine whose loss to non-agricultural use or development would have a cascading impact on the surrounding community, and Hilary explained that PCCFT established ACT because of a similar sense of urgency. ACT was developed to protect farms in PCCFT's service area before a great amount of that agricultural land changed hands in coming years, and in response to a landowning community with more interest in selling land than protecting it with a conservation easement.

Unlike the BPS program, ACT was designed with the intention of supporting access to agricultural land for beginning farmers. Hilary explained that ACT not only seeks to protect agricultural land, but that it seeks to do so “in a way that helps make it available to new farmers.” In contrast, Erica explicitly said that supporting land access for beginning farmers is not a stated intention of the BPS program. Despite this disparity in purpose, PCCFT has had only one more successful transaction than MFT. That is, PCCFT has completed one ACT land access transaction while MFT has completed no successful BPS projects with beginning farmers. Stating land access as a program goal would seem to be of little consequence to a program’s success in these cases.

### **Conservation Buyer Programs**

**Finding Land** MFT and PCCFT rely heavily on their communities to find land for purchase through their conservation buyer programs. Erica, Nina, and Hilary said they are often approached by landowners looking to sell their property and by farmers that want to know if MFT or PCCFT could help them purchase land. The Farmland Trusts have established avenues for landowners to communicate directly with the organizations if the landowners are interested in selling their property. Erica and Nina explained that FarmLink feeds BPS, as the Farmland Trust evaluates properties posted on FarmLink to determine if the organization would be interested in purchasing the land through BPS. Similarly, PCCFT’s “Property Information Worksheet” invites landowners interested in either a conservation easement or selling their property through ACT to fill out and submit the worksheet for the organization’s consideration.

Despite the fact that MFT and PCCFT largely maintain similar criteria for properties they are looking to protect through their respective conservation buyer programs, PCCFT is unique in

that it has historically limited its conservation work to certified organic agricultural land and required certified organic production in its conservation easements. The Farmland Trusts are, however, both concerned with protecting a property that contains good quality soils, is of a size that can support a viable agricultural business, and is in proximity to other farm businesses and markets for agricultural products. PCCFT's preference for certified organic practices is where the Farmland Trusts' criteria differs, though this preference and the role it plays in PCCFT's conservation work has changed dramatically over time.

**Funding** The Farmland Trusts rely on a variety of sources for funding BPS and ACT projects, including federal, state, and local grants, charitable contributions, and private loans. Both organizations have access to federal, state, and local sources of funding for conservation easements. MFT and PCCFT did agree, however, that the federal ACEP-ALE program is not a viable source of funds for conservation easements. The organizations are able to obtain public funding at the state level, which contributes 50 percent towards a conservation easement's purchase for both organizations, and the Farmland Trust's are able to make up the remaining cost from public funds at the local level or through fundraising within their communities. Only PCCFT, however, is able to use public funds at the state and local level for the purchase of conservation easements, though both organizations rely on private funds for the purchase of property.

Private sources of funds, including charitable contributions and loans from traditional lenders are important financial resources for the Farmland Trusts' purchase of property through their conservation buyer programs. MFT has developed a more robust and refined funding model for the purchase of land as the organization has cultivated a cash reserve that it expends to

purchase farms and replenishes upon a property's sale. Donors and debt financing figure strongly into this reserve. Hilary, in fact, said that she has looked to MFT for guidance as PCCFT has developed its own cash resources for ACT through donations and traditional loans as well. PCCFT is still refining its funding model and was testing its current model on a 40-acre farm at the time of my interview with Hilary. Due to the great expense of using a conservation buyer program and combining the cost of purchasing property with a conservation easement, establishing a refined funding model is critical to maintaining a tool's successful use. To achieve its land protection and access goals with a conservation buyer program, an organization must first develop a strong and secure funding model

**Selling Land** PCCFT has no equivalent institution to match MFT's real estate brokerage, MFR, though the application processes for BPS and ACT properties are quite similar. PCCFT lists its properties on its own website, and represents itself in all real estate transactions. On the other hand, MFT lists BPS properties through the MFR website, and MFR represents MFT in all real estate transactions. MFR also captures all commission fees from BPS transactions, which are put back into supporting the program. It is unclear why PCCFT has not developed a similar real estate entity. Perhaps it does not see the same volume of properties as MFT or it does not have the funds to support such an additional enterprise.

The applications the organizations use include similar core questions, asking applicants to detail their agricultural experience, business plan and vision for the property. Centrally, MFT and PCCFT want to find experienced farmers who will steward a property and build successful farm businesses. PCCFT differs from MFT in that it maintains a bias for getting beginning farmers on the land, and PCCFT looks to work with beginning farmers when possible. Hilary did suggest,

however, that beginning farmers are often more inexperienced than established producers and often fall into a knowledge gap, which can make purchasing agricultural land through an ACT application process that generally gives preference to experienced farmers quite difficult. This is a challenging contradiction to overcome, and Hilary did not indicate her organization has found a means for addressing it. Since PCCFT has only had one successful ACT project involving beginning farmers, the knowledge gap would appear to be a substantial barrier for beginning farmers applying to the program.

### **Beginning Farmers**

**Finding Land** All of the farmers I spoke with experienced similar challenges when looking for agricultural land, especially given their desire for land in close proximity to an urban hub. Not only was finding land within close proximity to urban hubs difficult, especially near large cities like Seattle and Portland, but Phil highlighted the fact that looking for land as an outsider to the agricultural community, without familial or other social connections, magnified the challenge. He was, however, the only individual to suggest this particular barrier. Additionally, although MFT, unlike PCCFT, offered a FarmLink service to connect farm seekers and sellers, Nancy and Chris as well as Phil suggested that FarmLink was not a fruitful resource.

Monica, Nancy and Chris, as well as Phil all looked back on their early unfruitful searches for agricultural land as part of building a relationship with the Farmland Trusts. The farmers' efforts to find land led the farmers to make first contact with either MFT or PCCFT via FarmLink or ACT. Although the farmers' efforts to find land through either FarmLink or ACT were unsuccessful, all of the farmers felt that these efforts demonstrated to the Farmland Trusts that the farmers were serious about finding property. Ultimately, MFT and PCCFT brought all

three properties to the attention of the farmers interviewed, and the Farmland Trusts worked with the farmers to support their purchase of land through simultaneous sales.

**Buying Land** The farmers all considered the price-reducing impact of a conservation easement on their property as vital to their ability to purchase property. Given these farmers were looking to purchase farms within close proximity to population centers, property values were elevated, and higher than the price of land in more rural areas, like inland Maine or eastern Washington. While standard conservation easements made land affordable for Nancy and Chris as well as Phil, a standard conservation easement did not lower the price of Platte Creek Farm to an affordable value for Monica and Drew, and PCCFT used an additional land transfer tool to further reduce the price of the couple's farm.

Unlike MFT, PCCFT has explored using three additional land transfer tools on top of its conservation buyer program. These tools include OPAV, ROFR, and a home size restriction, which PCCFT used on Platte Creek Farm. Hilary said PCCFT decided to look into additional land transfer tools because, "even with an easement, farmland is still freaking expensive." Erica agreed with Hilary and said that conservation easements do not make land affordable for all beginning farmers in every case. Even though MFT also sees the limitations of conservation easements, it has not yet considered additional land transfer tools, and Erica explained that she does not see the cost of land as the greatest challenge to beginning farmers' ability to afford property. She said obtaining financing is an even greater barrier.

All of the farmers interviewed faced challenges to financing their purchases, although only the Maine farmers needed loans to purchase their farms. Each mentioned they had initially approached the FSA for a loan, but found the FSA's long and drawn out timeline impractical

given time constraints the farmers were working under. A competing offer for Platte Creek Farm increased the sense of urgency for Monica, though a family investment enabled her and Drew to forgo debt financing. Nancy and Chris' time frame was constrained as the previous landowner of Sleeping Bear Farm was selling because their health was failing. Phil wanted to act quickly to purchase Good Harbor Farm for fear another buyer would again sweep the property out from under him. After lenders initially took issue with the price-reducing impact of the conservation easements on these farms, MFT played a mediating role. Without MFT, it is possible the Maine farmers would not be working on their own properties today.

### **Simultaneous Sales vs. Conservation Buyer Programs**

The beginning farmers featured in this chapter all purchased their farms through simultaneous sales. While simultaneous sales and conservation buyer programs work towards similar ends, the cases in this chapter demonstrated that these approaches to land access differ in several ways.

Conservation buyer programs involve the purchase, protection, and sale of a property, though administering organizations do not come into ownership of the target property at any time during a simultaneous sale. A farm is protected in both cases and property changes hands in both cases, but the administering organization does not purchase the target property through a simultaneous sale. Consequently, one advantage of the simultaneous sale approach is that the transaction is less expensive than a conservation buyer program transaction for the administering organization. Beyond the costs associated with purchasing a property, the organization administering a conservation buyer program transaction is burdened with carrying costs associated with owning land that accrue over time, such as property taxes or maintenance fees.

Simultaneous sales do not involve an application or vetting process for a farm buyer like those involved in BPS or ACT transactions. BPS and ACT transactions require extensive application processes. MFT and PCCFT work to ensure farm buyers can finance a property's purchase, that the buyer's conservation values align with the organization's own conservation values, and that the buyer has a good agricultural track record and a viable farm business plan. A simultaneous sale does not involve this vetting, and none of the farmers interviewed were vetted through an application process for the purposes of their simultaneous sales. That said, Monica had applied for Reise Farm, and she was vetted for the purposes of applying for that property. MFT did have previous experience working with Nancy and Chris as well as Phil, but these farmers did not submit applications prior to the purchase of their farms. Application and vetting processes can be time consuming and costly for administering organizations and farmers. Because the simultaneous sale approach that MFT and PCCFT used in this chapter does not involve applications, it sidesteps the added time and financial costs.

MFT is uniquely impacted by one particular difference between the simultaneous sale and conservation buyer program approach. Erica and Nina as well as Hilary agreed that conservation easements take a great deal of time to facilitate, and establishing a timeline for project completion is difficult. In the context of completing conservation easements within the conservation buyer program framework, however, conservation easements are more difficult to facilitate through BPS than ACT due to the funding sources MFT relies on. MFT cannot encumber property it owns in fee with a conservation easement. Resultantly, it enters into two-year purchase and sales agreements with buyers, where the buyer agrees to initially purchase a property at fair market value from MFT. MFT agrees to buy a conservation easement on the property with public funds within two years or pay out of pocket for the conservation easement.



The condition MFT's funding places on facilitating a conservation easement greatly complicates BPS transactions. Furthermore, on top of the conditions of purchase, MFT adds the carrying costs it incurs to the price of properties it sells through BPS. Not only must buyers initially purchase land at its fair market value through BPS transactions, but they are responsible for covering the carrying costs of properties, which MFT tacks on to the properties' purchase price. It is unclear whether buyers are asked to cover the carrying costs of properties through ACT as well, but Hilary did not mention this as a condition of sales. The added costs of BPS make these transactions more expensive for both MFT and buyers than simultaneous sale transactions, which may make BPS unfeasible for many beginning farmers, and, in certain cases, perhaps even unfeasible for MFT.

## CHAPTER FIVE: CONCLUSION

The future of food production and the shape of rural communities in the US lie in the hands of beginning farmers today. These aspiring agrarians, however, face great difficulty obtaining access to agricultural land. As land values rise while the agricultural land base shrinks, established farmers age, and the majority of private agricultural land changes hands in the next two decades, addressing the issue of land access for beginning farmers is at a pivotal juncture. Some organizations, such as those featured in this paper, have used land transfer tools, like OPAV and conservation buyer programs, to address the land access challenge.

This paper's central research question asked: Do OPAV and conservation buyer programs improve the accessibility of agricultural land for beginning farmers? A supplemental question inquired: What successes and challenges have administering organizations experienced with OPAV and conservation buyer programs? I found that OPAV and conservation buyer programs have improved access to agricultural land for some beginning farmers. These tools improve access to land when they are used to address both ends of the land access challenge, connecting farmers with available property and successfully bridging, what Schwartz et al. (2013: 21) call, the affordability gap. This is the difference between the fair market value of property and what a farmer can afford to pay for that land. Additionally, I discovered that these tools are not the only land transfer tools in use by the organizations of focus, nor are they cures-alls for the land access issue, or necessarily accessible to all organizations that may have interest in using the tools, due to their cost.

Only VLT and PCCFT reported completing land access projects with beginning farmers using the land transfer tools of focus, and VLT has been far more successful in doing so. Its success largely came as the Land Trust paired the use of conservation easements that include

OPAV together with either a conservation buyer program or simultaneous sale approach through its Farmland Access Program. While PCCFT has only completed one successful transaction that involved beginning farmers through ACT, those farmers could not be contacted for the purposes of this paper. Furthermore, although Wagner and Ruhf (2013) indicate that four beginning farmers have purchased land protected with a conservation easement and OPAV through MDAR's Agricultural Preservation Restriction Program, Michele and Ron said otherwise. Future research should seek clarification on this point.

The stated purpose behind a tool's use does impact its ability to improve land access for beginning farmers, but purpose alone does not determine the full breadth of its impact. PCCFT was the only organization that cited land access for beginning farmers as a stated purpose behind its use of a land transfer tool of focus. The Farmland Trust has put resources behind ACT, and, though it has only facilitated one land access project to date with beginning farmers, PCCFT has set an intention to cultivate more projects in the future. MDAR and MFT, on the other hand, were explicit when they said that supporting beginning farmers' purchase of agricultural land was not a stated purpose of OPAV and BPS, respectively. Neither organization has devoted resources to addressing land access for beginning farmers yet, despite the fact that both recognized the challenges beginning farmers face. Additionally, VLT also said that making agricultural land affordable for beginning farmers was not the intention behind its use of OPAV, but the Land Trust wanted to develop capacity to get beginning farmers on the land. Resultantly, VLT developed the Farmland Access Program, and the Land Trust has found the Program to be a great source of support for beginning farmers.

All four entities have, however, completed land access transactions with beginning farmers by applying other land transfer tools beyond, or in addition to, OPAV and conservation

buyer programs. VLT, PCCFT, and MFT have all found success using simultaneous sales, and, as mentioned, VLT has also been successful using a conservation buyer program approach. MDAR has been using ROFR for decades and had its first successful sale to a beginning farmer using that tool, in George, while PCCFT is just beginning to include ROFR in its conservation easements. ROFR may prove to be an additional tool that enables the Farmland Trust to help beginning farmers purchase land in the future. PCCFT has also found a home size restriction to be of use in conservation easements, as it helped Monica buy Platte Creek Farm. This suggests that different tools may be appropriate for different circumstances. Each tool carries different funding burdens – simultaneous sale transactions are less expensive than conservation buyer program transactions – and one tool may be unfeasible in certain areas due to legal restrictions – OPAV violates Washington’s law against perpetuities. Organizations must be open and flexible to different land transfer tools if they are going to successfully address the land access issue.

Another important finding from this research was a discord amongst the entities around whether their land transfer tool – either a conservation buyer program or OPAV – successfully ensured the affordability of effected land for beginning farmers. In discussing OPAV, Jon at VLT maintained that agricultural value is not the same as affordable value, though MDAR seemed to use the terms agricultural value and affordable value interchangeably. On the other hand, Hilary at PCCFT and Erica at MFT agreed that the conservation easements they facilitate through their conservation buyer programs and simultaneous sales do not ensure that agricultural land is affordable. In fact, this is why PCCFT began exploring additional land transfer tools, like OPAV, the home size restriction, and ROFR, as the Farmland Trust wanted to increase the value of its conservation easements. MFT has not yet taken steps to enhance the value of its conservation easements to reduce the price of land further. Interestingly, Erica did not see the

price of property as the primary barrier to the affordability of land, and instead suggested the primary barrier is beginning farmers' ability to obtain financing. She was the only interviewee to suggest this.

Despite this discord, all farmers interviewed said the reduction in property value that a conservation easement conveyed made their farm affordable for purchase. With the exception of Sara and Matt of Full Moon Farm and Phil of Good Harbor farm who used private loans, however, farmers relied on significant off-farm financial assistance to make their purchases possible. Unlike Phil, though, Sara and Matt bought their land without the aid of an off-farm income, as Phil's wife Ellie works as an attorney. Off-farm financial assistance that the other farmers received came in the form of family investments (Platte Creek and Red Oak Farm), family that cosigned for a private loan (Sleeping Bear Farm), and a significant line of credit drawn from an existing asset (Sunset Farm).

Conversations with farmers also revealed that affordability is relative to an individual's financial capacity (See Table C). Affordable with a family investment for Betsy and Arthur at Red Oak Farm was \$240,000, while affordable with a family investment for Monica at Platte Creek Farm was \$600,000, a substantial difference. George had a significant existing asset, his home, which made his purchase possible. A \$250,000 home equity line of credit that George took out on his house enabled him to buy Sunset Farm. On the other hand, Sara and Matt of Full Moon Farm nearly went broke after purchasing their property for \$150,000 with the help of loans from private lenders, and without family investment, existing assets to use as collateral, an off-farm income, or a co-signer on their loan. While a conservation easement with or without OPAV may have significantly reduced the value of these farms, affordable implied exceptionally different price-points for these farmers. Furthermore, the success of the land transfer tools in

**TABLE C: The Cost of Agricultural Land and Impact of Land Transfer Tools on Property Values**

	<b>Entity</b>	<b>Size (Ac)</b>	<b>Pre-CE</b>	<b>Post-CE</b>	<b>Tool</b>	<b>Source of Funding</b>
<b>Platte Creek</b>	PCCFT	95	\$2.1M	\$600K	SS/HSR	Family Investment
<b>Sunset</b>	MDAR	92	?	\$250K	ROFR	Home Equity Line of Credit
<b>Red Oak</b>	VLT	89	\$500K	\$240K	CBP/OPAV	Family Investment
<b>Full Moon</b>	VLT	87	\$300K	\$150K	CBP/OPAV	Loan
<b>Sleeping Bear</b>	MFT	40	?	?	SS	Family Co-Signed Loan
<b>Good Harbor</b>	MFT	75	?	?	SS	Loan

*This table outlines the size and pre- and post-conservation easement value of properties beginning farmer interviewees purchased. The table also shows the facilitating entity and land transfer tool as well as the sources of funding the farmers used to buy their properties.*

each of these cases was predicated on the ability of a beginning farmer to obtain cash resources.

A tool was effective when the price reduction it conveyed successfully bridged the affordability gap. The majority of the farmers interviewed, however, would not have been able to purchase

their properties without significant off-farm financial assistance. Confirming and expanding the findings from Wagner and Ruhf (2013), it is not only true of OPAV, but it is true that none of the land transfer tools featured in this paper necessarily make agricultural land affordable for all beginning farmers in every case.

Staff and farmers interviewed did agree on the value of land transfer tools for identifying potential farms for purchase by beginning farmers. Finding available land for purchase was challenging for the farmers for a number of reasons. Social networks are key, and interviewees said that agricultural land for sale is often passed between neighbors or established farmers. Breaking into these networks to find land is exceptionally challenging if a farmer does not come from a farming background. Moreover, land that is available is often not in suitable condition for purchase, may come with certain conditions of purchase that are untenable, or may have been inaccurately profiled by a seller when the property was listed.

All transactions detailed in this paper ultimately did transpire when an entity brought a property to the attention of buyers, whether it was advertised on the entity's website or the entity directly contacted the buyer. In these instances, the entities took the burden of identifying viable agricultural land from the farmers, and actively worked with the beginning farmer to facilitate a conservation easement and a property's purchase. It was the role the entities played in identifying land for purchase together with the price reducing impact of a conservation easement that made each transaction detailed in this paper possible.

This research also revealed the great cost of land transfer tools, which may make them inaccessible to many organizations interested in addressing the land access issue. For instance, including OPAV in a conservation easement increases the conservation easement's value up to 10 to 40 percent per acre. ROFRs can be high-priced as well, and have increased the value of the

Farmland Trust's conservation easements by 10 percent. The home size restriction on PCCFT's Platte Creek Farm conservation easement was costly too, reducing the price of the farm from between \$1,200,000 and \$3,000,000 to \$600,000. PCCFT had to come up with the additional \$600,000 or \$2,400,000 to fund the restriction's purchase. The cost of purchasing a property through a conservation buyer program is likely even more expensive than most of these additional conservation easement provisions in any given case (perhaps with the exception of the home size restriction on Platte Creek Farm). Furthermore, on top of the purchase price of a property sold through a conservation buyer program, an organization must pay for the property's carrying costs while it owns the land. These carrying costs are generally passed onto a buyer, increasing the price of their purchase.

All four entities have developed funding strategies to accommodate the cost of land transfer tools' use (See Table D). While only VLT and MDAR indicated they make use of ACEP-ALE for the purchase of conservation easements, all four entities have access to state level funding sources, and VLT, MFT, and PCCFT make use of privately raised funds as well. Only PCCFT has access to public funds for the purchase of property, though VLT, MFT, and PCCFT rely on private lenders and local supporters for this purpose. PCCFT did indicate that they are largely still developing their private fundraising sources, while the other entities have their private funding dialed in, if applicable. The continued use of land transfer tools depends on continued access to secure and significant funding. Given the great cost of these tools, they may not be accessible to organizations with limited fundraising capacity. State and local level grantors of funds for the purchase of conservation easements are not ubiquitous across the US. Moreover, in obtaining private loans for the purchase of property, entities take on great risk,



**TABLE D: Funding Sources Used in Support of Land Transfer Tools by the Entities of Focus**

	<b>CE</b>	<b>ACEP-ALE</b>	<b>State or Local</b>	<b>Fee</b>	<b>Public</b>	<b>Traditional Lender</b>	<b>Fundraise</b>
<b>VLT</b>		X	X			X	X
<b>MDAR</b>		X	X				
<b>PCCFT</b>			X		X	X	X
<b>MFT</b>			X			X	X

*This table outlines the funding sources the entities of focus rely on in support of the purchase of conservation easements (CE) and land in fee.*

which is likely unappealing to many non-profit entities, or government agencies, that are generally risk averse.

In my research and professional experience working for a land trust, a few questions often arise from colleagues and community members concerning land transfer tools. Given that research on the topic of these tools is limited, and severely limited on the use of these tools to support land access for beginning farmers, I think a few questions that I am frequently presented with by colleagues and community members can be instructive for future research.

First, I often face questions around the notion of subsidizing the purchase of land for beginning farmers with land transfer tools. It is not uncommon for someone to mention that they or someone they know received no such assistance purchasing a farm to start their business. Their concerns stem from the issue of fairness. Additionally, other questions are concerned with whether entities are setting beginning farmers up to fail by using land transfer tools to artificially deflate land prices to improve affordability. These individuals often mention the role of the free market and remark that once beginning farmers earn enough to purchase land, then the market has decided they are ready to own land.

I have found these inquiries particularly difficult to respond to. Aside from reiterating the tremendous shift in the agricultural demographic and impending transfer of land, while restating the urgency and challenge land access presents, I find my own replies often fail to satisfy a questioner looking for justification in providing beginning farmers with a hand up. Future research may look to find new means of addressing this question that I can only assume many other researchers and practitioners face.

In response to concerns around whether land transfer tools set beginning farmers up to fail, future research ought to look at whether beginning farmers that purchased land with the help of a land transfer tool have built successful farm businesses five or 10 years after they bought their property. Which farmers are successful, and why? Which farmers have failed, and why? What additional resources (i.e. loans for equipment purchases or technical assistance) do beginning farmers need once they have purchased land? What additional resources can, or do, administering entities themselves provide beginning farmers with at the time of their land purchase to help the farmers succeed? This line of research may also consider a response to

Beckett and Galt (2013), who question whether conservation and commercial agriculture can be mutually beneficial when land trusts work with beginning farmers.

Another question I am often asked is concerned with fighting a cash intensive problem with a cash intensive solution. OPAV, conservation buyer programs, and other land transfer tools can be used to significantly reduce the price of agricultural land, as this paper demonstrated, but these tools only treat a symptom of a larger problem. The symptom is, of course, the high cost of land. Entities will need to cough up more and more cash to buy conservation easements and use land transfer tools to reduce property values as land prices continue to rise. Furthermore, despite the reduction in property values land transfer tools convey, beginning farmers are still without significant economic resources and often in the early stages of business development when looking to purchase agricultural land. While these tools do not affect the root of the land access problem, this paper demonstrated that these tools do work, and they are the most potent assets to address an urgent issue.

To mitigate future scenarios where land transfer tools are themselves priced out of the market, unaffordable due to such high land prices, we ought to reconsider what role government regulation may stand to play in supporting land access work. Future research might explore regulatory mechanisms or policy initiatives to mitigate the effects of a property market bent on ever-increasing prices. This may include considering the impact regulating land use or zoning land for agriculture has on land prices. In areas where land values are conventionally higher than the national average, research may also explore the viability of subsidizing beginning farmers' purchase of land, or, as Schwartz et al. (2013: 35) suggest, creating a tax incentive to sell land to beginning farmers. This could be done at a progressive rate so that the higher land values are, the greater the government's contribution could be in these scenarios. While these avenues for future

research do not address systemic change, the root of the land access issue, they would change the current land access equation at a policy level to favor beginning farmers. Future research must find ways to help conservation dollars go further in order to match the continuous rise in land values.

Finally, future research ought to consider a couple questions that arose in this paper, but were left unanswered. These questions explore the potential for expanding the scope of beginning farmers served by land transfer tools and include: How can entities help more beginning farmers get on the land through the use of land transfer tools? Additionally, what are the limiting factors to broadening a given land transfer tools' use? These questions are concerned with how entities can better connect with and help beginning farmers purchase property. In studying these questions, researchers should be particularly attentive to the fact that staff from MDAR and PCCFT said that the application processes used to determine an applicant's qualifications for working with OPAV and ACT, respectively, are skewed against beginning farmers because the applications favor serving more experienced, established, farmers. Are VLT and MFT's application processes similarly biased? How often are beginning farmers' inquiries or applications ignored or rejected due to inexperience? For what other reasons are beginning farmers turned away? In pursuit of answers to these questions, future research should also consider unsuccessful cases, where entities elected to work with beginning farmers – the farmers were chosen through an application review process – but were ultimately unable to help those farmers get on the land. My research was limited, as previously mentioned, to studying successful land access cases. How many unsuccessful efforts do entities undertake for every successful land access case? Why do unsuccessful cases falter and fail? Working towards

answers to these questions will help researchers and practitioners better understand land transfer tools as well as the land access challenge and enable entities to better serve beginning farmers.

When established farmers age and transition out of agriculture, privately held agricultural land will change hands. Some land will sell to other working farmers and a portion will be lost to non-agricultural use. Entities like VLT, MDAR, MFT, and PCCFT have shown that they can keep a portion of that land accessible for purchase by the next wave of agrarians by clearing some barriers to entry and offering these farmers a hand up with land transfer tools. Land transfer tools are by no means a panacea, and are themselves not accessible to all entities, but I hope my research informs the dialog concerning land transfer tools and provides insight for entities interested in implementing OPAV and conservation buyer programs into the future by offering insight into the use of these tools today.

## APPENDIX A. BEGINNING FARMER INTERVIEW GUIDES

### The Option to Purchase at Agricultural Value

#### Research Question:

Do land transfer tools improve the accessibility of agricultural land for beginning farmers?

Record subject code on tape: State the number interview this will be \_\_\_\_.

Introduction: Thank you for agreeing to participate in this study. This interview will be put to use in my thesis project for the University of Montana's Environmental Studies Program. My research is concerned with the protection of agricultural land and its accessibility for beginning farmers. The term accessibility, in this context, refers to the ability for beginning farmers to acquire agricultural property and at a price that is not inflated by non-farming market demand. Specifically, I am interested in your experience purchasing property and what role Vermont Land Trust/Massachusetts Department of Agricultural Resources and OPAV played in your purchase of property. Before we begin, I want to let you know that your participation in this study, and identity, will remain confidential. Your name will not be used in presentations or reports, so I want to encourage you to speak freely.

If it's alright with you, I would like to tape record this interview. Taping helps ensure that your views are accurately recorded, and it allows me to focus on what you're saying. Is that alright?

(1) **Background of Interviewee and Property.** Let's start by talking about your background in agriculture. Please tell me about how you came to a career in farming?

Follow up: Have you worked as the principal operator, making day-to-day management decisions, of other farms in the past?

(2) I'm interested in learning about your work. Will you please share with me a bit about your business?

Follow up: How long have you been on this property?

(3) Since you've been on this property, have you worked, or do you currently work, off-farm to supplement your income?

Follow up: Do you hope, or have plans, to devote all of your working hours to your farm, if possible?

(4) **Climate for Land Access.** I'd like to talk about your experience looking for farmland. Will you please describe what was most challenging about looking for farmland as a beginning farmer and why?

(5) **Option to Purchase at Agricultural Value.** How did you initially come to come to work

with OPAV and MDAR/VLT?

(6) What were the most important characteristics of a property as you were looking to purchase?

Follow up: Were you able to find a property with these characteristics?

(7) Will you please take me through your decision-making process as you decided to purchase a property protected with OPAV?

Follow up: Did you have any hesitations about buying land that will always be valued at an agricultural level?

(8) Before you purchase an OPAV-protected property through MDAR/VLT, you have to submit an application. What was your experience with the application process like?

(9) How did you obtain the capital or loan you needed to purchase a property?

Follow up: Did any creditors have issue with the fact that the land would remain in agriculture in perpetuity?

Follow up: Is your farm income alone sufficient to fund the purchase of your property?

(10) **Option to Purchase at Agricultural Value Successes.** Now that I've got an understanding of what your participation in the OPAV program looked like, let's talk about the issue of land access for beginning farmers. In general, what do you think "land access" is like for beginning farmers today?

(11) What do you think is the most valuable aspect of OPAV for beginning farmers, and why?

(12) **Option to Purchase at Agricultural Value Challenges.** I'm also curious as to areas where you think the OPAV program falls short in supporting farmland access. In what ways is the program challenged?

Follow up: What can MDAR/VLT do to remedy these shortcomings?

(13) **Opportunities for Growth.** Thinking once more about the successes and challenges of OPAV, how might the program grow and change in the future to address the needs of beginning farmers?

## Conservation Buyer Programs

### Research Question:

Do land transfer tools improve the accessibility of agricultural land for beginning farmers?

Record subject code on tape: State the number interview this will be \_\_\_\_.

Introduction: Thank you for agreeing to participate in this study. This interview will be put to use in my thesis project for the University of Montana's Environmental Studies Program. My research is concerned with the protection of agricultural land and its accessibility for beginning farmers. The term accessibility, in this context, refers to the ability for beginning farmers to acquire agricultural property and at a price that is not inflated by non-farming market demand. Specifically, I am interested in your experience purchasing property and what role Puget Consumer Cooperative Farmland Trust/Maine Farmland Trust (PCCFT/MFT) and Acquire, Conserve, Transfer/Buy, Protect, Sell (ACT/BPS) played in your purchase. Before we begin, I want to let you know that your participation in this study, and identity, will remain confidential. Your name will not be used in presentations or reports, so I want to encourage you to speak freely.

If it's alright with you, I would like to tape record this interview. Taping helps ensure that your views are accurately recorded, and it allows me to focus on what you're saying. Is that alright?

(1) **Background of Interviewee and Property.** Let's start by talking about your background in agriculture. Please tell me about how you came to a career in farming?

Follow up: Have you worked as the principal operator, making day-to-day management decisions, of other farms in the past?

(2) I'm interested in learning about your work. Will you please share with me a bit about your business?

Follow up: How long have you been on this property?

(3) Since you've been on this property, have you worked, or do you currently work, off-farm to supplement your income?

Follow up: Do you hope, or have plans, to devote all of your working hours to your farm, if possible?

(4) **Climate for Land Access.** I'd like to talk about your experience looking for farmland. Will you please describe what was most challenging about looking for farmland as a beginning farmer and why?

(5) **Conservation Buyer Program.** How did you come to work with ACT/BPS and the PCCFT/MFT?



(6) What were the most important characteristics you were looking for in a property to purchase?

Follow up: Were you able to find a property with these characteristics?

(7) Will you please take me through your decision-making process as you decided to purchase a property through ACT/BPS?

Follow up: Did you have any hesitations about buying land that will always be valued at its conservation value?

(8) Before you purchase a property through ACT/BPS, you have to submit an application. What was your experience with the application process like?

(9) How did you obtain the capital or loan you needed to purchase a property?

Follow up: Did any creditors have issue with the fact that the land was restricted with a conservation easement?

Follow up: Will you be able to fund the purchase of your property with your farm income alone?

(10) **Conservation Buyer Program Successes.** Now that I've got an understanding of what your participation ACT/BPS looked like, let's talk about the issue of land access for beginning farmers. In general, what do you think "land access" is like for beginning farmers today?

(11) What do you think is the most valuable aspect of ACT/BPS for beginning farmers, and why?

(12) **Conservation Buyer Program Challenges.** I'm also curious as to areas where you think the ACT/BPS program falls short in supporting farmland access. In what ways is the program challenged?

Follow up: What can PCCFT/MFT do to remedy these shortcomings?

(13) **Opportunities for Growth.** Thinking once more about the successes and challenges of ACT/BPS, how might the program grow and change in the future to address the needs of beginning farmers?

## APPENDIX B. STAFF INTERVIEW GUIDES

### The Option to Purchase at Agricultural Value

#### Research Question:

Do land transfer tools improve the accessibility of agricultural land for beginning farmers?

Record subject code on tape: State the number interview this will be \_\_\_\_\_.

Introduction: Thank you for agreeing to participate in this study. This interview will be put to use in my thesis project for the University of Montana's Environmental Studies Program. My research is concerned with the protection of agricultural land and its accessibility for beginning farmers. The term accessibility refers to the ability for beginning farmers to acquire agricultural property and at a price that is not several inflated by non-farming market demand. Specifically, I am interested in your work at the Massachusetts Department of Agricultural Resources/Vermont Land Trust (MDAR/VLT) and how you perceive the effectiveness of the Option to Purchase at Agricultural Value (OPAV) in supporting the accessibility of agricultural land for beginning farmers.

If it's alright with you, I would like to tape record this interview. Taping helps ensure that your views are accurately recorded, and it allows me to focus on what you're saying. Is that alright?

**(1) Introduction to Interviewee and Option to Purchase at Agricultural Value.** Let's start with some background information about MDAR/VLT and your work here. Would you please tell me a bit about your job? What are your primary responsibilities?

Follow up: How long have you worked here?

**(2)** I'm familiar with the mission statement of MDAR/VLT, and, as you know, I'm particularly interested in OPAV. What is the overall goal of OPAV?

Follow up: How long has MDAR/VLT been using OPAV?

**(3)** How does OPAV fit into the mission of MDAR/VLT?

**(4) Option to Purchase at Agricultural Value In Practice.** Thanks, let's talk more about how OPAV works in practice. First off, how do you identify properties for an easement with OPAV?

Follow up: What characteristics are you looking for in properties for OPAV?

**(5)** My understanding is that all conservation easements that MDAR/VLT facilitates include OPAV. Will you please describe the process of negotiating a conservation easement with landowners, and how OPAV fits into that process?

Follow up: How did the inclusion of OPAV change easement negotiations with

landowners?

(6) Thanks for describing that process. Now, let's talk about the financial aspects of the tool. What are the major sources of funding that you use to support the purchase of an easement with OPAV?

Follow up: Did the sources MDAR/VLT looks to for conservation easement funding change when your organization began including OPAV in easements?

(7) Thinking about the transfer of ownership of properties protected with an easement and OPAV, and the right MDAR/VLT has to exercise the option to purchase, what role does your organization play when a property protected with an easement and OPAV goes up for sale on the market?

Follow up: What is the target population for the resale of OPAV-protected properties?

(8) Under what circumstances would MDAR/VLT exercise the option to purchase?

Follow up: Has MDAR/VLT ever had to exercise the option to purchase?

Follow up: What would happen if MDAR/VLT were to exercise the option to purchase?

(9) **Option to Purchase at Agricultural Value and the Organization.** Looking at OPAV from a policy perspective, were any legislative or regulatory changes necessary before MDAR/VLT could begin using OPAV?

(10) Were internal policy changes necessary within MDAR/VLT prior to using OPAV?

(11) Thanks, I'm also interested in OPAV and staff requirements. In general, how much time does staff commit to an OPAV project?

Follow up: Who, within MDAR/VLT, is involved in OPAV transactions?

(12) **Option to Purchase at Agricultural Value and Land Access.** Now that I've got an understanding of how your OPAV program works, let's talk about land access for beginning farmers. What do you think "land access" is like for beginning farmers today?

(13) How has MDAR/VLT been successful in using OPAV to support land access for beginning farmers?

Follow up: Would you be willing to share some success stories?

(14) I'm also curious about challenges you've encountered. Where has MDAR/VLT faced challenges in its use of OPAV?

Follow up: Would you be willing to share some examples of challenging projects?

(15) OPAV is not a widely used tool. Why do you think it has not been more widely adopted?

Follow up: What would make the program more appealing to other organizations?

(16) Thinking about the future of OPAV, what opportunities for growth and change in the program do you see?

(17) **Post interview data gathering.** Do you have any program evaluation materials that you can share with me?

(18) Do you have program data that you could share with me that details how many properties or acres MDAR/VLT has protected with OPAV? Program data would be used to support discussion and analysis of your work at MDAR/VLT and OPAV.

### **Conservation Buyer Programs**

Research Question:

Do land transfer tools improve the accessibility of agricultural land for beginning farmers?

Record subject code on tape: State the number interview this will be \_\_\_\_.

Introduction: Thank you for agreeing to participate in this study. This interview will be put to use in my thesis project for the University of Montana's Environmental Studies Program. My research is concerned with the protection of agricultural land and its accessibility for beginning farmers. The term accessibility refers to the ability for beginning farmers to acquire agricultural property and at a price that is not several inflated by non-farming market demand. Specifically, I am interested in your work at the Puget Consumer Cooperative Farmland Trust/Maine Farmland Trust (PCCFT/MFT) and how you perceive the effectiveness of Acquire, Conserve, Transfer/Buy, Protect, Sell (ACT/BPS) in supporting the accessibility of agricultural land for beginning farmers.

If it's alright with you, I would like to tape record this interview. Taping helps ensure that your views are accurately recorded, and it allows me to focus on what you're saying. Is that alright?

~ If **yes**, turn on tape recorder. If **no**, record notes by hand.

(1) **Introduction to Interviewee and Conservation Buyer Program.** Let's start with some background information about PCCFT/MFT and your work here. Would you please tell me a bit about your job? What are your primary responsibilities?

Follow up: How long have you worked here?

(2) I'm familiar with the mission statement of PCCFT/MFT, and, as you know, I'm particularly interested in ACT/BPS. What is the overall goal of ACT/BPS?

Follow up: How long has PCCFT/MFT been using ACT/BPS?

(3) How does ACT/BPS fit into the mission of PCCFT/MFT?

(4) **Conservation Buyer Program in Practice.** Thanks, let's talk more about how ACT/BPS works in practice. First off, how do you identify properties suitable for the ACT/BPS program?

Follow up: What characteristics of properties are you looking for?

(5) My understanding of ACT/BPS is that PCCFT/MFT will purchase a property, and, as owner of the property, protect and then resell it. Will you please describe the process of negotiating the purchase of a property with a landowner, and how a conservation easement fits into that process?

(6) Thanks for describing that process. Now, let's talk about the financial aspects of the tool. What are the major sources of funding that you use to support the purchase of a property?

(7) What are the major sources of funding that you use to support the purchase of a conservation easement through ACT/BPS?

Follow up: Did the sources PCCFT/MFT looks to for conservation easement funding change when your organization began facilitating easements through ACT/BPS?

(8) Thinking about the resale of a property through ACT/BPS, and the ability PCCFT/MFT has to exercise discretion in determining who to resell a property to, what is the process for determining who a property is resold to?

Follow up: What is the target population for the resale of property through ACT/BPS?

(9) **Conservation Buyer Program and The Organization.** Looking at ACT/BPS from a policy perspective, were any legislative or regulatory changes necessary before PCCFT/MFT could begin using ACT/BPS?

(10) Were internal policy changes necessary within PCCFT/MFT prior to using ACT/BPS?

(11) Thanks, I'm also interested in ACT/BPS and staff requirements. How much time does staff generally commit to a ACT/BPS project?

Follow up: Who, within PCCFT/MFT, is involved in ACT/BPS transactions?

(12) **Conservation Buyer Program Successes.** Now that I've got an understanding of how your ACT/BPS program works, let's talk about land access for beginning farmers. What do you think

“land access” is like for beginning farmers today?

(13) How has PCCFT/MFT been successful in using ACT/BPS to support land access for beginning farmers?

Follow up: Would you be willing to share some success stories?

(14) **Conservation Buyer Program Challenges.** I’m also curious about challenges you’ve encountered. Where has PCCFT/MFT faced challenges in its use of ACT/BPS?

Follow up: Would you be willing to share some examples of challenging projects?

(15) **Adoption of Acquire, Conserve, Transfer/Buy, Protect, Sell Elsewhere.** ACT/BPS is not a widely used tool. Why do you think it has not been more widely adopted?

Follow up: What do you think might make the program more appealing to other organizations?

(16) **Opportunities For Growth.** Thinking about the future of ACT/BPS, what opportunities for growth and change in your program do you see?

(17) **Post Interview Data Gathering.** Do you have any program evaluation materials that you could share with me?

(18) Do you have program data that you could share with me that details how many properties or acres PCCFT/MFT has protected with ACT/BPS? Program data would be used to support discussion and analysis of your work at PCCFT/MFT and ACT/BPS.

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