SUCCESSFULLY PLANNING FOR SUCCESSION

One of the largest transfers of private land in history looms on the horizon. In the next 10 to 20 years, farmland acres roughly equivalent to the combined land area of Texas, California and Montana will change hands according to the National Agricultural Statistics Service. This transfer of 370 million acres, which represents about 40% of the total amount of American farmland, presents a potential threat to farming in the US. Pressure from developers wanting to build condos or strip malls and off-farm opportunities for younger generations have disrupted the natural familial succession of land. Navigating the difficult waters of farm succession involves careful planning and discussion to ensure your land continues to produce food for future generations.

WHERE TO START WITH SUCCESSION PLANNING?

Begin by asking yourself, am I ready to hand everything over? Succession does not just involve the transfer of the land deed but includes everything that allows the farm to function: the knowledge, skills, labor, management, control and ownership of the farm business. Whether you are ready or not, the earlier you can start planning and discussing these items with your family, the better equipped you’ll be when making the transition.

Let’s begin with the goals of farm succession:

A. TRANSFER OF MANAGEMENT SKILLS AND RESPONSIBILITY;

B. TRANSFER OF ASSETS;

C. FINANCIAL SECURITY AND PEACE OF MIND.
1. Communication

Communication is an essential element to help start you off on the right foot for the journey. Open communication with your family to identify a successor will help to determine whether the search must extend beyond relatives. Keeping with the family may involve compromises such as dividing the land between heirs. Avoiding common pitfalls such as forcing uncooperative heirs together will help the farm remain intact for the future.

If no one in your family has an interest in continuing to farm, and you do not have another candidate at hand, there are linking services across the country that help to connect beginner and experienced farmers with retiring landowners/farmers. Below are some linking programs to consider.

IN OHIO: www.cvcountryside.org/farm-farmlink
IN NEW YORK: nyfarmlandfinder.org/

Regardless of whether succession is to be familial or otherwise, setting clear objectives, goals and expectations will help gauge the compatibility of you and your successor’s visions for the future of your farm. Some goal themes for you to consider might involve:

1. Your role(s) on the farm into the future.
2. Retirement goals for you and your spouse.
3. Your goals for your estate and heirs.
4. Your desires regarding your real estate assets.
5. Your desires regarding other farm assets (both tangible and intangible, such as contracts or your business name).
6. Your personal non-farming goals.

2. Inventory

Taking stock of your farm, its situation, profitability, and other standings helps give your successor a clear starting point from where to begin. To inventory your farm, you will need to compile and review:

» the legal will
» the power of attorney
» tax returns
» financial statements
» current financing arrangements
» retirement savings position
» any business and legal agreements

These days, very few farming families generate the totality of their income from farm operations. Ask yourself, what does the balance need to look like in order for your successor to be profitable? What changes might need to be made to improve these prospects? On the other side, what is your successor’s financial state and familiarity with agriculture? If your successor does not have the finances for the outright purchase of the farm and does not have a solid grounding in your form of agricultural activity, i.e., dairy, row crop, specialty crop, this may require a more gradual transition.

3. Options, option, options

Having painted a clear picture of your farm, you are now well-equipped to explore the vital elements of any succession plan and the various options within each.

» MANAGEMENT TRANSFER: The process of handing over decision-making responsibilities can have serious implications for the immediate and long-term prosperity of the farm. Having clear business objectives and goals is critical for a successful management transfer. While there may be disagreement, agreement from both parties towards an identified objective will help to focus management decisions. One way in which to organize this relationship is to have the successor take the role of general manager with the ultimate decision-making resting with the senior farmer, allowing the
successor to make decisions and learn from mistakes without endangering the health of the farm. This requires an investment in time and effort from both sides. Alternatives include splitting decision-making power across different farming aspects with the successor taking on more responsibility with time.

» **OWNERSHIP TRANSFER:** Transferring the legal ownership of the farm can be done all at once through the outright purchase of the farm and its assets, however, the best approaches are often more piecemeal and measured. Options for the transfers of these assets can be through purchasing, bequests or gifts, each with its own tax and legal implications. Short term assets such as cash, harvested crops, supplies and seed should be transferred to the successor first and often do not require a formal agreement. Intermediate assets: machinery or equipment with a less than ten-year lifespan should follow. The long-term assets of buildings and heavy machinery/equipment should be transferred last.

» **FINANCING (BOTH INTERNAL AND EXTERNAL):** Options here are linked with the way in which you decide to transfer farm assets. Outright purchasing of the farm might require outside financing like a loan, whereas bequests-gifts of assets will not. More creative options might include lease-to-own agreements between the owner and successor, which negates the need for outside funding.

» **BUSINESS ORGANIZATIONS/STRUCTURES:**

There are several options for the business structure, all with their advantages and disadvantages. Sole proprietorship is the most common structure but also carries significant risk. By owning and operating the business outright, the successor receives all the profits but also takes on all the risk of losses and debts. A partnership helps to spread these risks across several individuals by having two or more owners but requires profits to be shared. A joint venture is a form of partnership that is limited in time or scope. For example, one person might own the land and the other the equipment or livestock as a separate business. Finally, an S-Corporation can be formed through the IRS and offers tax savings and credits as well as liability protection. This structure distributes income evenly based on ownership percentage between shareholders but requires stricter operational processes, i.e., shareholder meetings, by-laws and record-keeping.

Making an independent decision on the best path forward is not easy. For some, it might be necessary to call in the troops: financial advisors, insurance agents, lawyers, accountants, facilitators, lenders and family members to help make decisions.

One option available to farmland owners to assure the continued use of their land for agricultural purposes is a conservation easement. A conservation easement is a legally binding agreement between a landowner and a third-party, often a non-profit or the government, in which this third-party is voluntarily sold or given the rights to manage the preservation of the land. By locking away these rights in an organization, future generations of landowners have the right to live on the property and farm it, but do not have the ability to develop or subdivide the land.

While conservation easements might seem to be a silver bullet solution, if not well thought out, they can evolve into more of a problem than an aid. In most cases, agricultural conservation easements are permanent and require careful planning to ensure that future generations are
afforded enough flexibility to make a living from the land during unknown future circumstances. Key elements to consider for the future economic viability of the farm include:

» **What if scenarios:** How might the language of the easement be overly restrictive?

» **Diversification:** Are there other ag or rural enterprises that may help the business?

» **Down-sizing:** Would making the farm smaller help attract successors? Trends in New England show farms becoming smaller and more intensively cultivated.

» **Expansion of agricultural structures:** Creating areas where expansion of buildings is allowable within the bounds of the easement.

» **Renewable energy:** As ways to diversify revenue streams with wind, solar or other sustainable installations.

### 4. Timeline

After thinking through these different scenarios and compiling your documents and assets, you need to establish a timeline ending in your retirement and completed transfer of the farm. Crafting a succession plan can take well over a year and a complete transfer over a decade. Draft your timeline to include some useful, actionable steps such as:

» the handing off of various elements of farm management;

» converting successors from hourly workers to partners to ensure their commitment and sense of ownership of the farm;

» and starting to transfer assets and encourage successor investment in the farm.

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**RESOURCES TO HELP YOU THROUGHOUT THE TRANSITION PROCESS:**

» The Farmland Information Center provides an aggregated extension guide and tools to lend a helping hand in your succession planning:

  » [https://www.farmlandinfo.org/landowner-options/transfer-your-farm-or-ranch](https://www.farmlandinfo.org/landowner-options/transfer-your-farm-or-ranch)

» American Farmland Trust is a national leader in protecting farmland with agricultural conservation easements. Contact Easement Project Manager, Alison Volk to learn about options for working with American Farmland Trust to protect you farm or ranch, avolk@farmland.org

» Agricultural Conservation Easement Program: A federal government program helping landowners, land trusts, and other entities protect, restore, and enhance wetlands, grasslands, and working farms and ranches through conservation easements:


» California Farmlink has published a comprehensive Farm Succession Guidebook:

  » [https://www.californiafarmlink.org/resources/farm-succession-guidebook/](https://www.californiafarmlink.org/resources/farm-succession-guidebook/)
UPCOMING EVENTS:

**Ohio**

*TBD.*

Contact Ashley Brucker by email abrucker@farmland.org or phone 614-430-8130 for the latest updates.

**New York**

*The Western New York Soil Health Alliance Annual Meeting*

**Wednesday, December 18, 2019**

8:30am–3pm

**Quality Inn & Suites,**

8250 Park Road, Batavia, NY 14020

The WNYSHA meeting will feature Steve Groff, farmer and founder of Cover Crop Solutions and Maria Harrison, professor from the Boyce Thompson Institute. Steve will bring new information on growing your own nitrogen with legumes and Planting Green. He will also share his experience this year with growing 70 acres of hemp and changes he’ll make in 2020. Maria will discuss how plants control the growth of arbuscular mycorrhizal fungi and how we can play a part in the process. Other topics will include using precision agriculture to facilitate soil health management and the potential to increase your bottom line from soil health management. Lunch and refreshments will be provided. CCA and DEC pesticide credits will be available.

**PRE-REGISTER BY:** December 11, 2019

**REGISTRATION:** bit.ly/WNYSHA2019 or contact the Orleans County Soil and Water Conservation District at 585-589-5959.

**LEARN MORE**

More information about Great Lakes Conservation Connect and upcoming events for farmers and landowners can be found at: www.farmland.org/greatlakes or on Facebook at www.facebook.com/GLConservationConnect.
HEAR WHAT OUR LEARNING CIRCLE PARTICIPANTS HAVE TO SAY!

Many of the ladies at these learning circles are experiencing an issue with trying to get their needs and wants across to others. These circles are a great opportunity to share our stories and experiences. We have done soil testing and even water sampling at these learning circles which has opened my eyes to how certain crops work in the field. I have been very impressed with cover crops and what it can do with the soil—and not dirt. I have finally found my voice.”

- KC Writz, Ohio landowner

When KC started attending these learning circles, she would come back from them and talk with me for hours about all of these different farming practices and programs. KC applied and received funding from the AFT grant to help with the cost of implementing cover crops—which have been a success.”

- David Suber, Ohio tenant

The Great Lakes Conservation Connect Team has created a series of checklists to help landowners assess their on-farm resources and think through their goals for the land. If you would like to receive these three checklists, please return the enclosed card.