

# **Agricultural Land Trusts**

## **Preserving Small Farm Heritage**

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# AGRICULTURAL LAND TRUSTS

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### 1 Project Context

The original research examined the suitability of an agricultural land trust as a community economic development intervention for use in the Rural Municipality of Franklin. The RM of Franklin is located in south central Manitoba. With a land area of 953 square kilometers, Franklin is divided into two distinct regions. The portion east of the escarpment (which runs north to south) has trees, rocks, and sandy soil, and is used largely for beef or dairy cattle. West of the escarpment the land is flat, has few trees, and the soil is described as “Red River gumbo”—good for growing grain. The aquifers west of the escarpment are largely saline, requiring many residences and farms to truck water, while the eastern portion is able to sustain wells. The price of land varies greatly from one part of the municipality to another. Eastern land good for cattle might sell for one third of the price of good grain land.

The RM of Franklin has a population of 1,724. The area is characterized by an aging population, low levels of educational attainment, and high levels of employment (Franklin reported a 0%

unemployment rate in 2001). Despite this, residents have below average income levels at 71.6% of the Manitoba average for earnings, and a gender gap in full-time earnings that is significantly greater than the Manitoba average. Many residents are employed within the agricultural field (33% by Industry of Employment).<sup>3</sup>

The general trend in agriculture has been towards increased size, higher capital investment, and larger farms to support an export strategy founded on economies of scale. Manitoba had the third largest average farm size in 2001 at 891 acres, up from less than 800 acres in 1996. In Canada, only 2% of farms have annual gross receipts greater than \$1 million, but these farms account for 35% of all farm receipts. Census Division #2, of which Franklin is a part, has a higher incidence of both high-grossing farms and low-grossing “hobby” farms (less than \$2,500 annually). The average Manitoba farmer has \$162,811 worth of machinery, and about 44% of Manitoba farms have total capitalization of \$500,000 or more. In 2000, 46% of farmers had off-farm employment, and the average farm family received 73.5% of its income from off-farm sources.<sup>4</sup>

Part of the original research also examined shifts in land ownership patterns within Franklin between 1982 and 2002. Examining assessment roll data for parcels of agricultural land 20 acres or greater, the research concluded that:

- i) the total number of landowners is decreasing and the average size of holding is getting larger;
- ii) the very largest landowners (2,560 acres and greater) seem to have been static over the last 20 years;
- v) the number of very small rural acreages (159 acres or less) has gone up, suggesting an increase in hobby farms;
- vi) the number of holdings from 320-639 acres has seen a sharp decline.

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**The face of agriculture has changed in Manitoba. An industry formerly characterized by a production model centered on the family unit now faces the reality of consolidation and industrialization.**

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Despite this, half of the agricultural landowners in Franklin own between 160 and 639 acres.

This suggests that the smaller family farm is under some pressure in Franklin, but that a critical mass of small acreages still exists.

The above evidence indicates that the face of agriculture has changed in Manitoba. An industry formerly characterized by a production model centered on the family unit now faces the reality of consolidation and industrialization. The focus of modern agriculture aims to increase efficien-

cies through economies of scale. Where previously many small, independent, farm operators worked within the confines of a delicate social structure, today's agricultural practices reflect a declining emphasis on these traditional principles. Rather, there is an emphasis on external investment, an increasing use of wage labour, and a reliance on a small number of transnational agri-businesses. Qualman and Wiebe argue that these changes are a result of the structural adjustment of Canadian agriculture to replace traditional crop production with an export-oriented strategy.<sup>5</sup>

The question before most rural communities in Manitoba is whether the small- to medium-sized family-operated farm is doomed to disappear. Despite many of the negative impacts of globalization on rural communities, many people seem to cling to a free market ideology. This leads to speculation about how people might react to a model that places importance on the non-economic dimensions of farming and takes an alternative view of property rights.

## 2 The Land Trust Model

Understanding the land trust model requires an understanding of the motivations for creating a land trust. The Institute for Community Economics (ICE), an acknowledged leader in developing community land trusts, suggests that land trusts are created in response to land speculation, concentration of ownership, absentee ownership, housing shortages, or agricultural land shortages.<sup>6</sup> A Canadian Aboriginal organization, Turtle Island Earth Stewards, states that trusts are made necessary because the European practice of subjugating land to private use conflicts with traditional Aboriginal uses and concepts of stewardship.<sup>7</sup> Nozick suggests that land trusts are necessary to mitigate the negative impacts of market forces on land use.<sup>8</sup>

Considering agricultural land trusts, Lawless conducted an evaluation of the Wisconsin Farmland Conservancy, stating his motivation was a concern for both the declining number of family farms and the need to mitigate the negative environmental impacts of some agriculture on rural communities.<sup>9</sup>

These proponents of the model identify a few common themes underlying the motivation behind land trusts. These include the affordability of land, access to land, sustainable use of land, and a belief in some broader community interest in how land is used. The land trust is seen as a way to both balance the legitimate rights of the individual with the interests of the larger community and assemble land that is literally “held in trust” for community benefit in perpetuity.

The land trust assembles both donated and purchased land. Funds to purchase land are typically provided by individuals, foundations, and government. Land trusts are usually charitable organizations that can issue tax receipts for donated land or money. The trust makes the land available for specified uses that vary according to the

type of trust. These uses must have a perceived community benefit, but cannot generate sufficient revenues to compete for land in an unrestricted market.

To better understand the model, it is necessary to review some property rights issues, various types of land trusts, and legal mechanisms that might be used to adjust property rights. This allows for a more precise definition of an agricultural land trust and the development of a particular land trust model.

### 2.1 Property Rights Issues

The average person thinks of property as a tangible, physical object such as land or an automobile. Lawless gives a comprehensive overview of property rights and related terminology.<sup>10</sup> He describes property rights as a form of social relation that defines who has a right to a physical object, and how others must respect that right.

The term “right” is not entirely accurate, as the concept of property usually bestows a “bundle of rights” which may be enjoyed. In the case of land, most people are aware that the bundle of rights might include water rights, timber rights, or mineral rights. These rights can be separated from each other and transferred to others and different individuals can hold different rights to the same land.

For example, a landowner might have a bundle of rights to a section of land. That landowner could sell the mineral rights to a gravel pit on the land to another party. He might simultaneously rent 40 acres to a neighbour for hay production, and allow a sawmill operator to harvest timber from the land. He might then choose to exercise his right to ride his horse around the land as recreation. If the original owner tries to harvest hay, extract gravel, or chop wood, he will then be violating the property rights of those other parties.

bundle of rights

While the common view is to see private property rights as absolute, in reality, society does place constraints on property owners. Municipal zoning restricts how land may be developed, and many jurisdictions legislate against converting farmland to non-agricultural uses. Certain land is subject to right-of-way provisions, allowing for necessary access to utility structures or roads. These curtailments of certain property rights are seen as justified in light of a common societal benefit.

In some instances, land or property — such as provincial parks, public waterways, or roads — is central enough to the common interest that it is made state property. In these cases, government exercises the property rights for the common benefit of all. In other instances, there is a general common interest in a certain land or property among some community members, but not society at large. An example of this kind of common property is the community pasture. In this example, community members who own livestock have a common interest in having access to additional pasture. They all agree to abide by certain rules (and perhaps fees) in order to preserve the value of the pasture and continue to have access to a useful resource. In this sense, members of a common property arrangement are interdependent.

Lawless, citing Bromley, reviews the state, common, and private forms of property, and concludes that the land trust does not fit neatly into any of these categories.<sup>11</sup> While sharing some elements of common property, land trusts also rely on a modification of private property rights to achieve their aims, resulting in a hybrid type of property arrangement. The Institute for Community Economics suggests that land trusts are a way of arranging property rights to balance individual and community interests.<sup>12</sup>

The ability to recognize and articulate different property rights and different interests in

property use is fundamental to defining the various types of land trust.

## 2.2 Types of Land Trusts

There are many possible combinations of property rights and interests and, consequently, there are different types of land trusts. There are, however, some elements common to almost all land trusts, which are recognized by ICE and Lawless, among others.<sup>13</sup>

- i) The land trust is incorporated as a non-profit corporation, separate from Government.
- ii) The land trust is democratic in nature: one member, one vote.
- iii) The land trust membership is open to all within a given community, balancing memberships between land users and the community at large.
- iv) The land trust exists to restrict land use in some defined way.

In cases where the land in the land trust is intended to have ongoing human use and economic activity resulting in buildings or improvements, there are often two additional features:

- v) There is sometimes split ownership of the land and the improvements to the land. The trust owns the land and the lessee or the user owns the improvement.
- vi) The trust usually has first option to purchase any improvements and the price is set by a formula that prevents windfall gains.

There is not as much agreement on the various types of land trusts and the terminology used to describe them. Community Land Trust (CLT), Farmland Trust, Agricultural Land Trust, Heritage Land Trust, Conservation Land Trust, and Land Stewardship Trust are all common terms. The term Community Land Trust is almost always



used to refer to a trust that develops affordable housing, although all land trusts are community-driven in nature and rooted in a given geographic community.

Probably the most useful categorization of land trust types is offered by Lawless,<sup>14</sup> who outlines them as follows:

- A. **Conservance:** These trusts aim to prohibit development in order to conserve habitat or sensitive ecological land. Sometimes trusts conserving local historical sites are included in this category.
- B. **Stewardship:** These trusts are structured to provide for “principled management” of land. This would include trusts that stipulate organic agricultural production or sustainable forestry practices as a condition of using the land.
- C. **Economic:** These trusts are structured to achieve certain social and economic goals, such as affordable housing, preserving family farms, or local economic development.

Since land trusts are conceived, designed, implemented, and governed on a local level, there are many different incarnations and hybrids of these types. For instance, some conservation trusts allow limited harvesting of hay from land adjacent to wetland areas, which is an element of stewardship. Depending on the type of farming, an agricultural trust might have elements of both stewardship and economic trusts. The Turtle Island Earth Stewards are advocating the concept of “Land Stewardship Trusts” in an attempt to include all three elements in a comprehensive land use agreement.<sup>15</sup>

In Canada, the greatest number of land trusts is conservation trusts. There is a growing interest in housing trusts (CLTs), which are much more common in the U.S. Agricultural land trusts are

a more recent phenomenon, with relatively few models available in either Canada or the U.S.

In this paper, the agricultural land trust is seen as a primarily economic form of land trust, intended to address some of the adverse economic impacts of modern agriculture. It may or may not include land with residential buildings or improvements related to the farm operation. An overview of the legal mechanisms used by land trusts will illustrate some of the issues defined by the type of trust.

### 2.3 Legal Mechanisms

Land trusts use several legal mechanisms to pursue their goals, depending on their particular strategy. One approach is to acquire clear title to a piece of land. This may be through purchase or donation, or a combination of the two. In a conservation trust, the land is simply left in an undeveloped state. In stewardship or economic trusts (including agricultural trusts) the land is leased to a party who agrees to the conditions under which the land may be used. In economic trusts that are intended to assist low-income families, the lessee may also need to meet other criteria. Length of the lease, restrictions on use, and any lease payments vary depending on the specific trust.

The second basic approach involves the use of easements.<sup>16</sup> In this strategy, the land trust secures an easement on a given piece of property. An easement is a legal right related to a specific use of the property that is otherwise owned by someone else. The owner retains title to the property, but must comply with the easement that is registered against the title of the property in question. The easement transfers with the title of the property and may impact the market value of the property.

A “positive easement” gives the holder of the easement the right to enter on the land for a particular reason. There are also “negative easements” which prohibit the property owner from doing

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certain things with the property. For example, a conservation organization could secure an easement with a farmer that prohibits the farmer from draining wetlands used as duck habitat. Easements are sometimes purchased from the landowner, but in some cases the landowner grants an easement for free, where the restrictive nature of the easement is consistent with the landowner's long term desire for how the land is to be used.

The third basic strategy is used primarily in economic land trusts that focus on housing or other improvement-based development. In these situations, the land trust frequently owns the land itself and leases it to a lessee-tenant, who owns the house that sits upon the land. This allows the land trust to keep affordable land as a community asset, and allows the lessee to be a homeowner and build equity rather than simply renting. Use of this strategy requires an **extensive ground lease, which is usually for 99 years**. The ground lease stipulates payments and restrictions on use, and provides first option to the land trust to purchase the building (usually at a price set by a formula in the ground lease).

The development of ground leases is a complex technical matter in which the land trust movement has invested considerable resources. The option to purchase and the resale formula are critical to the long-term success of a housing-based land trust. These elements have to protect the land trust against inflationary pressures brought on by land speculation, gentrification, or other market pressures. At the same time, they need to allow homeowners to accumulate and recover equity in their home.

Whether a ground lease kind of approach is applicable to an agricultural land trust depends on whether or not the farmhouse and buildings are on land owned by the trust. Similarly, whether an agricultural land trust uses easements or outright purchases depends on the trust and their objectives.

## 2.4 The Agricultural Land Trust Model

Many land trusts combine agricultural use with the primary purpose of conservation or stewardship. These hybrids are somewhat more common than land trusts, whose primary focus is agricultural land. The development of agricultural land trusts is a relatively new phenomenon, and most of them are designed to address the issue of farmland loss to urban sprawl and ex-urban development. An even less common innovation is the use of the agricultural land trust models to address land access issues created by agriculture itself.

Specific examples of various land trusts are reviewed later. This section relies on the work of Lawless to more closely define a framework for assessing agricultural land trusts. Lawless' work draws heavily on Ostrom's Theory of Appropriator Organizations, originally developed to deal with the "tragedy of the commons"—a classic economic problem regarding the use of community assets.<sup>17</sup>

Consideration of an agricultural land trust assumes that the broader community has a legitimate interest in land as a resource and how it is used. Lawless indicates that an agricultural land trust should define that interest in its stated goals, while further suggesting that an agricultural land trust should address four fundamental goals:

Goal #1: Promote the economic stability of family farming.

Goal #2: Increase the ability of new generations to enter farming.

Goal #3: Preserve the quality of farmland by minimizing negative environmental impacts.

Goal #4: Minimize the negative impacts of some agriculture on rural communities.

There is a presumption that smaller family farms who are able to make a living and pass that livelihood on to their children will be less likely

to use farming techniques that impact negatively on the land and environment. It also assumes that smaller family farms will have a greater motivation to mitigate nuisance impacts on their neighbours.

The definition of what constitutes a family farm, and what weight to give each of these goals, will vary from local community to local community. At a minimum, a proposed agricultural land trust must engage these goal issues in a meaningful way in order to develop a common understanding of the project.

Of course, these goals, and the values that underlie them, do not exist in a vacuum. For a land trust to emerge there are three preconditions that need to be met. These are:

**Precondition #1:** The community must have a common identity and be bound by common issues or think of themselves as a community.

**Precondition #2:** There must be a critical mass of interested people and potentially available land.

**Precondition #3:** The defined community must be small enough that the land trust will be viewed as a local, grassroots effort.

If these preconditions are met, it is possible to form a land trust. In order to actually launch and operate the land trust, there are four “necessary conditions.” These are:

**Necessary Condition #1: Membership**

The land trust must be able to define its membership. This might include defining a catchment area and other criteria such as income level or asset base.

**Necessary Condition #2: Land Use**

The land trust must have a definition of how land is accessed and what acceptable uses are. In an agricultural context this might mean non-intensive livestock only, zero tillage

practices, or a requirement to reside on the land. It also means deciding whether to use easements or an “own-and-lease” approach.

**Necessary Condition #3:**

**Decision-Making Process**

The land trust must have an agreed upon process by which to make planning and use decisions, including how leases are granted.

**Necessary Condition #4:**

**Conflict Resolution Process**

The land trust must have an agreed upon process for resolving conflict over land use, production practices, interpretation of policy, and other issues.

If both the preconditions and the necessary conditions are in place, a community can generally overcome the organizational and logistical challenges to successfully launch a land trust. Land trusts are intended to become permanent community institutions, spanning across generations. In that regard, it is imperative to consider the long-term survival prospects of the land trust. Applying Ostrom’s theory, there are six “keys to survival” for a land trust. These are:

**Key #1: Small and Simple Set of Rules**

The more complex the rules around land use, the less likely they will be complied with, or the less likely people will be to participate.

**Key #2: Shared Enforcement**

All members and users of the land should have a shared responsibility for enforcement of these rules. The more these rules are based on common community values, the more likely the community is to share the responsibility of enforcing of those rules.

**Key #3: Internal Adaptability**

The land trust must have the internal ability to adapt to changing conditions by altering the plans, strategies, and the tools it uses.

This may also mean refining definitions of acceptable use.

**Key #4: Capacity to Sustain Legal Claims**

The land trust must have the capacity to sustain legal claims. This can mean having the trust use the courts to enforce its rules (if necessary) or defend the trust's practices against a disgruntled tenant or land user.

**Key #5: Organizational Connections**

The land trust is more likely to survive if it is connected to, or affiliated with, larger organizations that share similar or related purposes.

**Key #6: Stability**

The land trust must not be subjected to rapid change as a result of external forces. Although the trust should be able to adapt, as a democratic community organization, it will have less ability to react to dramatic and sudden changes in its social and political environment.

The number of agricultural land trusts in North America is small, and they are a recent innovation, especially compared to community pastures. Evaluating the accuracy of these six keys as indicators of likely survival will take some years. In the meantime, they appear to be logical and thoughtful caveats to be considered by any group planning an agricultural land trust.

## 3 Genesis Land Conservancy

The Genesis Land Conservancy is an agricultural land trust based in Saskatchewan, and is dedicated specifically to assisting new farmers to earn a livelihood and farm in a sustainable way.<sup>18</sup> It is a faith-based initiative, originally conceived and incubated by local religious orders as a way to pursue Christian principles of justice and stewardship.

Genesis generally takes title to trust land and leases it to eligible farmers, rather than using easements. In early 2004, Genesis had seven parcels in the trust totaling 2,800 acres, which have since then increased to over 3,000 acres. The land is located in mid-Saskatchewan, both east and west of Saskatoon, with the majority of parcels being slightly north east of Saskatoon.

Farmers wanting to lease Genesis land must be "beginning farmers," defined as having a net worth less than \$250,000 and a net farm income of \$20,000 or less. There is also a "softer" second criterion around commitment to sustainable farming practices. Genesis strongly encourages organic agriculture, and, at the time of interview, three of the seven parcels were fully organic, with one other in the transition process. Genesis recognizes that insistence on organic-only farming would reduce the pool of potential farmers significantly, however, aware that this could potentially reduce both overall impact and viability.

Genesis trust land generally forms only a portion of the farming operation for the leasing farmer, who will have personal ownership of other land in the local area. The Genesis land is therefore an incremental addition to the farmer's operation, improving viability. At the time of interview, only one of the Genesis parcels included a residence, although two more parcels of land

with residences were scheduled to be included in the near future.

Genesis Land Conservancy is governed by a board of eight, with four appointees from the founding religious orders—two elected from among the general membership (including leasing farmers), and two elected from among major donors. Major donors are those who have given a gift of a quarter section of land or \$50,000 at some point in the last five years. The Conservancy is “nested” within Earthcare Connections, which operates other programs supporting sustainable agricultural and sound environmental practice. This organizational affiliation would appear consistent with one of the “keys to survival” described earlier.

Genesis receives no direct government funding of any significance. They do have the ability to issue charitable tax receipts, however, which can be viewed as an indirect source of government support. Virtually all of the land has been assembled through donations, which speaks to the success of this organization in soliciting major donations.

The strength of the Genesis land assembly strategy is threefold. First, they offer a number of mechanisms by which to donate land. These include a direct gift, bequest through a will, preferred sale, joint ownership, and retained life interest. Preferred sale refers to a sale at less than market price, with the seller receiving a tax receipt for the difference. The joint ownership and retained life interest are both options that allow the land donor to remain on the land, to remove the land from their taxable estate, and to give Genesis a legal interest in the property.

The second strength of the Genesis land assembly strategy lies in its communication. The organization does an excellent job of putting a human face on the land trust by showcasing individual donors and explaining their motives, and how the land trust fits with these motives. Genesis

staff indicated that this approach helps to legitimize land trusts with potential donors. The initial donations took the longest, but now that the precedent exists, the sense is that momentum is gathering, as Genesis strives for a critical mass of land within the trust. The organization’s Web site is an excellent illustration of this approach ([www.earthcare.sk.ca/Genesis/index.html](http://www.earthcare.sk.ca/Genesis/index.html)).

The third strength of the Genesis strategy is the organization’s long term approach to plan-

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## The Genesis Land Conservancy is a strong agricultural land trust model, with the most direct relevance to any land trusts that may be contemplated in the Red River Valley.

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ning. The estate planning and retained life interest approach reflect the organization’s acknowledgment that they may have to wait years in order to realize the incorporation of the land into the trust. The communications strategy also emphasizes the past history of the land parcels and links it to future use. The overall strategy reinforces the concept that the land trust is intended to be a permanent community institution, spanning generations.

There are several features of the Genesis model, however, that raise questions and concerns. It would be presumptuous to characterize these as shortcomings, but they are issues that should be viewed over time to assess their impact. These critiques include:

- a) **Governance Model.** It would appear that the tenants/lessees of the trust land are

under-represented in the governance model compared to other land trusts.

- b) **Geographic Scope.** The Genesis land is spread over a large area, making it less likely to be viewed as a local initiative. The dispersed nature of the land base is linked to the high value of donated land, which means that willing donors are somewhat rare, and *therefore* diffuse. Genesis might be seen more as a regional land trust, and as it secures more land, may be able to evolve to a more locally-rooted structure.
- c) **Lack of Easements.** The granting or purchase of appropriate easements involve much lower economic values than donating or purchasing outright title. If Genesis were to adopt a complementary strategy using easements, they may be able to impact a larger number of acres.

These observations notwithstanding, the Genesis Land Conservancy is a strong agricultural land trust model, with the most direct relevance to any land trusts that may be contemplated in the Red River Valley.

## 4 Southern Alberta Land Trust Society

The Southern Alberta Land Trust Society (SALTS) is an agricultural land trust described as “rancher-driven conservation.” The purpose of the organization is to preserve the land base and agricultural livelihood involved in cattle ranching.<sup>19</sup> It is based in southwestern Alberta, and came about as a result of intense development pressures created by the expansion of Calgary.

The SALTS tends to use the term “conservation” extensively in describing its activities and purpose. In terms of the categories of land trust outlined previously, it is probably more accurate to describe it as a stewardship trust. In fact, the affected users of land are called “stewards” within the SALTS nomenclature. The organization uses conservation easements to preserve existing cattle ranches and prevent future owners from changing the use of ranch lands. The organization appears to hold seven easements, totaling 3,800 acres.

The SALTS does not aim to provide access to new farmers, but rather to facilitate the inter-generational transfer of existing ranches to new ownership without jeopardizing their status as working cattle ranches. This makes the use of easements particularly appropriate. In pursuit of this specific emphasis, SALTS undertakes broad educational initiatives on the danger of fragmenting or losing ranch land, and provides extensive tax, estate, and succession planning resources to current ranch owners. This includes the publication of a number of booklets, guides, and workbooks for landowners to use. They do not appear to acquire direct ownership of any ranch land as part of their strategy.

The organization describes itself as “rancher-driven” and this is reflected in the governance structure where steward/ranchers hold 50% of the eight director positions. The other directors are

drawn from the community at large, and have experience or expertise in the conservation, environment, or non-profit sectors.

The SALTS appears to have a diverse range of funding contributors and in-kind support. It is not clear if there is direct funding by government, although Alberta Agriculture, Food & Rural Development, the British Columbia Ministry of Agriculture, Fisheries and Food, and the Saskatchewan Department of Agriculture and Food are listed as partners. There is also a long list of corporations and foundations included in their list of funding contributors and partners. There is a list of almost 60 Charter Supporters who donated in the early stages of development. The organization has also established an endowment fund, the proceeds of which will underwrite the operational costs of the organization on a long-term basis.

The SALTS has two major strengths as an agricultural land trust model. The first of these is the diversity of their funding contributors and their fundraising strategy, as described above. They have been able to build impressive levels of support among government, foundations, the corporate sector, and individual donors.

The second major strength to the SALTS land trust is the articulation of the reasons to preserve ranch land. On their Web site, SALTS states they are:

“...dedicated to preserving the ecological, productive, scenic and cultural values of Alberta’s Eastern Slopes, prairie and foothill regions.”<sup>20</sup>

This statement explicitly recognizes that the linkage between land, the natural environment, human use, economic activity, and food production cannot simply be reduced to an economic calculation. Rather, these interconnected concepts represent a way of life and livelihood that is as

much cultural and historical as it is economic. Communicating this concept is central to enlisting support for the development of any land trust.

The principle shortcomings of the SALTS model are that it focuses exclusively on cattle

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ranching, and it does not address how new farmers might gain access to land. From a local perspective, these are not seen as shortcomings, but merely evidence that SALTS has been locally designed for a specific purpose. Even given these apparent limitations, SALTS would appear to be a significant potential resource for any future land trust that contemplated using easements in southern Manitoba.

## 5 American Examples

While American legislation and jurisprudence is different from their Canadian counterparts, the greater number of American land trusts, along with their history, provide a wealth of examples to consider. The full research report describes the Wisconsin Farm Conservancy, the Ozark Regional Land Trust, and the Vermont Housing & Conservation Board as a way to illustrate how some key structural issues facing agricultural land trusts are addressed. For purposes of this paper, the pertinent model features are highlighted here.

The Wisconsin Farm Conservancy attempted an agricultural land trust using the split ownership feature common to housing trusts.<sup>21</sup> This approach was not successful, and the organization quickly learned that access to land, in and of itself, was not always enough to alter the harsh realities of farm economics. The trust never achieved the number of farms originally envisioned, but eventually evolved into the West Wisconsin Land Trust, a hybrid trust that is on a large enough scale to sustain an organization and staff. Agricultural-related easements now form about 20% of their activity, with the balance in conservation and stewardship.

The Ozark Regional Land Trust (ORLT) is a regional land trust that centralizes its technical expertise and organizational infrastructure to support a large number of small community land trust projects scattered across parts of four U.S. states.<sup>22</sup> Another hybrid trust, ORLT has an agricultural dimension that is generally secondary to the conservation, historical preservation, and recreational uses for the affected lands. This structure is an effective way to keep the nature of specific projects local (a key to long term survival) while developing regional capacity.

The Vermont Housing & Conservation Board (VHCB) is an arms-length, state-funded umbrella

body that provides funds to land trusts of all sorts throughout Vermont.<sup>23</sup> These include agricultural trusts, housing trusts, recreational land use, conservation, and historical preservation. The VHCB is the result of a policy and resource commitment towards land trusts at the state government level, and demonstrates how state support, when coupled with local community initiatives, can have a profound impact. The VHCB is a clear indicator of the potential to “scale up” the land trust model in a sustainable way.

Based on these examples, some of the key structural issues for land trust planning include how to develop a critical mass of technical capacity, how to preserve the local nature of the trust projects, and how to enlist an appropriate level of state support.



## 6 Community Response

The research project coordinated three community meetings during March of 2004. These meetings started with a presentation that included general trends in agricultural economics, agriculture and land ownership in Franklin, an introduction to the land trust concept, and two examples of land trust models operating in Canada. During the second half of the meeting, community members were asked to comment on the presentation and to give feedback on the local applicability of a land trust model.

Participants agreed that land ownership is becoming more concentrated and the capital requirements to farm are increasing. Participants also agreed that farm size has been getting larger. As one person said, “thirty years ago, you could make a living off of fifty cows, today you need two hundred.” Half-section farms are no longer seen as viable. Most felt it was imperative for farms to grow in order to survive. Some felt that these trends are a reflection of competition within the global agricultural sector.

Some participants commented that land did not come up for sale very often. Different participants attributed this to competition from Hutterite colonies, the effects of a local First Nation treaty land entitlement, and the presence of a conservation organization referred to as “Tall Grass Prairie.” Interestingly, while people were aware that farmers living outside the municipality bought or rented land for their operation, they were not identified as a competitive concern in the same way as the other three entities.

Participants were concerned about the trends in agriculture, but saw these changes as unavoidable eventualities and seemed somewhat resigned to the inevitable impacts. People were concerned about rural depopulation and the impact that has on retaining businesses, services, and infrastructure. Rural residents have to drive farther and far-

ther for less and less choice in suppliers, retailers, tradespeople, health care, and education.

There was some concern that continued growth in the size of farm operations may result in both absentee landowners and a group of agricultural labourers who commute into the municipality. Neither would be active in community institutions in the same way residents are. One participant said that while the land trust may provide an alternative, a model that helps ten to twenty people is not enough to reverse these trends.

People were asked if small-scale farming was something that should even be preserved. It was made very clear by the respondents that in choosing to farm on a small scale, one has to be prepared to have outside employment or to have a very modest standard of living. While the quality of life is good on these small-scale farms, there is indeed a minimum standard of living that must be upheld. Some people felt that you could scratch a living out of a mixed farm of 640 acres, but that it would be simple living.

Some participants felt it was impossible to preserve the small farm unless hobby farms were the goal. It is important, then, to distinguish between part-time income that forms part of a rural livelihood, and a hobby that has little or no need for farm income to contribute to the livelihood. In the U.S., there is some use of the term “homestead” to distinguish small rural acreages from the trivializing label of hobby farm.

One participant strongly emphasized that what must be preserved is the choice to be able to farm on a small scale. Another felt that it was worth preserving the value base behind small-scale farming, bartering with your neighbours, and a “do-it-yourself” approach to life.

Participants did say that even if one was prepared to work outside of the farm or take less income, there are other pressures involved in remaining small. First, suppliers of feed, machinery, and inputs have less time for small producers,

and offer higher per unit prices. The need to comply with food safety and environmental regulations are also more burdensome on the smaller operator.

Another participant identified a social disincentive to the traditional small mixed farm. If you choose to raise your own food (for example a small flock of chickens, a few pigs, and a couple of cows), these animals are a potential risk to the bio-security of the intensive livestock confinement operations. In the climate of BSE, hoof-and-mouth, or avian flu, large operators are keenly aware of risks to their operation. It becomes an issue that impacts which neighbours you can visit (or will visit you) or where your kids might work. Patterns of social relationships are influenced as a result.

Participants were asked to identify what they felt were the good features of the land trust concept. These included:

- Permanent nature of the trust as a community institution.
- Removed from the political cycle.
- Trusts using longer leases make it more practical to improve land and plan.
- Trusts that help new or young farmers are attractive.
- The principle of sustainability.
- The model lends itself to co-operative and neighbourly collaboration.
- The model leaves open the possibility of government assistance.
- Professionals, non-farmers, and other external people sit on the board to provide a more objective opinion.
- The model must have a local design to meet local needs.

Meeting participants were asked to identify which features of the land trust model concerned them. Responses included:

- Successful applicants to lease land may experience jealousy or resentment from unsuccessful applicants, leading to damaged social relations.
- The trust board might place unreasonable restrictions on land use.
- Conservation easements were not generally seen as a popular feature.
- Model likely requires off-farm employment.
- Only addresses land issues, doesn't address equipment or stock needs.

There were also a number of features that were neither positive nor negative, but would depend on how the land trust was implemented. This resulted in identifying some questions to be addressed in the planning stages. These included:

- Will the process to grant leases be transparent and fair?
- Will starting farmers who become successful be required to relinquish leases when they no longer need the land?
- Are there enough (affluent and generous) donors?

Participants were asked whether or not they thought local people would lease land from a land trust. It was felt people would lease, depending on the criteria, if the restrictions on land use were not too onerous. They felt smaller farms would be more likely to lease, depending on the amount of land available. Grain farms are not generally made viable by an extra quarter section of land, but the same amount could make a positive impact on a cow and calf operation. Participants also noted that leasing farmers still need to come up with some equity. A quarter section of leased land will not put them in business if they have to borrow operating money and finance equipment.

Meeting participants were also asked if they thought that local landowners might donate land. It was felt that it would be a challenge to get peo-

ple to donate land. The idea of a permanent legacy would have to be featured with a clear explanation of all the benefits, and putting a human face on the project would be key. Participants felt that on a limited basis, farmers with no heirs may donate, and retiring farmers may donate a portion of their land. Some participants felt that landowners offering land for sale at a preferred price would be a more likely scenario. Some participants felt some landowners might offer easements, but would need to know how the easement affected land value and assessment for taxation.

Meeting participants were asked to rate the desirability of possible features incorporated into a land trust. Most participants were ambivalent as to whether the leasing family lived on the leased land or not. It was generally felt that it is most important that the goal of a land trust is to assist new farmers. Local heritage preservation was seen as highly important by about half of the respondents and of less importance to the other half.

Chemical-free lease land was a high priority for some respondents, but it was clear that this has the potential to be a divisive issue. Some respondents were very skeptical, feeling organic standards were too strict and could likely dramatically reduce the number of people willing to lease land. In contrast, there was general support for the idea of requiring lease families to use non-intensive, traditional production techniques.

There was general support for using the land trust as a means to conserve natural features and wildlife habitat, but this was not an over-riding principle. Preservation was seen as a secondary goal to the economic goal of promoting small-scale sustainable farms.

## 7 Suitability For Local Use

The project objective was to determine whether a land trust might be suitable for the Rural Municipality of Franklin. There is no single template for a land trust — the model embraces a wide range of activity that includes both agricultural and non-agricultural purposes. The researchers used a two-step approach to assess the suitability of the model. First, it must be determined if the goals of an agricultural land trust (see above) are appropriate to Franklin, and how they might be interpreted in a local context. The second step is to ascertain if the necessary preconditions exist, or can be made to exist. If there is a general match in the goals, and the preconditions are present, then it can be said that a land trust might be suitable for Franklin. The specific strategy for planning and implementing the land trust would need to be determined by the citizens undertaking the initiative.

One goal for an agricultural land trust is to promote the economic stability of family farming. Residents of Franklin are more dependent on the agricultural economy than many other parts of Manitoba. Franklin has experienced a loss of young adults, particularly educated young adults, and this may be related to the lack of economic stability in farming. There is also evidence of a growing class of agricultural labourers who do not necessarily have access to land and who earn relatively low wages. All of these factors indicate that an agricultural land trust designed to lower the cost of accessing farmland could have a beneficial impact.

Farm ownership and land ownership in Franklin continues to be rooted in the family, and family farming in the area is still a reasonable economic proposition for some families, however the number of which are shrinking. The amount

of land and capital required per family is rising. It may not be the family farm that is in jeopardy so much as the small family farm.

These indicators provide clear evidence of the changing face of agriculture in Franklin, and local response indicates that some of the impacts of globalization or structural adjustment are of concern to local residents. There also seems to be an implicit assumption that these forces are beyond the control of local residents and must be adapted to rather than resisted. Discussion of land trusts invariably measured the potential benefits using conventional agriculture as the yardstick, including the ability to provide a full-time living. A livelihood approach that centered on several different income sources (including farming) was perceived as a necessary but undesirable option for small farmers. In this sense, there was little evidence of a desire to explore an alternative economy.

Local response to the land trust model demonstrated the “rural paradox.” On the one hand, farmers and rural residents have a deeply ingrained sense of their interconnectedness, the importance of neighbours, and the value of collaboration. These aspects of the land trust model appeared attractive. On the other hand, farmers and rural residents have an equally ingrained value for independence and self-reliance. Farmers do not like to have someone else tell them how to use land or raise animals. In this sense, many aspects of the land trust model were unattractive as it meant relinquishing some freedom of action, or a different level of accountability to others.

Area residents felt land trusts may help some farm families economically, but that they were not a general solution for the problems facing agriculture and rural populations. This seems consistent with the land trust examples, where the numbers of impacted farmers tends to be fairly small. Land trusts may contribute to solutions, and may make a significant difference to some individual families, but they are only a very small part of a more

general solution that will be required to stabilize the economics of family farming.

The second goal for an agricultural land trust is to assist new generations to enter farming. The concentration of land ownership and the average size of farm operations are growing. The amount of capital required to farm is significant, and the margins in farming dictate that most of that capital needs to be in equity rather than debt if the farm is to have a fighting chance. All of these serve as barriers to younger generations entering farming as a vocation.

In this sense, the land trust was seen as only a partial solution that can make a tangible difference in the cost of accessing incremental land (presuming the farmer has other land as well). It does not address the issues related to machinery, equipment, stock, or working capital. It also does not address the difficulties created by the fact that large-scale operations are assumed to be the norm both upstream and downstream in the value chain. Whether buying inputs or selling outputs, a certain scale of operation is implicit in prices, delivery, and minimum orders.

Nonetheless, Franklin residents did see the land trust concept as at least a step in the right direction, and the most favourably viewed characteristic of the land trust model seemed to be its ability to assist new farmers. Any proposed agricultural land trust in Franklin would likely need to embrace this as a central feature.

The third goal for an agricultural land trust is to preserve the quality of farmland by minimizing negative environmental impacts. There seemed to be some qualified support for sustainable agriculture among community respondents. This was expressed as a favourable rating for trust farms that use “traditional non-intensive techniques” but that stop short of recommending organic agriculture. The concept of having chemical-free trust land was seen as too restrictive on farmers

and it was perceived as undermining the ability of the farmer to make income from the land.

While there are some environmentalists in Franklin who would support an organic or chemical-free approach, the issue appears to be somewhat polarized, with the divisive potential to derail a possible land trust. In Franklin, a proposed land trust might take a “best practices” approach that encourages sustainable agriculture and seeks to minimize environmental harm. Such an approach could allow for the possibility of organic acreage without requiring the same standard for all affected land.

The fourth goal of an agricultural land trust would be to seek to minimize the negative impacts of larger agriculture on rural communities. The most apparent example of this would be the nuisance effect of intensive livestock operations, particularly hog barns. It could also include strained social relationships resulting from certain agricultural practices and differing land uses. It might also include the loss of small-scale farming as a way of life, a social and cultural practice that forms part of the rural identity.

The creation of a land trust that excluded intensive livestock operations would not necessarily do anything to directly resolve the ongoing controversy in that sector. At best, it might incrementally add to the pool of non-intensive livestock operators in the area.

Another potential negative impact on rural communities occurs when ex-urban development and hobby farmers buy small acreages, fragmenting the agricultural land base. This can lead to higher land prices, loss of productive acreage, and conflict over nuisances. As well, large-scale intensive agriculture appears to be squeezing out the smaller farm. As the Southern Alberta Land Trust suggests, this is a scenic, cultural, and historical loss. In Franklin, it is possible to detect this sense of loss, even if many of the residents feel somewhat resigned about it.

An agricultural land trust could be an effective tool in preventing or mitigating the loss of productive farmland to residential or commercial development, and even though agricultural trust lands are typically small holdings, they operate as farms, and lower the potential conflict between farming and non-farming residents. The agricultural land trust can also help preserve small, traditionally run farms as a form of living heritage for rural communities.

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## **An agricultural land trust could be an effective tool in preventing or mitigating the loss of productive farmland to residential or commercial development**

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A necessary precondition for the development of an agricultural land trust is the existence of a common identity or sense of community, and a set of common issues. Franklin is both similar and dissimilar to other municipalities in southern Manitoba.

While it is true that people in Franklin have similar issues and a common municipal government, it is equally true that parts of the municipality are markedly distinct. Based on the observations of residents, echoes of the topographic distinction made by the escarpment appear to ripple through income levels, net worth, linguistic/cultural heritage, type of agriculture, and where people shop.

This is not to say that the residents of Franklin could not collaborate on a land trust project or other community initiative, but that the design of an agricultural land trust should reflect the needs of the local farmers. It appears that the situation

of farmers and their needs would be very different from one part of the municipality to another. Farmers in the east would tend to have more in common with their counterparts in the Rural Municipalities of Stuartburn or De Salaberry, while those in the west would have more in common with neighbours in the Rural Municipalities of Morris or Montcalm.

The second necessary precondition for establishing a land trust is a critical mass of land and people. There is no shortage of farmers or former farmers in the area, and there is plenty of agricultural land (much of it in small holdings), owned by people with an historical linkage to the community.

The more critical question is whether there is a critical mass of supporters and potential land donors. Among the supporters key to the long-term survival of any proposed land trust would be one or more community organizations that could bring supportive capacity to the development process.

It is difficult to gauge the number of potential donors to a proposed land trust. The people of Franklin have a healthy skepticism about people giving away land, and a face to face meeting with land donors from a successful land trust might be an effective tool in building local support.

In terms of supportive organizations, both the Triple R CFDC and the local Franklin CDC could potentially play this role. Depending on the land trust goals, other allies might include the Nature Conservancy of Canada and the Crow Wing Trail Association, both of which have a regional presence.

There seems to be a great deal of potential support among individual community residents for the core objectives of a land trust. Turning this potential support into active support would mean overcoming the sense of resignation and inevitability that seems to permeate discussions about rural depopulation and the future of agri-

culture. This suggests that the emergence of a small group of activist community leaders is necessary to build and promote the vision for such an initiative, which could prove to be a significant challenge.

The third precondition for establishing a land trust is that the defined community must be small enough for the initiative to be conceived of as a local, grassroots effort. This precondition runs counter to the need to cast a wider geographic net in order to assemble the critical mass of people, land, and technical expertise necessary to run a viable land trust.

In the case of Franklin, there is no doubt that a local land trust initiative would be small enough to be seen as local, although the bisected nature of land (see above) would be a challenge. Use of a regional land trust structure with locally defined projects would allow different approaches to be taken in different parts of the municipality. It would also imply collaborating with a wider regional community to operate an effective land trust organization. While regional cooperation is not without precedence, neither is it necessarily easy.

One key element in establishing the local, grassroots nature of the land trust is that it cannot be a creature of government. Strong government support in policy and resources can have dramatic impact, but cannot substitute for the local initiative and arms-length relationship that are central to achieving quality results.

## 8 Concluding Comments

The project asked whether an agricultural land trust would be a suitable community economic development intervention for the Rural Municipality of Franklin. It looked for evidence that globalization and the structural adjustment of Canadian agriculture were impacting Franklin, and whether the small family farm was in jeopardy. It went on to ask local residents if they were concerned about the fate of the small family farm, and whether an agricultural land trust might be an appropriate strategy. Along the way, it examined how other jurisdictions have used the model and what might be applicable to the local context.

Changes to Canadian agriculture are impacting Franklin and there is sufficient evidence to suggest that the small family farm is disappearing in the face of high capitalization requirements and the concentration of land ownership. It is also apparent that there remains a window of opportunity to preserve smaller farms, at least in the eastern portion of the municipality. Based on comparative earnings, there is also an implicit need for supplemental income for many families in Franklin.

Objectively speaking, conditions appear to exist that would make the agricultural land trust model a suitable strategy for Franklin. The other part of determining suitability is whether local people feel they want or need such a strategy. The research project has found that there are people in Franklin who would like to see some smaller family farms preserved, and who are sympathetic to the goals of agricultural land trusts. The project also found that people sensed the changes to agriculture and the loss of the small family farm were inevitable, and that the economics of the industry would dictate outcomes. The distinguishing feature of community economic development is that it recognizes that market forces alone are not sufficient to address human needs. In this respect,

Franklin participants seem receptive to such a “c.e.d. message” but have not yet internalized this way of thinking.

People in Franklin offered true insight into how the model might be applied in Franklin and where potential difficulties lay. A land trust is not a panacea for everything ailing rural communities and, in order to get broad support, it would likely have to focus on reducing the barriers for new farmers. Sustainable agriculture principles may be incorporated into such a trust, but rigid adherence to a chemical-free regimen would generally be viewed as too restrictive. The economic features of the trust would be important in Franklin.

In examining the interplay of the necessary preconditions revolving around community identity, a critical mass of people and land, and maintaining a local character, it seems likely that Franklin citizens would have to collaborate with residents of other municipalities to create a land trust. It appears that a regional land trust organization with the flexibility for various local projects would be a viable approach to achieving the right balance between local control and a critical mass of resources.

The implementation of an agricultural land trust in Franklin, or variations on the theme in other areas, will have to grapple with the issue of vision and leadership. **The land trust concept is built on the belief that alternative approaches to land management, and to the economy in general, are both possible and desirable.** Bringing this to fruition will require leadership that can articulate the non-economic value of family farms as a way of life and part of a community heritage. It will require leadership that can inspire local residents to look to other jurisdictions and say: “We have something worth preserving. We can do that here.”

## Endnotes

- 1 Hamilton, Blair. Agricultural Land Trust Research Project Final Report. Dungannon Consulting Services, 2004. Arnaud, Manitoba
- 2 Copies of the full report are available at the following Web sites: [www.dungannon.ca](http://www.dungannon.ca); [www.triplercfdc.mb.ca](http://www.triplercfdc.mb.ca); [www.brandonu.ca/organizations/RDI/](http://www.brandonu.ca/organizations/RDI/)
- 3 Statistics Canada. 2001 Community Profiles: Population Statistics for Franklin, Manitoba. <http://www12.statcan.ca/english/profil01/placesearchform1>.
- 4 Sources for agricultural economic information are detailed in sections 2 and 4 of the full report (Hamilton, op cit). It relies heavily on the 2001 Agricultural Census and the Manitoba Agricultural Review.
- 5 Qualman, Darren and Nettie Wiebe. "The Structural Adjustment of Canadian Agriculture." Canadian Center for Policy Alternatives November 2002: 4.6.  
  
Institute for Community Economics (ICE). The Community Land Trust Handbook. Rochdale Press, 1982, 3. Springfield, MA.
- 7 Turtle Island Earth Stewards (TIES). "No One Owns the Earth: Land Trust Basics." *Making Waves* 3.2 (April 1992):
- 8 Nozick, Marcia. "Community Land Trusts: Addressing the Urban Land Question." *City Magazine* 13.1 (Winter 1991/92): 18.
- 9 Lawless, Greg. "The Community Land Trust Model Applied to Farmland: A Case Study of the Wisconsin Farmland Conservancy." Thesis. U of Wisconsin-Madison, 1994: Chapter 1.  
  
This source was downloaded in a format without consecutive pagination, so footnotes only cite chapters. Located on Web site: [www.wisc.edu/uwcc/staff/lawless/thesis/thesis.html](http://www.wisc.edu/uwcc/staff/lawless/thesis/thesis.html).
- 10 Ibid. Chapter 1.
- 11 Lawless, op cit, Chapter 2.
- 12 ICE, op cit, 6-8.
- 13 ICE, op cit, 34 and Lawless, op cit, Chapter 2.
- 14 Lawless, op cit, Chapter 2.
- 15 TIES, op cit, 53.
- 16 Lawless, op cit, Chapter 2.
- 17 Lawless, op cit, Chapters 3 and 5. The researchers on this project have not read the original work of Ostrom, relying on Lawless who cites his source for Ostrom's theory as: Ostrom, E. "The Rudiments of a Theory of the Origins, Survival, and Performance of Common Property Institutions." appearing in Bromley, D.W. (ed) *Making the Commons Work*. San Francisco: Institute for Contemporary Studies, 1992.
- 18 Information on Genesis Land Conservancy was derived from their Web site, and supplemented by a telephone interview with staff. The Web site is available at: [www.earthcare.sk.ca/Genesis/index.html](http://www.earthcare.sk.ca/Genesis/index.html).
- 19 Profile of SALTS from their Web site: [www.salts-landtrust.org](http://www.salts-landtrust.org)
- 20 Quotation from mission statement portion of Web site: [www.salts-landtrust.org/whoweare.html#1](http://www.salts-landtrust.org/whoweare.html#1).
21. Complete profile of Wisconsin Farm Conservancy is found in section 7.1 of the full report. (Hamilton, op cit) The original source is Lawless, op cit.
- 22 Complete profile of ORLT with sources is found in section 7.4 of full report (Hamilton, op cit).
- 23 Complete profile of VHCB with sources is found in section 7.5 of full report (Hamilton, op cit).