Agricultural Law Update

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He that judges without informing himself to the utmost that he is capable, cannot acquit himself of judging amiss.

— John Locke

Temporary Interference Takings

In *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 107 S. Ct. 52 (June 9, 1987), the Supreme Court held, after years of avoiding the issue, that a damages remedy must be provided for regulatory "takings" under the fifth amendment as applicable to the states under the fourteenth amendment. In a series of recent cases finding that there was clearly no taking or that the lower courts had not yet found a taking, the Supreme Court had refused to decide either the point at which a regulation so interferes with property rights that there is a *de facto* taking of the property without just compensation, or what the appropriate remedies for such a taking might be.

In *Lutheran Church*, the church's retreat center and recreational area for handicapped children was located in a watershed area. After a severe flood destroyed the buildings, Los Angeles county adopted an ordinance prohibiting the construction or reconstruction of any structure in an interim flood protection area, which included the church's land. The church filed suit for inverse condemnation, seeking damages for the regulatory taking of the church's property.

The California Court of Appeals assumed that the complaint sought damages for a taking of all use of the church's property, but that the remedy for a taking was limited to non-monetary relief. Although the usual remedy for a due process violation is mandamus or declaratory relief, the remedy for an exercise of eminent domain is compensation for the diminution in property value. Although several of the justifications used in earlier cases to deny review were arguably present in the *Lutheran Church* case as well, the Supreme Court nevertheless claried in its opinion that for a regulatory taking under the fifth and fourteenth amendments, mandamus and declaratory relief are inadequate remedies, because a taking requires just compensation (that is, damages for the loss in property value from the time that the interference occurs until the legislating entity either amends the offending regulation, withdraws the regulation, or pays compensation for a permanent deprivation of the property for the exercise of eminent domain).

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Farm Credit System Interest Rates

For nearly two years, Farm Credit System interest rates generally have exceeded rates charged by other sources. Consequently, many System borrowers who were able to refinance elsewhere did so. Those remaining borrowers either have sought to qualify for lower rates offered by some System banks for their most creditworthy borrowers or have attempted to achieve an acceptable cash flow at the higher rate.

Two recent publications offer insight into the interest rate issue. The first, a GAO analysis of the financial condition of the Farm Credit System, attributes the current high interest rates and much of the financial distress facing the Farm Credit System to the FCA decision to fund System loans with long-term fixed-rate bonds during the early 1980's. GAO Office, Pub. No. GGD-86-150BR, Farm Credit System: Analysis of Financial Condition (1986). The second publication uses a loan pricing model to estimate the effect of the current financial crisis on future loan rates of the Farm Credit System. Barry, *Financial Stress For the Farm Credit Banks: Impacts on Future Loan Rates For Borrowers*, 46 Agric. Finance Rev. 27 (1986).

The variable interest rate on Land Bank loans is based on the average cost of loan funds together with other costs of operation. System banks obtain loan funds by periodically selling bonds on the New York money markets. The interest rate paid to the purchasers of those bonds represents the largest cost factor in setting borrowers' interest rates.

From 1980 to 1982, the Farm Credit System charged relatively low rates on its variable interest rate loans. Those loans were partially financed with long-term, fixed-rate bonds. At that time, interest rates generally were reaching an eight-year peak of about fifteen percent after rising from nine percent in 1978 and again declining to nine percent in 1986. Because the bonds issued by the System had fixed interest rates and were not "callable" before the expiration of terms that ranged up to twenty years, the cost of loan funds remained high even after interest rates elsewhere generally declined. As a result, in 1985, the

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To some extent, the media attention and the dissent's statement that the decision will "generate a great deal of litigation" exaggerate the true significance of the opinion. As the dissent in *San Diego Gas & Electric Co. v. San Diego*, 450 U.S. 621 (1981), recognized that a regulation can be a taking, that regulatory takings are not only recognized but to be remedied with damages.

The actual holding of the Court does not in and of itself open the floodgates of litigation. What may do so, however, is the dicta as to when a taking will occur. Because the lower courts had assumed that the floodplain statute denied the church *all* use of its property, the Court did not question that the deprivation was anything less. Yet the majority suggests at one point in the opinion that an interference which, if permanent, is a taking, would constitute a taking even if of a limited duration. It is with this position that the dissent most strongly differs, pointing out the complex, and entirely distinct, issue of when a *temporary* interference is so severe as to be a taking of private property without just compensation.

The future delineation of what degree of interference constitutes a taking will determine whether the flood of litigation will be reduced to a trickle. Very few regulations deprive a landowner of all use of the regulated property. In fact, on remand, the legislation in *Lutheran Church* may yet be upheld as traditional state regulation for public health and safety. A unanimous Supreme Court opinion has stated that whether a regulation becomes a taking depends on the "character of the governmental action, its economic impact, and its interference with reasonable investment-backed expectations." *Ruckelshaus v. Monsanto Company*, 104 S.Ct. 2562 (1984). However, in an earlier opinion, *Penn Central v. New York*, 438 U.S. 104 (1978), Justice Brennan and now Chief Justice Rehnquist had suggested quite different interpretations of that test.

It is clear from Rehnquist's *Penn Central* dissent that he views deprivation of property, for purposes of the taking clause, as the deprivation of a property right or rights, not as the deprivation of a degree of economic return on some undefined physical unit of real property. *Ruckelshaus v. Monsanto* extends this to the conclusion that deprivation of a *single* property right, the right to exclude others, may be a taking without regard to the economic value of any remaining unaffected rights in the property.

Justice Brennan, however, noted for the majority in *Penn Central* that the Supreme Court had been unable to develop any "set formula" for determining when economic injury caused by governmental action requires compensation, and that each case necessitates "ad hoc, factual inquiries." The Court had little difficulty in determining that the diminution in value of the property did not constitute a taking within the meaning of the fifth and fourteenth amendments, particularly in light of Penn Central's concession that the property was still capable of earning a reasonable return. In determining the diminution in value borne by Penn Central, the Court refused to define the affected property as "air rights;" it focused instead on the economic effects on the parcel *as a whole*, that is, the city tax block designated as the landmark site.

If Rehnquist's approach is reiterated in future opinions, it will be much easier to demonstrate a taking insofar as deprivation of only one cognizable property right (for example, the right to develop) may constitute a taking. Under Brennan's approach, however, the economic impact on the property *as a whole* will be evaluated to determine whether the regulatory interference goes so far as to be a taking without just compensation. If Chief Justice Rehnquist's view prevails, the floodgates will be opened, because deprivation of any, single, cognizable property right may be viewed as a taking necessitating a remedy of damages.

— Linda A. Malone

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average cost of loan funds to the System was eleven percent compared to an average of eight percent reported that year by all federally insured commercial banks.

Critical of the funding practices of the System, the GAO report concludes that had other debt instruments been used, such as bonds with "call" provisions or floating interest rates, the System's interest rate expense would have been $1.9 billion lower in 1985, making the System's net loss for that year $0.9 billion rather than the actual $2.7 billion.

The losses suffered by the System as a result of nonperforming loans and high interest rate expense continues to put upward pressure on loan rates. Barry presents a loan pricing model indicating that unless the anticipated federal assistance to the System is a gift, the consequences of past losses will continue to result in higher loan rates for borrowers.

— Christopher R. Kelley

Federal Register in Brief

The following is a selection of notices and rules that have been published in the *Federal Register* in the last few weeks:

1. **USDA**

A. Immigration Reform and Control Act; Rural Labor; Final Rule. 52 Fed. Reg. 20372. Defines fruits, vegetables, and other perishable commodities as prescribed by Section 302(a) of IRCA of 1986. Effective date: June 1, 1987.

B. Claims Against Indemnity Fund Under Programs Administered by ASCS County Committees; Final Rule. 52 Fed. Reg. 21651. Because of discontinuance of funding for indemnity fund, future claims must be filed under Federal Tort Claims Act. Effective date: June 9, 1987.

2. *INS*

A. Nonimmigrant Classes; Temporary Agricultural Labor (H-2A); Interim Rule with Request for Comments. Interim rule effective June 1, 1987. Comments due July 31, 1987.

B. IRCA; Employer Sanction Provisions; Employment Eligiblility Verification Form I-9 and M-274 for Employers; Notice of Availability to Employers.

3. *CCC*

Foreign Agricultural Service; Targeted Export Assistance Program; Fiscal Year 1988.

4. *FCA*

Loan Policies and Operation; Borrower Rights; Proposed Rule. Comments due August 3, 1987.

— Linda Grim McCormick

Lost Opportunity Costs in Chapter 12

The court in *In re Rennich*, 70 Bankr. 69 (Bankr. D.S.D. 1987) held that Chapter 12 debtors, who operate a dairy and farming business, were not required to pay lost opportunity costs to "adequately protect" the Federal Deposit Insurance Corporation, which held a secured interest in certain equipment of the debtors.

The court noted that a creditor may be allowed to recover lost opportunity costs for adequate protection in a Chapter 11 case. Those costs are designated as a sum equivalent to the interest that an undercollateralized creditor might earn on an amount of money equal to the value of the collateral. The basis for such an allowance is the secured creditor's inability to foreclose on its interest and reinvest the proceeds because of the automatic stay provisions of the Bankruptcy Code. (11 U.S.C § 362(a)). The recovery of lost opportunity costs is premised on the required payment of the "indubitable equivalent of such entity's interest in such property" as part of adequate protection. 11 U.S.C. § 361(3).

The *Rennich* opinion was based on the finding that Section 1205, and not Section 361, is determinative of adequate protection in a Chapter 12 case. 11 U.S.C. § 1205(a). The court held that Section 1205, unlike Section 361(3), does not require payment of the "indubitable equivalent" as part of adequate protection.

The court determined that the debtors' monthly payment to compensate the FDIC for depreciation of the value of the equipment provided adequate protection. 11 U.S.C. § 1205(b) (1).

The court forthrightly noted the necessity that adequate protection requirements not be so burdensome as to render a farm reorganization impracticable. Many secured lenders of farmers are seriously undercollateralized. Since family farmers are often unable to afford payment of lost opportunity costs, if a secured creditor were entitled to those costs, a family farm reorganization could be defeated in its early stages by the creditor's motion to lift the automatic stay.

In dictum, the court also noted that § 1205(b) (3) provides a critical accommodation to farmland owners by allowing the payment of reasonable market rent to constitute adequate protection to creditors holding a security interest in depreciated farmland. — *Julia R. Wilder*

Setoff of Equity Credits Denied

Thereby uphold the principle established in other cases that a cooperative member cannot set off a debt with equity credits. *Atchison County Farmers Union Co-op v. Turnbull*, No. 59,833 (Kansas May 1, 1987).

The cooperative member owed the cooperative over $11,000. However, the member had an equity credit balance (unpaid patronage dividends) with the cooperative for over $17,000.

The member argued that he should be able to set off his equity credits up the amount of his debt under the equitable principle of unjust enrichment. The trial court agreed with the member that it was inequitable for the cooperative to sue on a debt and not allow a setoff for equity credits.

In reversing, the Kansas Supreme Court relied on the principle that allowing equitable relief to override statutory law is possible only if considerations of public interest are afforded adequate protection. The court found that the public policy of encouraging cooperative marketing associations precluded an equitable setoff and stopped the trial court from substituting its judgment for the cooperative's board of directors.

The court also addressed the allegation of usurious interest charges. The court found that the established finance charge of 1.50 percent per month established an implied agreement to pay interest of 18 percent per annum. — *Terence J. Centner*

State Roundup

OKLAHOMA. *Exemption From Execution Relating to Agricultural Tools of the Trade and Implements of Husbandry.* On April 13, 1987, Okla. Stat. tit. 31 Section 1 (C) was amended to set $5,000 as the maximum amount that farmers and ranchers can claim as exempt from execution in the categories of implements of husbandry and tools of the trade. Prior to this amendment, Oklahoma farmers and ranchers had been allowed to exempt an unlimited amount of these items under Oklahoma execution laws.

The amendment, which was effective immediately upon signature by the governor, makes moot, *for the future*, the issue which is presently on appeal in *In re Pelter*, 64 Bankr. 492 (Bankr. W.D. Okla.), which was reported in the April 1987 issue of *Agricultural Law Update* on page seven. Beginning on April 3, 1984, the Oklahoma legislature had tried to allow farmers and ranchers an unlimited exemption for implements of husbandry and tools of the trade under Oklahoma execution laws, but to limit the bankruptcy exemption under Section 522(f) of the Bankruptcy Code for the same categories to $5,000. The *Pelter* court found such distinction between state execution laws and federal bankruptcy laws to be an unconstitutional frustration of congressional purpose in the bankruptcy laws.

For farmers and ranchers who filed for bankruptcy between April 3, 1984 and April 13, 1987, the issues under appeal in *Pelter* are still very significant. However, with the passage of this 1987 amendment, Oklahoma execution laws and federal bankruptcy laws are once again identical with respect to the amount that Oklahoma farmers and ranchers can exempt.

—*Drew L. Kershen*

MONTANA. *Attempted Accord and Satisfaction Fails.* In the case of *Interstate Production Credit Association v. Abbot*, 726 P.2d 824 (1986), the farmer, in default, received a check for the sale of cattle which was issued jointly to the farmer and the PCA. The farmer had the back of the check printed with accord and satisfaction language before presenting it to the PCA for endorsement. The PCA receptionist stamped the check for deposit. The farmer argued that this action constituted an accord and satisfaction.

The Montana Supreme Court, noting that an accord is an agreement — a meeting of the minds —, held that the presentation of a check intending to trick the creditor into extinguishing an existing obligation did not rise to the level of a new agreement. The court noted its line of cases holding that the endorsement of a check by a creditor for the purposes of cashing it is not such a writing that would give rise to an accord under Mon. Code Ann. Sections 28-1-401 and -402.

— Donald D. MacIntyre

CALIFORNIA. *Landowner Must Act Reasonably When Constructing Flood Barrier.* In California, a person is responsible for an injury occasioned by want of ordinary care or skill in the management of one's property or person. In the case of *Linvill v. Perello*, (1987) — Cal. App. 3d —, 234 Cal. Rptr. 392 (1987), the California Court of Appeal reaffirmed that this principle applies to landowners dealing with floodwaters. Citing the "common enemy" doctrine, the defendant had argued that its erection of a floodwater barrier on its own property was a reasonable discharge of its obligations, even though it caused flooding on adjoining lands. The court held that reasonableness must be determined in light of the facts of each situation, and, in effect, that the "common enemy" doctrine is not a defense.

— *Kenneth J. Fransen*

Delaware's Pilot Farmland Preserve

by Sid Ansbacher

I. Introduction

Farmland preservation is one of the crucial issues facing modern agriculture. Most current preservation programs are drafted on a limited scale. The state of Delaware has determined that such programs are improperly focused and too localized to fulfill long-term agricultural preservation and maintenance goals.

Delaware has established the first state-level land Evaluation and Site Assessment (LESA) system, which is designed to analyze agricultural and forestry lands for inclusion and ranking within state, regional, and local preservation and associated programs. The USDA Soil Conservation Service (SCS) provided technical assistance pursuant to the provisions of the federal Farmland Preservation Policy Act, 7 U.S.C. §§ 4201 - 09. The basic framework for the LESA program was completed in 1986.

LESA combines land evaluation, rating the property's soil quality, with site assessment, gauging such elements as the site's historical use for agriculture, in ranking farms on a 300-point scale. Delaware has not yet determined what level of protection to accord each farm based on its rating or how to use LESA in conjunction with substantive programs. The system, however, once fully implemented, will provide a state-wide, objective guide for farmland preservation.

II. The LESA Framework

The Delaware Agricultural Lands Preservation Act (Act), Del. Code Ann. title 3 (1981), was promulgated to develop a coordinated statewide program to efficiently and comprehensively conserve that state's agricultural lands and economic base. The Act provided for two major land use innovations. First, it created a structure for the State Department of Agriculture to coordinate with the Delaware Department of Transportation as well as regional and local planning agencies in developing road corridors having the least impact on agricultural lands. Second, and more significantly, the Act directed the State Department of Agriculture to "identify and map those farmlands which, because of their soil type, current or potential productivities, ownership or location, are of concern to preservation," and develop a program to maintain those lands.

LESA is not a substantive program — it was drafted to create a more logical and coordinated implementation of state and local agricultural projects. The State Department of Agriculture has not yet determined how to utilize LESA in conjunction with the activities of state and local agencies or private concerns. The Department is developing rules to implement the policies of LESA.

Delaware envisions the program as an objective standard of the quality of agricultural lands and their long-term viability for agricultural production. First, the State Department of Agriculture determined that its agricultural programs were insufficiently structured to properly allocate funds to maintain valuable farmland. "The LESA program [was] designed to be a tool to assist decision makers by providing them with documentable information, using locally developed criteria that will help them make rational, consistent and sound land-use programs." Delaware Department of Agriculture Agricultural Lands Preservation Section, A Technical Handbook for Delaware's Land Evaluation and Site Assessment System at 2 (1986) (Handbook).

In implementing the program, the then Secretary of Agriculture created county-level "Agricultural Lands Committees" consisting of representatives of local agricultural, conservation, planning, and development organizations. These committees are under the leadership of the Agricultural Lands Executive Committee, composed of one representative each from the County Committees along with the Secretary of Agriculture and the Manager of the Agricultural Lands Preservation Section of the Department of Agriculture. The County Committees were directed by the Act to develop the statewide Land Evaluation and Site Assessment Program. *See*, Delaware Department of Agriculture, The Report of the Technical Review Committee for the Land Evaluation and Site Assessment Program, at 1 (1986) (Report). They completed the basic framework in 1986.

The County Committees designed two technical scales to determine a site's LESA rating. The first, Land Evaluation (LE), scale gauged soil quality and suitability for agriculture. The soil producing highest yields with fewest limitations receives a value of 100 points. All other soils merit lower ratings, with unproductive soils receiving a zero.

Unlike the LE scale, which has absolute statewide ratings, the second, Site Assessment (SA), scale uses slightly different values for each of Delaware's three counties. The County Committees all utilize similar non-soil factors such as zoning and the percentage of agricultural sites in the area adjoining the subject farm; several factors are weighed in only one or two of the counties, such as how many years the site has been farmed in the past five years. Varying values among the three counties balance local and objective factors in the 200 point SA scale. Combined with the LE rating, the LESA parcel may reach a maximum combined score of 300 points.

A. Land Evaluation (LE)

The LE scale has separate indices for tillable soil quality and forest quality. The soil index lists each soil type found in Delaware, the counties in which that soil is located, the symbol that the county uses to identify the soil type, its USDA soil quality class (from I to VIII) as set by the SCS, and the soil's relative value on the LESA scale. For example, Matapeake silt loam is found in New Castle and Kent Counties, but not in Sussex County. The New Castle County Committee uses the symbol MeB2 and Kent County uses the symbol MeB to identify the soil. Its agricultural group type is 2 and its relative value is 94. To arrive at the LE score for the parcel in this example, the LESA land evaluator multiplies the percentage of the farm site's tillable acres that contain that soil type, in this example fifty percent, by the 94 relative value to obtain an LE score of 47 points for that soil type on the farm site. The evaluator adds the adjusted scores for all of the soil types on the farm to determine its total LE score.

The LE index for forestland is based on five general soil categories. Soils in Group 1, with relative values of 97 to 100, produce prime Loblolly pine timber. The forestla' slopes in this group range from nearly level moderately steep, but most are gently sloped. Forestland groups 2 through 5 are generally productive but receive lower values for such limitations as lower yield, soil erosion or poor drainage. Forestland group 6 is mainly salt marsh or land in urban use and has no farmland value. The relative values of forestlands are adjusted in the same manner as agricultural soil types to determine each site's LE score.

B. Site Assessment (SA)

The SA scale, because it varies based on the perceived needs of each county, is more complex than the LE index. Most of the same index factors are considered in each county, but many of these variables are weighed differently by county. For example, while a specific site factor might receive 6 unadjusted points on the raw SA scale, the Sussex County scale might adjust that raw score by multiplying it by 4, and Kent County's scale would multiply it by 3, to reach adjusted scores of 24 and 18, respectively, for the same factor.

SA factors are weighed differently in different counties because each county has unique land use needs, goals, and circumstances. Conversely, LE ratings can be consistently drawn because soil quality is inherently objective. A landowner who receives a lower level of LESA protection, as applied to a substantive program, might challenge LESA on equal protection

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grounds if another county rates certain SA factors more generously than that landowner received under its county's ratings. That landowner probably would be unable to prove that its County Committee's ratings, based on indepth analysis and land use planning, were arbitrarily and capriciously established, and therefore unconstitutional.

SA indices generally rate one or the other of two categories of factors. First is the group of factors that weigh the site's or immediate area's capacity for agricultural production. Second is the group of factors that consider the local likelihood of urban development.

Among the factors that indicate agricultural capability are the percentage of the surrounding landsites that are in agricultural use and the investment supporting agricultural production on the subject site.

All three counties consider two interrelated factors. First is the issue of whether the local government's comprehensive plan designates the area in which the site is located as planned for agriculture. If so, and assuming that the comprehensive plan's designation can withstand a charge of unconstitutional taking without compensation, the area's agricultural nature will be easier to maintain. The site will be less likely to be converted to another perceived best and highest use.

Second is the common weighting of the zoning of the site and adjoining properties. This is particularly important because Delaware's counties have not yet developed any exclusively agricultural zoning district.

The urban growth factors include the presence or absence locally of a central sanitary sewage system, environmental limitations to on-site development and the site's distance from the closest urban area. This final factor differs from many other preservation programs that emphasize farmland's role in maintaining a "greenbelt" and thus give more protection to urban fringe agricultural sites. *See, e.g.*, Minnesota Metropolitan Agricultural Preserves Act, Minn. Stat. Ch. 473H.

C. Corridor Projects

LESA also weighs the effect of "corridor" projects on the site. This feature has been adapted from the combined Delaware Department of Agriculture/Department of Transportation "Route 13 Corridor Project." These two agencies cooperated in developing a construction corridor for the federal highway that would do the least damage to state agricultural lands and production.

The evaluator measures the area on either side of the corridor centerline based on these three thresholds: 1-10 percent disruption; 11-25 percent disruption, and 26-50 percent disruption. If a federally or state funded project like a power line right-of-way acquisition is to bisect the site, the planner determines which corridor would least affect the farm and recommends that route.

III. Conclusion

LESA is the first step in Delaware's comprehensive pilot farmland preservation program. The Delaware State Department of Agriculture has not yet determined how to use LESA ratings in conjunction with such tools as Transfers of Development Rights (TDR) and Differential Assessments (DA). The Report to the Technical Review Committee states: "The [county] committees must decide what level of protection should be afforded to farms that score above 250 points, 200-250 points, 150-200 points and so on." Report, at 3. Nonetheless, LESA provides more of a guide for protecting farmland more than do localized and piecemeal programs.

First, the LE ratings, if implemented with substantive programs, will protect SCS Class I and II lands more than less productive soils. This could help dissuade speculators from acquiring marginal land in order to obtain preferential treatment.

Perhaps LESA ratings could be coordinated with a program like the Oregon Land Use Act of 1973 (Or. Rev. Stat. Ch. 197), which established exclusive farm use zones to protect productive agricultural lands. This would be appropriate in a state like Delaware, in which most of its still small population is centered in several metropolitan areas, but which might soon be under development pressure from population growth in surrounding states.

The Oregon Act requires all Class I-IV soils and other lands found suitable for farm use to be zoned for "Exclusive Farm Use" if they are not already being put to non-farm uses. Delaware could use LESA in conjunction with such zoning. The state could aid landowners in the district by granting them preferential property tax and estate tax treatment. Such assessment in the district would be more effective than most such programs, which defer rather than prohibit conversion. If a farmer is not barred from conversion, tax benefits make farming less expensive but do not prevent the farmer from selling his land for development.

SA ratings also provide more objective grounds for farmland preservation than such legislation as the Minnesota Metropolitan Agricultural Preserves Act, Minn, Stat. Ch. 473H. The Minnesota Act focuses on farmland preservation as an issue of protecting "greenbelts" around urban centers. SA benefits agricultural lands that are in traditional farming regions and that are more valuable in agricultural production than urban expansion. Even Class I soils do not merit full government protection if urban growth has overly diminished the size or utility of the farm site.

The use of LESA could also allow for more practical TDR and PDR ordinances. Most such programs, being local, have a limited pool of appropriate donor and receiver sites. Further, it is very difficult to assess the value of a TDR or PDR unit. LESA, however, could be used to rate parcels for selection as donor sites and, in PDR programs that value development rights based on the donor as opposed to receiver sites, can help establish an objective scale for valuing the development unit.

States that have implemented farmland preservation programs should consider LESA as a practical model in prioritizing the goals of the programs. LESA has an objective orientation that should prevent political manipulation and help insure that the agency protects the most productive agricultural soils and regions. Further, it requires cooperation among governments to produce a program to protect all of their interests.

Hawaii is the only other state currently developing a LESA system, but the Federal Farmland Preservation Policy Act, 7 U.S.C. §§ 4201-09, and regulations thereunder, contains an extensive framework of agricultural protection. Indeed, the SCS played a major role in the development of the Delaware LESA.

Other agricultural states may request technical assistance in instituting their own versions of this landmark farmland preservation tool. Anyone interested in LESA as established in Delaware may contact Kevin C. Donnelly, Planner, Delaware Department of Agriculture, Agricultural Lands Preservation Section, 2320 South DuPont Highway, Dover, Delaware 19901.

Sid Ansbacher received his B.A. from the University of Florida and his J.D. from Hamline University School of Law. He is a candidate for the LL.M. in agricultural law from the University of Arkansas School of Law. He is a member of the Florida bar.

Farmland protection planning and zoning guide

The American Farmland Trust has announced the availability of a new publication entitled *Planning and Zoning for Farmland Protection: A Community Based Approach*. This 64-page guidebook, written principally by Carol Misseldine, AFT's Midwest Regional Director, and Mark Wyckoff, President of the Planning and Zoning Center of Lansing, Michigan, is a "how-to" publication designed to guide a local planning commission through the often complicated process of preparing a local farmland protection program. Copies are available for $5.00 from American Farmland Trust, Midwest Regional Office, 1405 South Harrison Rd., Rm. 318, Lansing, MI 48823.

— *Donald B. Pedersen*

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agriculture update

AMERICAN AGRICULTURAL LAW ASSOCIATION NEWS

CONVENTION REMINDER. The 1987 Annual Meeting of the American Agricultural Law Association will be held Oct. 15-16, 1987, at the Omni-Shoreham Hotel in Washington, D.C.

The general theme of this year's meeting is "A Look at How Washington Works." Among the topics to be presented will be sessions on the 1986 Tax Reform Act, Chapter 12 in Bankruptcy, and FIFRA.

Detailed information on this year's Annual Meeting will be forthcoming. In the interim, persons needing further information may contact Philip E. Harris, Professor, Agricultural Economics Department, 427 Lorch St., Room 225, Madison, WI 53706; (608) 262-9490.

AALA SECRETARY-TREASURER'S POSITION. The Board of Directors of the American Agricultural Law Association (AALA) is seeking applications for the position of secretary-treasurer for the 1988 membership year. This officer is appointed by the Board and handles all routine secretary-treasurer functions. Some of these duties include: handling all membership applications, receiving all dues payments, writing AALA correspondence, preparing financial reports and budget for the Board and auditor, keeping minutes of Board meetings, managing the election of new officers, and serving as Chairman of the Finance Committee.

It is anticipated the position will require eight to 10 hours of work each week. More detailed information can be obtained from Terence J. Centner, 1986-87 secretary-treasurer, Athens, GA; 404/542-0756. Letters of application for this position should be submitted by Oct. 1, 1987 to James B. Dean, AALA President, 600 S. Cherry St., Suite 640, Denver, CO 80222.