



Becky Balk
651-201-6369
625 N Robert St.
St. Paul, MN 55155-2538

Minnesota Agricultural Land Preservation Program

Status Report 2006 & 2007

April 2008

For more information on the Minnesota Agricultural Land Preservation Program, please see the program web page at www.mda.state.mn.us/protecting/conservation/preservationdefault.htm or call 651-201-6369.

Pursuant to Minn. Stat. § 3.197, the cost of preparing this report was approximately \$1,000.

Table of Contents

Introduction	1
Background.....	2
Overview	2
Program Participation.....	3
Conservation Credits and Funding.....	4
2006 Activities	6
2007 Activities.....	7
Assessment of the Public’s Awareness of Agriculture Land Preservation Program	7
Recommendations for Funding Levels and Legislative Action	7

Introduction

The Agricultural Land Preservation Policy Act of 1984 (Minnesota Statutes, Chapter 40A) provides for a statewide agricultural land preservation program consisting of:

- tools for agricultural land preservation at the local level, including guidelines for agricultural land preservation planning and official controls, voluntary “agricultural preserve” restrictive covenants, and property tax incentives for their creation;
- a program to foster awareness of agricultural land preservation and conservation issues; and
- a program of technical and financial assistance to local government.

This is a report to the Minnesota Legislature, as required by Minnesota Statutes, Section 40A.17, which states:

40A.17 REPORT.

The commissioner shall report to the legislature on January 1 of each year on activities under this chapter. By July 1, 1985, the report must include the survey of public awareness in the awareness program. The report shall include recommendations for funding levels and other necessary legislative action.

The report covers implementation activities undertaken in 2006 and 2007.

Background

The Minnesota Agricultural Land Preservation Program was established with the passage of The Agricultural Land Preservation Policy Act of 1984 (Minnesota Statutes, Chapter 40A). This legislation was preceded, in 1980, by legislation establishing the Metropolitan Agricultural Preserves Program (Minnesota Statutes Chapter 473H). The statewide program was largely modeled after the metropolitan program.

As set forth in the Act, the Commissioner of Agriculture selected five counties, based on selection criteria established in the law, to participate in a pilot program for county agricultural land preservation. The five pilot counties, Douglas, Kandiyohi, Waseca, Winona, and Wright, submitted their agricultural land preservation plans and proposed official implementing controls to the commissioner by the December 31, 1987 deadline (Minnesota Statutes, Section 40A.03). Grants of \$20,000 per county were provided to the five pilot counties in 1986. Program administration began with a pilot program as directed by the Agricultural Land Preservation Program Act. Three of those counties — Waseca, Winona, and Wright — established agricultural preserve programs that continue to this day.

Since January 1, 1987, any county located outside the Twin Cities metropolitan area is eligible to prepare a proposed agricultural land preservation plan, and implementing controls under the program, for the Commissioner of Agriculture's review. Elements that must be addressed by county plans and official controls are detailed in the statutes. Counties adopting agricultural land preservation plans and implementing controls may offer agricultural preserves (an agricultural preserve is a restrictive covenant on qualifying land limiting its use to agriculture or forestry). In return, farmers receive property tax credits, protection for normal agricultural practices, and other benefits.

The basic framework to preservation embodied in the program is comprehensive land use planning and growth management as a prerequisite to offering agricultural preserves and property tax credits to property owners. Only three counties have chosen to fully participate in the program and offer agricultural preserves. However, information on agricultural land preservation and its relationship to planning and implementation tools has been provided to most counties in Minnesota since 1984, and direct technical assistance has been provided to nearly half of the counties in the state.

Overview

The Minnesota Agricultural Land Preservation Program is intended to protect farmland for future generations and to help farmers feel more confident in making long-term decisions. It is also intended to help in avoiding some of the problems associated with uncontrolled development of farm and forest lands. Limiting nonfarm rural development helps keep down public service costs paid by all taxpayers for such things as increased road maintenance, school transportation, and police and fire protection. Controlling such development also decreases the likelihood of conflicts between farmers and nonfarm residents over noise, dust, and odors produced by farming operations.

The central feature of the program is the “agricultural preserve”: a restrictive covenant on qualifying land limiting its use to agriculture or forestry. The Agricultural Land Preservation Program statute (Minn. Stat. Ch. 40A) makes it possible for owners of qualifying land to receive property tax credits of \$1.50 per acre per year, and other benefits as well, in return for agreeing to preserve their farms for long-term agricultural use. Property tax credits are funded by a surcharge on mortgage and deed recordings.

To be able to offer the benefits of agricultural preserves to property owners, a county must adopt, and have approved by the Minnesota Department of Agriculture (MDA), an agricultural land preservation plan and official controls (Minn. Stat. §§ 40A.04–05). An

agricultural land preservation plan is a part of a comprehensive land use plan that designates land for long-term agricultural use, while also providing for expected growth around urbanized areas. The official controls are land use regulations, usually zoning and subdivision provisions, that restrict uses to agriculture, and require low residential densities (typically one dwelling unit per 40 acres) in areas designated for long-term agricultural use.

The Minnesota Agricultural Land Preservation Program statute also directs the MDA to administer programs of public awareness, technical assistance, and financial assistance.

The public awareness program is to promote and increase public awareness of: the need for agricultural land preservation and conservation and the consequences of resource degradation; the physical, environmental, and social factors that affect agricultural land use; and the availability and effectiveness of agricultural land preservation and conservation approaches and technologies. (Minn. Stat. § 40A.14). Under the Awareness Program, staff primarily works with local governments, elected officials, and the public to increase awareness of the program as well as issues regarding agricultural land preservation, planning, and growth management. This typically includes formal presentations, attending conferences, exhibiting program information, and answering inquiries on a day-to-day basis.

By statute (the Agricultural Land Preservation and Conservation Assistance Program, Minn. Stat. §40A.15) technical and financial assistance is to be for agricultural land preservation activities and to provide assistance to counties and municipalities in preparing agricultural land preservation plans and official controls. Since the pilot program, limited funding has been appropriated for financial assistance to counties (a 2001 LCMR grant provided funding for a county to map agricultural lands and analyze budgetary impacts of nonfarm development¹).

Staff provides direct and ongoing technical support to local governments upon request, including referral to other governmental or consulting services, presentations to governing and advisory bodies, review of plans and ordinances, and answering specific inquiries. In addition to assistance on agricultural land preservation, staff advises and disseminates information on a wide variety of subjects relating to rural planning issues, including budgetary impacts of “rural sprawl,” and land-use issues of animal agriculture.

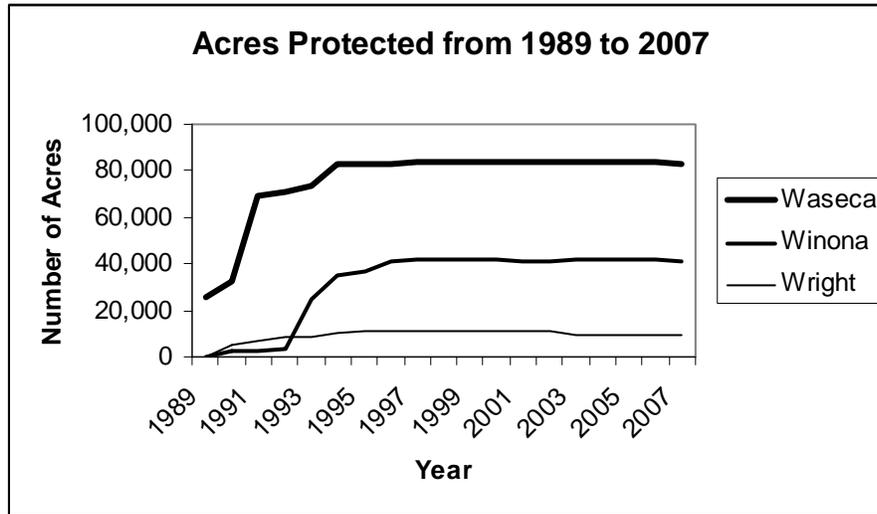
Program Participation

Three of five pilot counties in the Minnesota Agricultural Land Preservation Program are currently recording restrictive covenants submitted by property owners: Waseca, Winona, and Wright Counties (Douglas County and Kandiyohi County decided not to accept restrictive covenants due to concerns about the long-term funding of the program). Within the three counties, a total of 133,877 acres are protected by agricultural preserves covenants. As of 2007, the following acres are protected: 83,221 acres in Waseca County; 41,364 in Winona County; and 9,292 in Wright County. Together with the Metropolitan Agricultural Preserves Program (which had enrollment of 184,080 acres), a total of 317,957 acres are protected.

In 1998, the program began to experience a decline in the number of acres protected due decreased enrollments and increased expirations. Under Minn. Stat. § 40A.11, the owner or county may initiate expiration of the agricultural preserve covenant. The covenant expires eight years after the expiration is initiated. Figure 1 shows the trend in acres protected from 1989 through 2007.

¹ A GIS-based agricultural land preservation model for identifying and prioritizing lands to be preserved for agricultural use was completed by Todd County. In addition, The Development Impact Assessment Model (DIAMaTR) was used by Todd County and the Region 5 Development Commission to study the local budgetary impact of alternative residential growth patterns, from compact to sprawling. Funding for the project was provided by the Minnesota Future Resources Fund as recommended by the Legislative Commission on Minnesota Resources.

Figure 1. Acres Protected by Agricultural Restrictive Covenants



Source: Acres derived from conservation credit data provided by the Minnesota Department of Revenue.

Conservation Credits and Funding

One of the benefits received by owners of land with agricultural preserve restrictive covenants is a \$1.50 per acre property tax credit, or “conservation credit.”² Agricultural preserve owners in the Twin Cities Metropolitan Area also receive a conservation credit.³

Funding for the conservation credits is derived from a surcharge on mortgage and deed recordings. All seven Twin Cities metropolitan area counties and other counties participating in this program are required to charge a \$5 fee on each recording or registration of mortgages and deeds subject to the mortgage and deed taxes. One-half of the fee (\$2.50) is deposited in a special conservation account in the county general revenue fund and one-half (\$2.50) is transferred to the Commissioner of Revenue for deposit in the state treasury. One half of the money in the state treasury (\$1.25) is credited to the Minnesota Conservation Fund, and one-half (\$1.25) is credited to the general fund. Money from the county conservation account must be used to reimburse the county and taxing jurisdictions within the county for the agricultural preserves property tax credit. If the cost of the property tax credits exceeds funds available in the county conservation account, the county is reimbursed from the Minnesota Conservation Fund for the amount the tax credits exceed the county account (Minn. Stat. §§ 40A.151–2). Tables 2 and 3 shows a summary of conservation credits paid and funding for 2006 and 2007.

² Other benefits include: local governments cannot enact ordinances or regulations that restrict or regulate normal agricultural practices; annexation proceedings affecting agricultural preserves are limited and must meet certain additional criteria; eminent domain proceedings are limited and subject to public and administrative review; and public sanitary sewer systems, public water systems, and public drainage systems are prohibited in agricultural preserves. Land in a preserve may not be assessed for public projects built in the vicinity of the preserve-covenanted property unless the project is necessary to serve land primarily in agricultural use or if the owner of the land chooses to use and benefit from the project.

³ In the Metropolitan Area, the rate is equal to the “tax capacity value multiplied by 105 percent of the previous year’s statewide average tax rate levied by townships outside the metropolitan area.” The property tax due is either the amount determined by this formula, or by the local tax rate for the city or township where the property is located, whichever is less, with a minimum tax rate is \$1.50 per acre. Source: 2006 Metropolitan Agricultural Preserves Program Status Report.

Table 1. 2006 Conservation Credits and Funding

Counties	2006 Acres Enrolled	Conservation Credits Paid	Conservation Fee Revenue to County Conservation Fund	Conservation Fee Revenue to State Conservation Fund	Withdrawal from State Conservation Fund
Greater MN Counties					
Waseca	83,381	125,033	6,025	3,013	119,008
Winona	41,501	62,252	12,845	6,423	49,407
Wright	9,516	14,263	60,675	30,338	0
Metropolitan Counties					
Anoka	2,139	3,210	147,724	73,862	0
Carver	94,621	141,827	38,418	19,209	103,409
Dakota	60,838	93,647	158,890	79,445	0
Hennepin	12,413	29,114	419,520	209,760	0
Ramsey	0	0	138,618	69,309	0
Scott	7,353	11,034	60,875	30,438	0
Washington	9,101	13,513	94,823	47,411	0
Total	320,863	\$493,893	\$1,138,413	\$569,206	\$271,824

Source: Minnesota Department of Revenue and Metropolitan Council.

Table 2. 2007 Conservation Credits and Funding

Counties	2007 Acres Enrolled	Conservation Credits Paid	Conservation Fee Revenue to County Conservation Fund	Conservation Fee Revenue to State Conservation Fund	Withdrawal from State Conservation Fund
Greater MN Counties					
Waseca	83,221	124,804	5,753	2,876	119,051
Winona	41,364	62,046	11,245	5,623	50,801
Wright	9,292	13,930	49,853	24,926	0
Metropolitan Counties					
Anoka	2,104	3,158	105,007	52,504	0
Carver	93,518	140,213	31,990	15,995	108,223
Dakota	59,535	94,174	119,558	59,779	0
Hennepin	12,326	34,422	357,653	178,826	0
Ramsey	0	0	135,815	67,908	0
Scott	7,393	11,094	48,488	24,244	0
Washington	9,204	13,807	78,783	39,391	0
Total	317,957	\$497,648	\$944,142	\$472,071	\$278,075

Source: Minnesota Department of Revenue and Metropolitan Council.

2006 Activities

In 2006, staff completed the *Livestock, Local Governments, and Land Use: A Guide for Minnesota Local Officials*, an updated version of the 1996 handbook, *Planning and Zoning for Animal Agriculture in Minnesota: A Handbook for Local Governments*. The guide provides practical advice for local government officials on the subject of land-use planning and livestock facility siting, and was an outcome of Governor Pawlenty's Livestock Advisory Task Force (2004). Since the completion of the guide in 2006, staff has conducted numerous training sessions throughout the state on the topic of land-use planning and livestock facility siting with the guidebook serving as a central part of the curriculum.

Another outcome of the Livestock Advisory Task Force was *A Checklist for Producers: Feedlot Permitting in Minnesota* to assist producers through the feedlot permitting process.

Staff provided technical assistance on assessing the fiscal impact of planning decisions on local budgets for Steele County using the Development Impact Assessment Model (DIAMaTR™). DIAMaTR is fiscal impact model software, developed as part of the Cost of Public Services Study under the 1997 LCMR project⁴, designed for use at the whole-jurisdiction level. It is intended to be an effective way for local governments to assess the fiscal implications of their own planning and zoning decisions.

Staff updated the *Summary on Animal-Related Ordinances In Minnesota Counties* by developing an interactive web-based map providing information on local ordinances regulating livestock in Minnesota. The map allows users to select and zoom to specific counties, retrieve livestock-related ordinances, and connect to county web sites. The map also provides local contact information and links to local ordinances when available. The interactive map entitled, *Local Ordinances Regulating Livestock in Minnesota*, is available on MDA's web site.

Over the course of the Minnesota Agricultural Land Preservation Program, staff has worked with over one-third of Minnesota's counties in development of agricultural land preservation plans and implementing controls.

Other activities in 2006 include:

- Made presentations to county officials and citizens in Le Sueur and Clay Counties, to officials at the Minnesota Association of County Planning and Zoning Administrators Annual Conference, to the Stearns County Dairy Advisory Committee, and to interested persons at an event hosted by the Minnesota State Demographic Center (on the Cost of Public Services Study and the Development Impact Assessment Model).
- In conjunction with the MDA's Local Land Use and Feedlot Siting Program, served as faculty for the Minnesota Association of Townships annual Summer Short Course training sessions.
- Were participants in the Stearns County Comprehensive Plan Advisory Committee and the Dakota County Comprehensive Plan Advisory Panel.
- Met with farmers and agricultural related businesses along the proposed highway realignment work on the Highway 14 EIS, between Dodge Center and Owatonna, to identify potential impact.

⁴ Funding provided by the Minnesota Environment and Natural Resources Trust Fund as recommended by the Legislative Commission on Minnesota Resources.

2007 Activities

Due to a staff reduction in January 2007, the program Awareness and Assistance activities were limited to the following specific activities:

- Updated the database on county livestock related ordinances for the interactive map entitled, *Local Ordinances Regulating Livestock in Minnesota*, is available on MDA's web site.
- Continued participation in the Stearns County Comprehensive Plan Advisory Committee and the Dakota County Comprehensive Plan Advisory Panel.
- Continued to work with farmers and agricultural related businesses along the proposed highway realignment work on the Highway 14 EIS, between Dodge Center and Owatonna, to identify potential impact.

Staff continues to provide direct and ongoing technical support to local governments upon request, including referral to other governmental or consulting services, presentations to governing and advisory bodies, review of plans and ordinances, and answering specific inquiries. In addition to assistance on agricultural land preservation, staff advises and disseminates information on a wide variety of subjects relating to rural planning issues, including budgetary impacts of "rural sprawl," and land-use issues of animal agriculture.

Staff also provided assistance to the Office of the Legislative Auditor as it conducted an evaluation on the Minnesota Agricultural Land Preservation Programs and the Green Acres Program.

Assessment of the Public's Awareness of Agriculture Land Preservation Program

Since the inception of the program, staff has worked diligently to increase the public's awareness about the issues confronting the preservation of agricultural land in Minnesota through the Awareness Program. Technical assistance is offered to local governments to develop an agricultural plan which includes careful consideration of effective tools to preserve and protect agricultural land. Regardless of the efforts, the program has only attracted three counties. Enrollment has slowed considerably in all three counties.

An evaluation of the program was conducted through the 1997 LCMR project, "Reinventing Agricultural Land Preservation." The *Evaluation of Minnesota Agricultural Land Preservation Programs* indicated that many of the Awareness and Assistance Program efforts have had a widespread and positive influence on counties which has resulted in plans and controls that emphasize the importance of agricultural land preservation and protection. In addition it showed that 13.5 million acres of agricultural land in 45 counties are protected for long-term agricultural use by limiting residential density⁵, and 17 counties had agricultural zoning ordinances which had been in existence since 1990.

Recommendations for Funding Levels and Legislative Action

In January 2008, the Office of the Legislative Auditor released an Evaluation Report on "*Green Acres*" and *Agricultural Land Preservation Programs*, which includes an evaluation

⁵ Data collected in that survey indicates that 45 counties have agricultural zoning that utilizes a density limitation of one dwelling unit per 20 acres or less, and 41 counties have agricultural zoning that utilizes a density limitation of one dwelling unit per 40 acres or less. Land in Minnesota with a density limitation of one dwelling unit per 20 acres or less comprises an estimated 13.4 million acres. Land with a density limitation of one dwelling unit per 40 acres or less comprises an estimated 12.4 million acres

of the Minnesota Agricultural Land Preservation Program. The report made the following recommendations to the program:

- “If Minnesota wishes to preserve lands for agricultural uses over the long term, the Legislature should consider supplementing existing programs with other strategies. It should also improve current programs by specifying who has authority to enforce them.
- The Legislature should determine whether spending program revenues on natural resource projects other than agricultural land preservation and soil conservation is unacceptable, and if so, it should specify in law the unallowable activities.”⁶

The MDA has no recommendations for funding or legislative changes at this time.

⁶ Legislative Audit Commission, “Evaluation Report “Green Acres” and Agricultural Land Preservation Programs, (Office of the Legislative Auditor, 2008), p. 69.