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# Sustainable Agricultural Land Tenure (SALT) Initiative II

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# Sustainable Agricultural Land Tenure (SALT) Initiative II

**Abstract**

Enabling landowners to be knowledgeable and confident is critical, as well as providing support to the agency personnel responsible for sharing conservation information and implementing conservation programming across the state.

**Keywords**

Human systems demographics and beginning farmer programs, Policy

**Disciplines**

Natural Resources and Conservation | Natural Resources Management and Policy



# SALT Initiative II

**Abstract:** The continuing Sustainable Agricultural Land Tenure (SALT) project broadens its focus to consider the many sorts of ownership of Iowa farmland, and how best to approach each category of owner/operator. The goal is to encourage adoption of a suite of conservation practices through educational and legal means.

**Principal Investigator:**

**Principal Investigator:**  
Neil Hamilton

**Co-Investigator**  
Edward Cox  
Drake Agricultural Law Center  
Des Moines

**Budget:**  
\$47,024 for year one

**Q** How can we maximize the impact of research and outreach on land tenure and conservation?

**A** Enabling landowners to be knowledgeable and confident is critical, as well as providing support to the agency personnel responsible for sharing conservation information and implementing conservation programming across the state.



**P O L I C Y**

**Background**

This project expanded on the Sustainable Agricultural Land Tenure (SALT) Initiative, which conducted research on the impact of changing land tenure trends on conservation and sustainability in Iowa. The Initiative determined how legal arrangements and documents might address any conservation concerns identified. Much land in Iowa is owned by people who do not farm it themselves, so this research often focused on farm leases. However, other tenure arrangements also were examined, such as conservation easements, estate planning arrangements and documents, private trusts, wind energy leases and easements, and private covenants. SALT II built on the original SALT framework and resources, but it focused on critical land tenure policy issues revealed through initial SALT research as well as discussions from the Drake-led, and Leopold Center-supported Sustainable Agricultural Land Tenure Policy Working Group.

The objectives for the project were to:

1. Increase awareness of the need for sustainability on leased agricultural land among key landowner demographics, including women landowners and off-farm heirs and investors.
2. Improve landowner knowledge of the need for sustainable land management and their capacity for participation through the creation of a Landowners' Forum, which offered an interactive social experience.
3. Empower key landowners to negotiate farm lease provisions from a position of knowledge and confidence. They will, therefore, be able to manage their land in a more sustainable, resilient and profitable manner and will be able to monitor and ensure enforcement of sustainable farm lease provisions.
4. Increase the capacity of landowners to provide beginning farmers access to land, residential facilities and diversified commercial enterprises.
5. Promote utilization and distribution of the resources developed through outreach services and nonprofit organizations, particularly those specializing in assisting beginning farmers, such as the Beginning Farmer Center, Women, Food and Agriculture Network (WFAN), and Practical Farmers of Iowa.
6. Determine the effects of land ownership structures on the effectiveness of current conservation program and outreach policy.



*Matt Russell of Drake University Ag Law Center talking with a constituent.*

## Approach and methods

The researchers used traditional forms of personal or one-on-one communication via workshops and seminars and developed new outreach methods to achieve the first three objectives. To accomplish the objectives for new farmers, they relied on development of traditional print and online outreach materials.

An online conservation professional survey and interviews with Natural Resources Conservation Service (NRCS) and Soil and Water Conservation District personnel were used to determine the needs of conservation professionals in regard to understanding the impact of emerging land tenure trends; the structure of diverse land ownership entities, such as trusts, LLCs, and other forms of joint ownership; and how land tenure may relate to conservation programs and environmental laws. Interviews were conducted with NRCS personnel and SWCD commissioners in four counties to gain a preliminary understanding of these issues and to develop the specific questions for the survey. The survey was developed and sent to all Iowa county conservation offices through NRCS and Conservation Districts of Iowa. Eighty-seven conservation professionals responded to the survey.

## Results and discussion

The project focused on legal research, which does not provide statistical data, but is capable of producing findings, or legal conclusions. These are discussed below.

## Conclusions

The project identified significant changes in Iowa's statutes and case law that impact land tenure arrangements, the decision-making capacity of landowners, public interaction with agriculture, recreation on private agricultural land, and, ultimately, the capacity and willingness of landowners to negotiate and implement conservation practices within their farm lease contracts. Among the significant findings derived from project investigations:

1. The Iowa Legislature altered the farm lease termination statute, Iowa Code Section 562.6, to expand the requirement for notice of termination by September 1 to all agricultural leases, including those less than 40 acres, unless it is used for an animal feeding operation.
2. The Iowa Supreme Court addressed the state's recreational use statute, interpreting what constitutes a recreational use narrowly, and causing substantial alarm in the farming and education communities. (*Sallee v. Stewart*, 827 N.W.2d 128 (Iowa 2013)). The case did not, in fact, limit traditional recreational uses such as hunting, fishing and wildlife viewing, but did leave other activities that impact the sustainability of Iowa agriculture, such as tours and education based around the practice of farming. The Iowa legislature revised the statute in 2013 to include educational activities. (Iowa Code § 461C.2 (2013)).
3. The Iowa Supreme Court also addressed a minority shareholder complaint of "oppression" by majority shareholders in a farm corporation. The Court held that minority shareholders do have a reasonable expectation of return on their investment, or potentially their inheritance. Land tenure and sustainability may be affected by some elements of the case that relate to estate planning tech-



*Finley Cox planting garlic.*

niques that include family members within a farm business who have little financial interest in the endeavor and possibly no control of how the operation and the land are managed. Minority shareholder lawsuits based on mismanagement of soil assets could lead to greater conservation efforts in Iowa.

4. One of the most significant conclusions drawn from the project's Conservation Professionals survey is that while Iowa's conservation professionals view land tenure trends, including lack of landowner connection to the land, year-to-year leases, and a general increase in leased land as the most pressing conservation challenges, ranking only behind increases in commodity prices, this group is largely underequipped to conduct outreach to non-operator landowners. NRCS staff would benefit from resources that help explain the diverse farm land ownership structures increasingly found in Iowa. A majority of the conservation professionals (58 percent) indicated that educational materials on ownership structures such as corporations, LLCs, and trusts would be beneficial in helping implement conservation programs.

5. Additional research needs to be conducted on the rights and duties of individuals and entities with some interest in farm land ownership in Iowa, whether as a trust, corporation, LLC, or other form. This was reflected in the legal research conducted as well as the results of the Conservation Professionals survey.

## Impact of results

The impacts include completion of the key objectives:

- increasing access to conservation lease provisions and how they can be negotiated, monitored and enforced;
- creation of a landowner network, or online learning circle, where women owners can exchange information and resources;
- increasing the likelihood of leasing small farmstead parcels of land to new and beginning farmers engaged in niche, value-added, or direct to consumer production and marketing; and
- gaining a better understanding of the challenges and opportunities faced by conservation professionals due to the actual and perceived impacts of land tenure trends and arrangements.

Based on the extensive and diverse forms of outreach and information transfer carried out in the SALT Initiative, the initial impacts will lead to several other long-term impacts on Iowa agriculture. Landowners will better understand conservation lease provisions – both the impact on the land and their tenant's operation – enabling negotiation and implementation of conservation lease provisions and lease incentives. Because conservation concerns vary from region to region and field to field, the provisions include diverse practices ranging from requiring cover crops to leasing for management intensive grazing. Information on enforcement of conservation lease provisions will result in 1) ensuring further compliance with conservation lease provisions and 2) expanding Iowa's precedent within the judicial system of contract and property law in relation to conservation.

The project had a direct impact on Iowa's agricultural policy in relation to the recreational use statute. The Law Center's analysis of the Sallee case involving the statute was used by the legislature to draft balanced reform legislation that now includes educational activities as a protected use for on-farm visits.

Access to the legal conclusions and outreach materials based on leasing small farmstead parcels to new and beginning farmers will enhance landowner consideration of such scenarios. Landowners and their advisors will have information from which to derive enforceable sustainable lease contracts that meet the concerns of both parties. This will lead to an increase in the availability of land suitable for small-scale, diversified production and direct marketing, benefit rural development, increase access to healthy food and add to the diversity of Iowa's agricultural sector.

Owners of farmland in Iowa will have a venue for sharing information and resources with other landowners and will have opportunities to ask questions of conservation service providers through the WFAN online learning circle. This will empower landowners with both knowledge and confidence, further enhancing the negotiating position for landowners with conservation concerns on their rented land.

Conservation agencies and other researchers will be able to use the information from the Conservation Professionals survey to develop educational resources for field office staff and potentially modify policies to better enable field office to enroll non-operator owned land into conservation programs.

## Education and outreach

### *Publications:*

Edward Cox, *Helping Landowners Help New Farmers: Incentive Programs and Other Legal Tools for Transitioning Land to the Next Generation of Farmers*, 17 *Drake Journal of Agricultural Law* 37 (2012)

Sarah Wendler and Edward Cox, *Leasing the Farmstead to New Small Farmers*, A *Drake Ag Law Primer* (2013).

- Expansion of the materials available on the website [SustainableFarmLease.org](http://SustainableFarmLease.org), including new pages for specific conservation practices.
- Drake Agricultural Law Center staff presented information on the role of conservation professionals dealing with non-operator owned land to NRCS personnel in Washington, D.C. in March 2012.
- Center staff attended multiple meetings with women landowners through WFAN and Women, Land and Legacy organization, providing information on conservation lease agreements to more than 100 landowners. Center staff presented information on conservation leases and how to assist new farmers to an additional 130 landowners at the "This Land is Your Land" conference in Des Moines on June 15, 2012.
- A website was created for WFAN that focuses exclusively on women landowners at [www.womencaringfortheland.org](http://www.womencaringfortheland.org) and education and outreach continues through the online WFAN Landowner Community Forum.

***For more information,  
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## Leveraged funds

The McKnight Foundation provided a grant to the Allamakee Soil and Water Conservation District to develop a landowner conservation lease program, providing the Drake Agricultural Law Center with \$12,000 to assist in the development of lease arrangements. The Iowa NRCS, through a Conservation Innovation Grant, is providing \$26,652 to develop conservation lease case studies throughout the state.