



Breaking UNDER Pressure

By GARY DIGIUSEPPE

RISING LAND VALUES AND SPREADING SUBURBS

are pressuring ranchers to break up and sell large landholdings. For those who don't want to sell, is there help? Yes, but it takes careful consideration, patience and negotiating.

Editor's note:

Dr. Neal Wilkins will talk about land fragmentation at Texas and Southwestern Cattle Raisers Association's 2007 School for Successful Ranching, March 23-24, Fort Worth. For more information or to register for the school, visit texascattleraisers.org.

A new subdivision next to a small feedyard could impact the property rights of the feedyard owner in terms of claims about nuisance complaints, noise, smells. This would make it "very difficult for that person to farm. Then, they may throw their hands up and sell," says AFT's Bob Wagner. Photo courtesy of USDA.

Advocates of preserving the environmental and agricultural benefits of rural Texas lands are hoping a new, voluntary program will ease the developmental pressures that are threatening irreparable harm to both the countryside and the cities.

S.B. 1273, which establishes a Texas Farm and Ranch Land Conservation Program, was adopted by the Texas Legislature in the 2005 session and signed into law by Gov. Rick Perry. It creates a method for compensating farm and ranch owners who relinquish the right to commercially develop their land.

There had been an attempt to pass a similar law in 2003, but according to Blair Fitzsimons, “I think the conclusion was that it was just not a landowner-friendly, rancher- or farmer-friendly piece of legislation, so they were not very supportive of it.”

After that failed effort, Fitzsimons, a Dimmit County, Texas, rancher with a background in public policy, was hired by the American Farmland Trust to help guide a revised version of the law through the Legislature. Prior to the 2005 legislative session, AFT’s Texas regional office collaborated with Texas A&M University on a study to support their efforts, “Impacts of Land Fragmentation on Texas Agriculture and Wildlife.”

Fitzsimons says the study looks at trends in ownership size, use and value of rural and work-



Eighty-four percent of the rain that falls on Texas, Dr. Neal Wilkins says, falls on the state’s 144,000,000 acres of rural lands. It either recharges an aquifer, or flows into a river and becomes available for surface water use. Texas’ 21,000,000 residents rely on that water which is filtered through rural farm and ranch land. Photo courtesy of the John Deere photo library.

ing lands “to be able to develop a ‘road map’ or project ahead, and look at those areas that will most likely experience high levels of fragmentation the next 10 to 20 years.”

Defining fragmentation

American Farmland Trust’s Bob Wagner says the non-profit group was founded in 1980 to address the loss of farmland and rangeland to urban conversion. Increasingly, though, they’re finding the issue to be not wholesale loss of land, but fragmentation.

Wagner explains, “Fragmentation is the subdivision of land, particularly west of the 100th meridian, where large ranches that require a lot of acreage to support viable ranching operations are cut up into what otherwise you might call ‘ranchettes’.”

These smaller tracts of land, he says, may look like open space, but they’re not large enough to sustain a viable ranching enterprise. Wagner adds, “You’re subdividing wildlife habitat and that’s going to disrupt wildlife patterns, migration patterns and the other benefits that land otherwise provides to wildlife.”

And fragmentation, which is usually seen as a consequence of economic development, is also a threat to that same development. That’s according to Dr. Neal Wilkins, certified wildlife biologist, professor and director of the Texas A&M Institute of Renewable Natural Resources, who worked on the Impacts study.

He says 25 Texas counties alone have lost more than 580,000 acres of farm and ranch land in the past decade to other

uses...“sometimes, WalMart parking lots. So, that’s a threat to the agricultural infrastructure, obviously, throughout the rural portions of our state.”

The highest rate of loss is in the Blackland Prairie, the state’s most productive cropland, where conversions have averaged 18,300 acres a year. “Just because of the placement of some of our urban areas,” Wilkins says, “and the directions in which they can grow, because of some of the other constraints out there, this forces a lot of our urban areas to grow into this productive farmland.”

Open lands taxes support residential development

Wilkins says in some areas, taxes from agricultural lands subsidize growth. He cites Hays County, midway between Austin and San Antonio, as an example. “If you were to look at the cost of services for a county to provide everything from emergency 911 services to school services,” he says, “for every dollar of property tax paid on those agricultural lands in Hays County, they receive less than a dollar back in services. But for the property taxes for, say an exurban subdivision that sprawls out from San Marcos, for every dollar in property taxes that is paid from those developments, they receive more than a dollar worth of services.”

AFT’s Hays County Cost of Community Services report shows that agricultural lands receive \$.33 in service while residential developed lands receive \$1.26 for every \$1 paid in property taxes. It is interesting to note the Hays County study shows industrial lands receive \$.30 in services for every \$1 paid in property taxes.

Wilkins says the tax structure masks those market signals, producing “an insidious, perverse incentive for sprawl.”

Fragmentation’s effect on water

But the ecological factor, says Wilkins, could also turn rural

land development into a growth-inhibiting factor. Eighty-four percent of the rain that falls on Texas, he notes, falls on the state’s 144,000,000 acres of rural lands; all of it either recharges an aquifer, or flows into a river and becomes available for surface water use. Either way, Texas’ 21,000,000 residents rely on the safety and purity of that water.

“San Antonio,” says Wilkins, “gets the majority of its drinking water out of the Edwards Aquifer. The Edwards Aquifer is recharged in the rural lands west of San Antonio. Well, those rural lands are at risk of being converted to rural subdivisions and a loss of their recharge.”

A second example is the Trinity River, which supplies 100 percent of the water resources of the Dallas-Fort Worth Metroplex. But the Trinity also feeds Lake Livingston, which provides 77 percent of the water needs of Houston.

When that water begins its southerly flow, says Wilkins, “it is some of the most polluted water in the nation, just because of the effluent provided from running through a metropolitan area of 5.9 million people.”

By the time the river reaches Lake Livingston, the water is “in good condition, because it’s passed through 300 to 400 miles of rural lands and every drop of water that lands through precipitation is running through rural farm and ranch land, and receives the water quality benefits of wetlands, and bottomland hardwoods.”

Most of the Trinity River is situated in the dwindling Blackland Prairie. As that acreage is lost to development, says Wilkins, “we lose the ecosystem services for water quality that all of those rural lands have been providing, and could provide, for cleaning the water for the city of Houston.”

Production versus development value

The impact study has since been revised and Fitzsimons says

one change has already taken place — whereas small-to-medium properties of 500 to 1,000 acres were previously most at risk for fragmentation, “now, the trend is shifting to the larger properties...we find these discrepancies between the ag value and the market value — rapidly growing discrepancies. It just becomes harder and harder for people to justify keeping land in agriculture.”

The Texas Farm and Ranch Land Conservation Program, also known as Purchase of Development Rights (PDR), is promoted by its supporters as a way to address the problem.

To be large enough to make a dent, Wilkins acknowledges, PDR “could be very costly,” in the tens or even hundreds of millions of dollars over the next couple of decades.

“But, when you compare it to the costs of not doing it,” he says, “the costs of supporting a PDR program pale in comparison.”

A board appointed by the governor will administer the program. The 2005 bill was passed without an appropriation. Fitzsimons explains, “We felt it was important to get the legislation and the program down first and to use tax dollars already in circulation to essentially ‘prove it out,’ to demonstrate how the program could work.”

Once potential funding sources have been identified, qualified easement holders will be able to apply for funds to purchase development rights.

Fitzsimons says the board will consider easement purchases from willing sellers based on a set of criteria, “Lands that are at risk for fragmentation, and then issues pertaining to water quality and quantity and wildlife habitat, and productive working lands,” she lists.

But with 144,000,000 acres of rural Texas lands, can even a few hundreds of millions of dollars make a difference? “Yes,” says

Fitzsimons, “we’re the state of wide, open spaces, but the pressure on the natural resource is only going to continue to grow.”

Noting the concern about the Edwards Aquifer, she says, “The citizens of San Antonio are alarmed enough about protecting that source of drinking water that they decided to tax themselves an additional eight cents, tack it on to the sales tax, in order to buy land either fee simple or buy voluntary conservation easements on the properties out west of San Antonio.”

If the cities can’t negotiate easements, she says, “it’s not too far of a stretch” to suggest they’ll resort to condemnation and regulation; the PDR program offers an alternative.

Wilkins also points to the possibility of increased taxation. Texas’ farmers and ranchers, he says, benefit from the ad valorem tax that provides a use valuation so properties are only taxed on the agricultural value.

“There’s always a threat,” he says, “of losing that, and sometimes that threat is driven by kind of an ignorance as to just exactly what the benefits are ... There’s an emphasis in some places for moving that to taxing people on the full value of their property. When agricultural values for native rangeland, for example, are about 15 to 20 percent of property value, then what that means is that there’s an underlying threat of losing agricultural lands.”

National issue

The dilemma of how to protect sought-after lands is being mulled all over the United States. Along the Gulf Coast, Fitzsimons says, civic planners are worried about retaining wetlands to mitigate the effects of hurricanes; meanwhile, the Pentagon has concluded that development along the perimeters of military bases threatens their ability to

train troops and is looking for ways to keep the land in working farms and ranches.

Wagner says, nationwide, there’s been a substantial amount of sprawling development. While the average American household owned a little more than an acre in the ’50s, that’s now up to nearly two acres. He says, “A lot of the development over the last five to 10 years has been in those large-lot types of subdivisions, or single family house lots spread around the countryside.”

That’s created both more fragmentation and conflict between new rural residents and neighboring farmers and that exacerbates the problem. “A farmer, for example,” he says, “may exercise his right to sell a farm for a subdivision. That subdivision may have an impact on the property rights of the neighboring farmer in terms of claims about nuisance complaints, noise, smells...making it very difficult for that person to farm. Then, they may throw their hands up and sell.”

An exercise in property rights

So the PDR program offers the farmer or rancher a financial incentive to stay on the land. But what if his neighbors bail out? Wouldn’t you have enclaves of production in the midst of development? Even though he believes fragmentation is “our most important issue,” Wilkins says it’s impractical in Texas “from a social perspective” to impose mandatory land use rules beyond those the federal government already has in place, such as the Clean Water Act.

To accomplish what’s needed voluntarily, he says, “there needs to be an entire range of tools available.” After the PDR program is in place, he says, “we’re likely to have, very soon, the development of an agricultural land trust in Texas, that just focuses in the conservation of these working lands.”

Wilkins says the trust would be able to give priority to lands like the Blackland Prairie that provides “ecosystem services” to urban areas.

Fitzsimons says the Texas Agricultural Land Trust is being developed to serve farmers and ranchers as an alternative to the 46 land trusts already in Texas. “It will be a private nonprofit and will be run by a board of farmers and ranchers who understand the day-to-day management of ag operations. It will serve as a potential easement holder and resource for those interested in protecting and conserving their lands.”

Far from interfering with the free market for land, Wagner says voluntary conservation easements are an exercise of property rights. He calls it “a market approach to protecting land,” and says if the public decides it’s important to preserve its agricultural land, “they’ll provide the funding for the purchase of conservation easements, or they’ll provide some other tax benefit associated with the donation of those easements, to encourage landowners to consider that as an option. It’s a technique that’s designed to work within the private landowner paradigm.”

And it’s not just the states that are creating incentives to keep land in agriculture; the federal government has stepped in with the Farm and Ranch Land Protection Program. Wagner says the program, created in the 1990 Farm Bill and expanded in each of the last two bills, “provides matching funds for state and local municipal programs, as well as private, non-profit programs that are protecting farm and ranch land with conservation easements.”

According to the USDA’s Natural Resources Conservation Service (NRCS), through 2003 more than 300,000 acres in 42 states had received easements under the program.

To make the 2005 PDR legis-

lation palatable to farm and landowner interests, Fitzsimons says protections were built into it that are actually more favorable than what was already on the books. For instance, when easements are issued, they will not be transferable without the landowner's written permission. She says under the Texas Natural Resources Code, a land trust or other easement holder could theoretically go out of business and sell the rights to someone without the same interest in the land.

Fitzsimons says the PDR is a negotiated real estate transaction, similar to an oil or gas lease. "I think there has been a perception out there," she says, "that a landowner's limited in what terms he or she can negotiate for. And so, we just tried to get more information out there about what the landowner is entitled to negotiate for...We, in developing the PDR program, listened quite closely and rather extensively to landowners' concerns about conservation easements and tried to address those in the bill."

Wilkins adds, "I'm not an economist, but I've worked with enough of them to know that the best way to get something done is to make sure that someone can establish the property right over the benefits that they provide, and then provide them a marketplace in which to trade that property right to those who benefit from it. So those who benefit from good, voluntary land stewardship on private lands — those in the urban areas — in some form or fashion, compensate those private landowners for the beneficial actions that they carry out on their lands. And that comes back around to, really, the basic problem, which is our land fragmentation, and loss of our rural farm and ranch land in the state." ■