



MINNESOTA • REVENUE

Assessment and Classification Practices Report

Agricultural land including land enrolled in the green acres program

A report submitted to the Minnesota State Legislature
pursuant to
Minnesota Laws 2005, First Special Session Chapter 3, Article 1, Section 37

Property Tax Division
Minnesota Department of Revenue
April 12, 2006

MINNESOTA • REVENUE

February 1, 2006

To the members of the Legislature of the State of Minnesota:

I am pleased to present to you this report on the assessment and classification of agricultural land including land enrolled in the green acres and agricultural preserve programs (both high and low values) within the State of Minnesota undertaken by the Department of Revenue in response to Minnesota Laws 2005, First Special Session Chapter 3, Article 1, Section 37.

This report focuses on the green acres program and provides a summary of assessment practices as well as recommendations to improve the uniformity of assessment and application of the green acres program.

Sincerely,

Daniel A. Salomone
Commissioner

Per Minnesota Statute 3.197, any report to the Legislature must contain, at the beginning of the report, the cost of preparing the report, including any costs incurred by another agency or another level of government.

This report cost \$44,000.

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Legislative charge and working committee

This report was developed in accordance with Minnesota Laws 2005, First Special Session Chapter 3, Article 1, Section 37 which states in part that:

- (a) *Recognizing the importance of uniform and professional property tax assessment and classification practices, the commissioner of revenue, in consultation with appropriate stakeholder groups, shall develop and issue two reports to the chairs of the house and senate tax committees. The reports shall include an analysis of existing practices and provide recommendations, where necessary, for achieving higher quality and uniform assessments and consistency of property classifications.*
- (b) *The first report will be issued by February 1, 2006, and will address the following property types:*
 - (1) *agricultural land including land enrolled in the green acres and agricultural preserve programs (both high and low values);...*

We narrowed the scope of this report and focused primarily on the green acres issue because the review and evaluation of this policy proved to be more complex and involved than originally anticipated.

In preparation for issuing this report, the Department of Revenue formed a committee that was composed of department staff members and assessors. Members of the committee include:

- Steve Hacken, County Assessor, Winona County, MAAO Region 1;
- Jim Hallstrom, County Assessor, Martin County, MAAO Region 2;
- Randy DesMarais, County Assessor, Wright County, MAAO Region 3;
- Marty Schmidt, County Assessor, Crow Wing County, MAAO Region 4;
- Dean Champine, County Assessor, Lyon County, MAAO Region 5;
- Carol Schutz, County Assessor, Chippewa County, MAAO Region 6;
- Bob Moe, County Assessor, Ottertail County, MAAO Region 7;
- Steve Carlson, County Assessor, Polk County, MAAO Region 8;
- Gloria Pinke, Manager, Dakota County, MAAO Region 9;
- Bill Effertz, Assistant County Assessor, Hennepin County, MAAO Region 9;
- Gordon Folkman, Director, Property Tax Division, Department of Revenue;
- John Hagen, Manager, Information and Education Section, Property Tax Division, Department of Revenue;
- Jacque Betz, Appraiser, Information and Education Section, Property Tax Division, Department of Revenue;
- Joan Seelen, Appraiser, Information and Education Section, Property Tax Division, Department of Revenue;
- Al Heim, Regional Representative, Property Tax Division, Department of Revenue;
- Lloyd McCormick, Regional Representative, Property Tax Division, Department of Revenue;
- Steve Hurni, Regional Representative, Property Tax Division, Department of Revenue; and
- Lance Staricha, Attorney, Appeals and Legal Services Division, Department of Revenue.

The following legislative staff members were also invited to attend the committee meetings and participate in the discussions:

- Karen Baker, Legislative Analyst, Research Department, Minnesota House of Representatives;
- Steve Hinze, Legislative Analyst, Research Department, Minnesota House of Representatives;
- Jack Paulson, Analyst, Minnesota Senate; and
- JoAnne Zoff Sellner, Director of Counsel/Research/Fiscal Policy Analysis, Minnesota Senate.

Executive summary

Summary of issues faced in developing this report

Green acres, or the Minnesota Agricultural Property Tax Law, was enacted in 1967 and has been amended nearly 30 times since it was enacted. When the law was first enacted, the intent was to address economic development influences and agricultural land values in the seven-county metropolitan region. However, since 1967, the use of green acres has spread to 43 counties and approximately 445 townships throughout the state, and the nonagricultural factors now include recreational and other *investment* market influences.

Since it was enacted, the law has received little review or analysis which has affected, in part, the way in which data has been reported and the way the law has been administered. As a result, when the working committee was formed and began its review, it quickly realized that this was not going to be an easy task. The primary issues that the committee faced in trying to evaluate the green acres law include:

- Current and reliable data does not exist, or is not readily available, which identifies and measures the production potential of agricultural land in a way that is applicable for agricultural value/green acres purposes. Without data that measures the production potential of agricultural land on a statewide basis, we are unable to compare the sales of agricultural land with other agricultural lands that have similar growing characteristics.
- Data problems also exist with respect to uniform and consistent definitions for land use – tillable, pasture, woods, waste, etc. The problem is that counties differ in how they define, identify, and report this information. This affects the comparability of land values throughout the state.
- Identification of *nonagricultural* influences is less clear today than it was 10 to 30 years ago. Commonly thought of nonagricultural factors would include residential and commercial development and more recently hunting and recreational influences. However, over the last several years, market speculation and other financial motives are coming into play in many agricultural transactions. For example, does the *higher* price paid for agricultural land, which remains in agricultural use, reflect a buyer's *current* anticipated production value or *future* market speculation? Is the future speculation based upon agricultural production value or nonagricultural factors? In recent years, investment decisions may have also been driven by a shift away from stocks and bonds to real estate or investors seeking tax shelters.

Given these challenges, this report provides recommendations (or seeks clarification) on several green acres issues in context of current law. In most cases, legislation is not required, but a more active role by the department to communicate guidelines and facilitate uniform practices is needed. The primary issues addressed in this report are:

- What is the legislative intent of the green acres law?
- When should or shouldn't green acres be implemented?
- How should agricultural (green acres) values be determined?
- Other issues addressed include:
 - Requirements to be eligible for green acres;
 - Application and reapplication procedures; and
 - Payback provision.

Summary of recommendations

- **What is the Legislative intent of the green acres law?** While the stated intent of the law seems to be to equalize tax burdens (values) on agricultural land with similar growing capacity, administering the law as it is currently written may not be practical or easily accomplished. Current markets, diverse circumstances throughout the state, and data issues pose significant challenges in achieving the stated purpose of the green acres law. **Recommendations:** The committee, at this time, does not have any recommendations per the legislative intent of the green acres provisions. This is a policy issue that goes beyond the scope of the legislatively mandated report. However, the committee recommends that the legislature review the law and its stated purpose and clarify the intent as it deems appropriate.

The committee does recommend, however, that the department continue to analyze agricultural values throughout the state and try to achieve as much uniformity as possible. To do this, the department needs current, reliable, and comparable measures of agricultural land quality and more uniform and consistent data for both tillable and non-tillable agricultural land. The committee also recommends that the department take a more active role in facilitating inter-county regional meetings to address agricultural border value issues and concerns.

- **When should or shouldn't green acres be implemented?** Current law indicates that green acres be implemented, upon application, if *nonagricultural* market influences are present. **Recommendations:** The committee recommends that the department develop guidelines to assist assessors in determining when nonagricultural factors are present.

The guidelines would recognize that assessor judgment and knowledge of his/her local agricultural market must be relied upon. However, in order to achieve greater uniformity in the decision to implement green acres, the guidelines would indicate that assessors can't just rely on *feelings*; they have to identify factors or criteria to support the decision. The committee recommends that the department develop criteria that assessors should consider when determining if nonagricultural influences may be present and whether or not it's appropriate to implement green acres. These criteria would include, but not necessarily be limited to:

- Properties with water frontage (lakeshore, river, streams, etc.);
- Growth areas in and around cities;
- Agricultural land in areas where like lands are transitioning to other uses such as residential, seasonal, recreational, and commercial/industrial (identified through change-of-use sales);

The committee also concurs with the position of the International Association of Assessing Officers (IAAO) on 1031 exchanges. The committee concluded that investment market influences like 1031 exchanges or the *belief* that land sold for more than it can support agriculturally are not by themselves reasons to implement green acres. If these influences are present, the assessor needs to see if any of the criteria identified in the guidelines are also present. If they are, then the assessor should be compelled to implement green acres, if they are not present, then implementation of green acres may not be appropriate.

- **How should the assessor determine the agricultural value?** Current law specifies that the assessor should determine the agricultural value by using agricultural sales outside the seven-county metropolitan region. However, the committee believes that it is becoming increasingly difficult to identify *true* agricultural sales. The limited number of agricultural-to-agricultural sales in many parts of the state contributes to a lack of uniformity in assessment practices. The committee also recognizes that estimating agricultural value for non-tillable agricultural land is more challenging than estimating value for tillable land.

Tillable agricultural value: Recommendations: Given current law, the committee recommends that the assessor should use agricultural-to-agricultural sales for tillable or primarily tillable properties from within the county, and compare these values with neighboring counties to address border equity issues. If there are not enough tillable agricultural sales within the county, the assessor should look to tillable agricultural sales in neighboring counties. If there aren't any or too few comparable tillable agricultural sales in neighboring counties, then the assessor should consult with Department of Revenue's regional representatives to arrive at an appropriate agricultural value. The committee recommends that counties should not use capitalized rents by themselves to determine the agricultural value.

Current approaches to estimate non-tillable agricultural (green acres) values: As difficult as it is to accurately estimate the value of tillable lands, we have found it to be infinitely more difficult to come up with a meaningful value measure for non-tillable lands. Since the concept of an ad valorem property tax was implemented, debate has raged over what, if any, contributory value woodlands and waste add to the agricultural value of a farm. Years ago, farmland was reportedly sold based upon the amount of tillable acres with the woods and wasteland "thrown in." In today's market, in many parts of the state, the opposite is now often true. Because of unparalleled demand for woods and even swampy or waste type land, the greatest demand and hence the greatest value is now often attributable to the wooded lands with small tillable tracts arguably being "thrown in." While it is often a rather simple matter to estimate the highest and best use value for woods and waste, determining the contributory value to the farm has never been more difficult. ***Recommendations:*** Additional discussion, analysis and study will be necessary to determine how to develop an agricultural (green acres) value for non-tillable agricultural land.

Alternative approaches to estimate agricultural (green acres) values: While it may be difficult to prove or disprove the statement "there are no true agricultural sales in Minnesota," it is very apparent that true agricultural sales are rapidly diminishing. The limited number of agricultural sales contributes to the lack of uniformity statewide and makes administering the program as specified under current law very difficult to administer. ***Recommendations:*** If the legislature wants something other than agricultural sales to determine the agricultural (green acres) value, then a law change is needed. It should also be pointed out that the department doesn't have an alternative agricultural value methodology to use – cash rents, production values, and other approaches have problems and more analysis is needed to develop an alternative. The committee would also like to emphasize that assessors are far more successful in estimating highest and best use values and are far more challenged in trying to estimate use values. If the sales approach remains the statutorily required method for establishing the agricultural (green acres) value, another *potential* approach would have the Department of Revenue identify agricultural (green acres) values based on sales of agricultural lands located in the western portions of the state. These values could be extracted and applied to other counties horizontally across the state. This horizontal application of values would help to ensure that lands with similar growing degree days are treated similarly.

- **Requirements to be eligible for green acres**

- **What are the size requirements for property to qualify for green acres?**

Recommendations: Excluding nurseries and greenhouses, the property must have a minimum of 10 acres used for agricultural purposes or it must meet the exclusive and intensive use requirement to qualify for the agricultural class. Exclusively and intensively includes operations such as turkey farms, hog confinement facilities, truck farms and feedlots. In addition, we recommend that the legislature examine the 10-acre requirement and determine if this small acreage requirement is accomplishing the desired intent of the green acres program. As a result of the small acreage requirement and the minimal income requirements, many small suburban *hobby farms* are benefiting from the green acres program. We would recommend that any

upward acreage change include a grandfather provision for properties receiving green acres treatment under the current acreage requirement until they change ownership or otherwise no longer qualify.

- **Should split-class properties qualify for green acres? *Recommendations:*** Compelling arguments can be made for each side of the issue. Therefore, legislative clarification is needed to resolve this issue and establish uniformity among the counties.
- **If the property is deeded to a limited liability company (LLC), does the seven-year clock restart? *Recommendations:*** We recommend that in instances in which the new owner is an entity and the owners would have qualified if they had applied as individuals, the land should be granted green acres treatment (assuming the entity is authorized to farm under Minnesota Statutes, Section 500.24 and the other requirements continue to be met). For example, Bob could deed his farm directly to an LLC comprised of his three sons, and they can apply and qualify because as individuals they would meet the seven-year ownership requirement.
- **Can a fractional ownership interest qualify for green acres? *Recommendations:*** Due to the inconsistency in application, we recommend that the green acres statute be changed to clarify that fractional interests do not qualify unless all owners qualify. However, when making this clarification in statute, we also recommend that it include a grandfather provision for fractional ownership interests already receiving green acres treatment.
- **What are the income requirements and should they be increased?** The initial income guidelines (\$750 per year plus \$25 per acre), established in 1967, were actually lowered in 1969 and have not changed since. A June 1999 study, *Evaluation of Minnesota Agricultural Land Preservation Programs*, prepared for the Minnesota Department of Agriculture, recommended that the income requirements be raised to \$200 dollars per acre in order to strengthen eligibility requirements for green acres. ***Recommendations:*** We recommend that the legislature review the income requirements. However, we must caution that increasing these levels could result in significant regional impacts and consideration may need to be given to regional income requirements.
- **Application and reapplication procedures**
 - **What are the application procedures? *Recommendations:*** The assessor should let the property owner know that he/she will be notified when green acres is implemented in his/her area. When it does become appropriate to apply green acres, the assessor should exercise due diligence in notifying property owners about the existence of the program including qualification requirements and the application process. The department will also consider requiring all counties to provide a rationale to the department for approving or denying green acres applications.
 - **What are the reapplication procedures?** By specifying annual income requirements, current law implies that an annual application is necessary, and the department has made this recommendation in the past. The department could develop a simplified green acres reapplication form to be used after green acres treatment has initially been approved. However, assessors voiced concerns about the high burden on the assessor's office to administer an annual reapplication process. ***Recommendations:*** We recommend that the statute be changed to clarify this issue. The green acres law should either specify that an annual reapplication is necessary (form to be developed by the department) or provide specific direction for monitoring the income requirements.

- **Payback provisions**
 - **Is the payback provision too complicated?** *Recommendations:* Since changing the payback provision potentially could result in a higher payback than the actual difference in taxes over the past three years and counties with an established process do not perceive it to be too complicated, we think that the current process is satisfactory. However, we would be open to alternative approaches.
 - **Is a payback required on linked property when one parcel in a chain is sold?** The law only requires payment on the “*portion no longer qualifying.*” *Recommendations:* We recommend that the payback should only be calculated on that portion that no longer qualifies. The payback should be calculated on an entire parcel if the entire parcel no longer qualifies. If a parcel is split and a portion of it no longer qualifies, the payback should only be calculated for the portion that no longer qualifies. A payback should not be required for property that continues to qualify for green acres.
 - **Is a payback required if property no longer meets the income requirements?** Confusion likely arises from the provision in Minnesota Statutes, Section 273.111, subdivision 3, paragraph (c). *Recommendations:* It is our opinion that this language is archaic and should be deleted from statute so the payback provision will be applied more uniformly.

Overview and background

In our estimation, the green acres program was originally intended to be implemented in the seven-county metropolitan area to address *urban* economic influences on agricultural land. In the earlier years of the program, it was easier to recognize nonagricultural influences as they were primarily due to development. In addition, it was easier to develop the agricultural value because the assessor could use sales in areas with no development pressure.

In recent decades, other nonagricultural influences such as recreation, hunting, investments, etc., have influenced agricultural values. As a result, since 1967, the use of green acres has spread to 43 counties and approximately 445 townships throughout the state where the quality and use of agricultural land and agricultural influences can vary significantly (see Figure 1 on page 7). These nonagricultural influences are more difficult to recognize and are very widespread. This makes it much more difficult for the assessor to develop the agricultural (green acres) value.

Green Acres Parcels as a Percent of All Farm Parcels

2005 Assessment
By City/Town

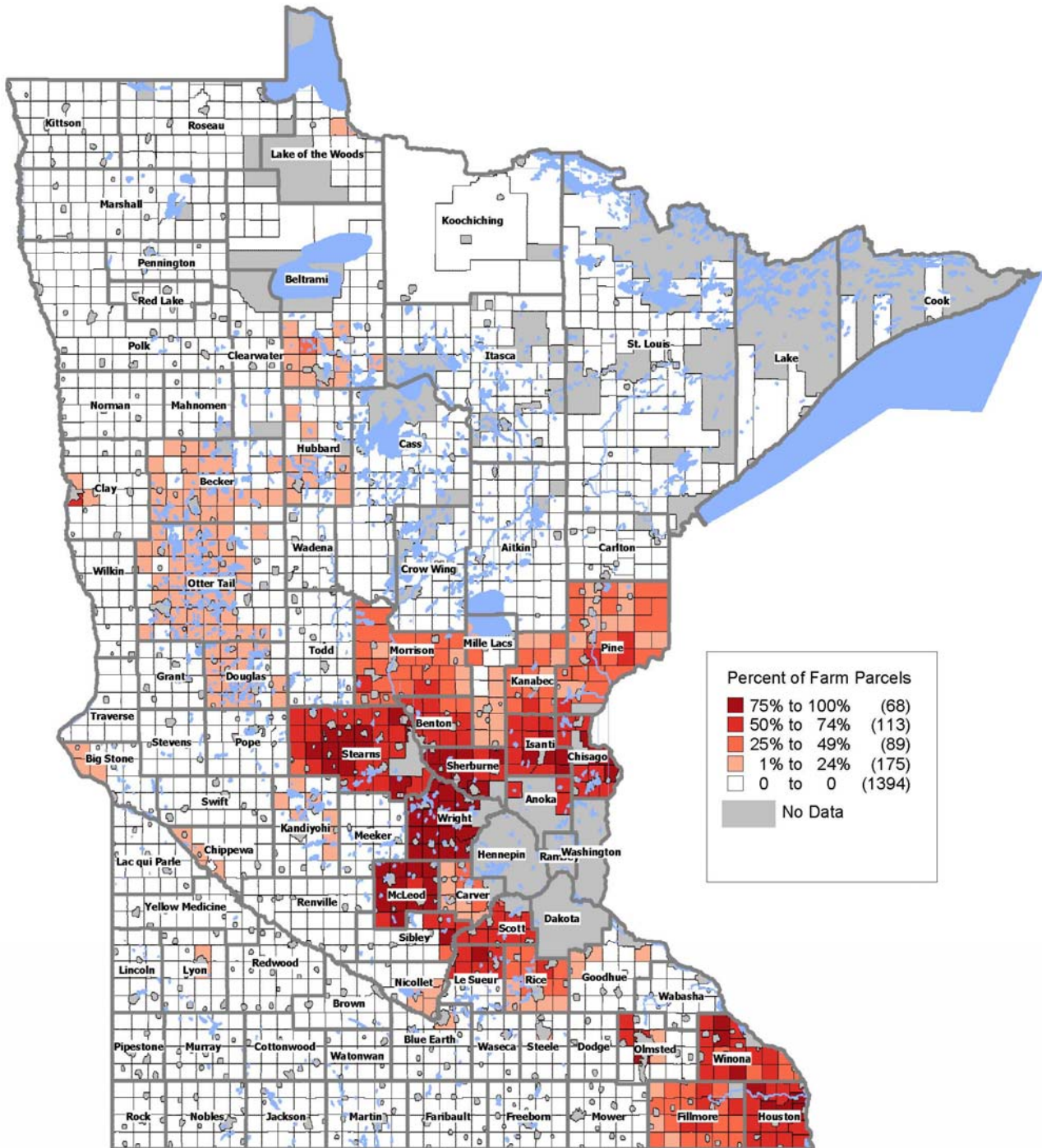


Figure 1: Green Acres Parcels as a Percent of All Farm Parcels

Source: Minnesota Department of Revenue

Date Prepared: January 31, 2005

Analysis and recommendations

What is the legislative intent of the green acres law?

Analysis:

Minnesota Statutes, Section 273.111, subdivision 2 provides the intent of the law:

*The present general system of ad valorem property taxation in the state of Minnesota does not provide an equitable basis for the taxation of certain agricultural real property and has resulted in inadequate taxes on some lands and excessive taxes on others. **Therefore, it is hereby declared to be the public policy of this state that the public interest would best be served by equalizing tax burdens upon agricultural property within this state through appropriate taxing measures.*** (emphasis added)

The stated intent seems pretty straightforward – to equalize tax burdens (*values*) on agricultural land (with similar growing capacity and used for agricultural purposes). In Minnesota Statutes, Section 273.111, subdivision 4, the law also states that land with similar soil types, number of degree days, and other similar agricultural characteristics should be *valued* the same. When the law was first enacted, the primary concern was focused on economic development influences on agricultural land in the seven-county metropolitan region. The practical administration of the law was to equalize valuation on agricultural land in the metropolitan area with *similar* agricultural land located just outside the seven-county area. Since 1967, however, the use of green acres has spread to many other regions of the state (see map on page 7). The agricultural quality and relative value of the land now affected varies far more significantly when implemented on a statewide basis than in just one subregion of the state. Is the intent of the law to truly equalize the *agricultural* value on *similar* agricultural land throughout the state? That is to say, should land, used for agricultural purposes in Dakota County be valued the same as *similar* agricultural land located in Lincoln County? If the answer to this question is yes, then the law assumes that we have the ability to measure and compare the quality of agricultural land throughout the state. However, current and reliable data does not exist, or is not readily available, which identifies and measures the production potential of agricultural land in a way that is applicable for agricultural value/green acres purposes. The University of Minnesota (U of M) has developed Crop Equivalent Ratings (CER), which is an index of soil type quality, growing degree days, potential for erosion, propensity toward flooding or draught, etc. This analysis was last done in 1995, and was never completed throughout the entire state due, in part, to the high cost in doing so. As of 2005, the U of M no longer supports CERs due to resource limitations. In addition, existing CER data has many quality issues. For example, a CER of 80 in one county is not equivalent to a CER of 80 in another county. Another issue with this data is that CERs were never recalibrated for increases in productivity. Without data that measures the production potential of agricultural land on a statewide basis, we are unable to compare the sale of agricultural land in one part of the state with other agricultural land that has similar growing characteristics in another part of the state.

A lack of consistency and uniformity in land use also became apparent. Counties are not consistent in how they define and identify tillable land and agricultural non-tillable land such as pastures, woodlots, and waste lands. A lack of consistency and uniformity in documenting the presence of water frontage (i.e. lakeshore or river frontage) also became evident. To make meaningful comparisons for green acres purposes and for assessment practices in general, consistent terminology and accurate documentation of land use is important.

The committee also recognizes that the data issue may pose a significant cost and administrative challenge to the counties and to the state. Obtaining useful data may require more than a change in reporting. It may also require developing new information.

Another important issue is whether the intent of the law is to *preserve* agricultural land. In the past, there have been references that one purpose of the green acres law is preserving agricultural land. In *Barron v. County of Hennepin*, 488 N.W.2d 290 (Minn. 1992), the Minnesota Supreme Court stated that the green acres statute “*was designed to provide significant property tax relief to promote the continued use as agricultural property...*” Variations of this statement have been widely repeated by the department and others.

A February 1978 report by the Research Department of the Minnesota House of Representatives addressed the intent of the law and recommended that “*Legislators address and clarify the purpose of the Green Acres Law. A dichotomy of expectations arises over whether the law is to provide tax benefits to farmers, or to preserve agricultural land from urban development. As long as opposing sides can support divergent views as to the function of the law, it likely will not fulfill the hopes of either side.*”

While preservation of agricultural land may be an intended result of the green acres program, it is not specifically identified in current law. The only stated purpose in the law is to equalize tax burdens (*values*). If agricultural preservation is intended, it should be specified and clarified in statute.

Recommendations:

While the stated intent of the law seems to be to equalize tax burdens (*values*) on agricultural land with similar growing capacity, administering the law as it is currently written may not be practical or easily accomplished. Current markets, diverse circumstances throughout the state, and data issues pose significant challenges in achieving the stated purpose of the green acres law. The committee, at this time, does not have any recommendations per the legislative intent of the green acres provisions. This is a policy issue that goes beyond the scope of the legislatively mandated report. However, the committee recommends that the legislature review the law and its stated purpose and clarify the intent as it deems appropriate.

The committee does recommend, however, that the department continue to analyze agricultural values throughout the state and try to achieve as much uniformity as possible. To do this, the department needs current, reliable, and comparable measures of agricultural land quality and more uniform and consistent data for both tillable and non-tillable agricultural land.

The committee also recommends that the department take a more active role in facilitating inter-county regional meetings to address agricultural border value issues and concerns.

When should green acres be implemented?

Analysis:

The law does not specifically identify criteria for the assessor to use to determine if green acres should be implemented. Minnesota Statute, Section 273.111, subdivision 4 provides that:

“...the assessor shall not consider any added values resulting from nonagricultural factors.”

Guidelines from the department to help the assessor recognize that it may be appropriate to apply green acres have been limited. It might be fair to assume that, in prior years, there were fewer nonagricultural influences (primarily development pressure) and true agricultural markets were more prevalent. Indicators specified by the department have included:

- Development pressure;
- Transition from agricultural to residential; and
- Recreational or hunting pressure.

This list does not include 1031 agricultural land exchanges, which have become more prevalent in the market in recent years. The committee, in general, tends to believe that these sales may be part of the agricultural market. A September 1985 bulletin from the department also addressed this issue by stating that “...speculation exists in all real estate when capital gains are expected upon disposal of the property...”

According to the survey of counties, county assessors mentioned the following *nonagricultural* indicators for determining when to implement green acres:

- Lakeshore and rivers;
- Dramatically increasing land values;
- Along highways;
- Around cities;
- No longer seeing true agricultural sales;
- Development and transition from agricultural to residential, seasonal and/or commercial;
- Rapid growth of the market for non-tillable land (previously this land was throw in with tillable land);
- Agricultural land being purchased for hunting or recreational purposes;
- Buyers indicating speculation on long-term development; and
- Lesser quality land (based on CER ratings) selling for more than higher quality lands; and
- 1031s.

Relying on a vague concept such as *nonagricultural* influences and assessor *judgment* has contributed to a lack of uniformity in application of the green acres law. The legislature needs to be aware that, given the current market, it may be difficult to determine if a sale reflects a *true* agricultural sale or if nonagricultural factors affected the sale price. Some are prepared to argue that there are no true agricultural sales in the state. A sale from “one farmer to another farmer” may not indicate an agricultural sale. Such a sale may only be viable if the buyer is expanding his/her land holdings, which makes the average cost per acre feasible, or if the farmer purchasing the property is depending on government subsidies and appreciation that will be realized when the property is sold.

Recommendations:

Current law indicates that green acres be implemented, upon application, if *nonagricultural* market influences are present. The committee recommends that the department develop guidelines to assist assessors in determining when nonagricultural factors are present.

The guidelines would recognize that assessor judgment and knowledge of his/her local agricultural market must be relied upon. However, in order to achieve greater uniformity in the decision to implement green acres, the guidelines would indicate that assessors can’t just rely on *feelings*; they have to identify factors or criteria to support the decision. The committee recommends that the department develop criteria that assessors should consider when determining if nonagricultural influences may be present and whether or not it’s appropriate to implement green acres. These criteria would include, but not necessarily be limited to:

- Properties with water frontage (lakeshore, river, streams, etc.);
- Growth areas in and around cities;
- Agricultural land in areas that are transitioning to other uses such as residential, seasonal, recreational, and commercial/industrial (identified through change of use sales);

The committee also concurs with the position of the International Association of Assessing Officers (IAAO) on 1031 exchanges. The committee concluded that investment market influences like 1031 exchanges or the *belief* that land sold for more than it can support agriculturally are not by themselves reasons to implement green acres. If these influences are present, the assessor needs to see if any of the criteria identified in the guidelines are also present. If they are, then the assessor should be compelled to implement green acres, if not, then implementation of green acres may not be appropriate.

How should the assessor determine the agricultural (green acres) value?

Analysis:

Minnesota Statutes, Section 273.111, subdivision 4 provides:

The value of any real estate described in subdivision 3 shall upon timely application by the owner, in the manner provided in subdivision 8, be determined solely with reference to its appropriate agricultural classification and value notwithstanding sections 272.03, subdivision 8, and 273.11. In determining the value for ad valorem tax purposes, the assessor shall use sales data for agricultural lands located outside the seven metropolitan counties having similar soil types, number of degree days, and other similar agricultural characteristics. Furthermore, the assessor shall not consider any added values resulting from nonagricultural factors. (emphasis added)

The current law is ambiguous about the specific method for determining the agricultural (green acres) value, but it currently suggests that the assessor use sales data that reflects a continuation of agricultural use.

It appears that the most recent Department of Revenue guidelines for determining the agricultural (green acres) value were distributed to assessors on October 23, 1998. As a follow-up to a meeting with the department staff and county assessors, the memo recapped two suggestions made for arriving at the agricultural value. The first was to use cash rents and a capitalization rate and the second approach was to have the counties work together to establish bench marks for their region for both tillable and non-tillable values based on agricultural use sales and soil quality indicators. In the memo, the department determined that there would be problems with using the first approach because information on cash rents was not being collected. In addition, reluctance on the part of the landowner to reveal information about cash rents was also cited as a problem. Therefore, the department recommended that assessors use the second approach in determining the agricultural value. If there are no true agricultural sales within the county, then the memo instructed the assessor to “look in predominately agricultural counties to find the values of land with similar soil types and conditions.”

It should also be noted that, in 1985, the department recommended that cash rents be used because the law did not specify that “sales data” be used to determine the agricultural value until 1989.

Current approaches to estimate tillable agricultural (green acres) values: Based on a survey conducted by the green acres committee and a follow up by the department, it was determined that counties use several different valuation methods to establish the value of tillable lands. Some assessors attempt to ascribe values based upon the soil’s potential productivity. At its most basic level, this takes the form of an A, B, C rating system. A more complicated measure of potential soil productivity is Crop Equivalent Ratings (CERs) which build factors such as growing degree days, erosion potential and slope into an overall soil productivity rating. Other assessors have gone to more purely market-driven determinations such as upland/lowland or tillable/non-tillable. Interestingly enough, in some counties, particularly those experiencing the greatest external nonagricultural market pressure, the method of arriving at a per acre agricultural (green acres) value and a per acre agricultural estimated market value may be totally different. For example, the seven metropolitan counties are statutorily required to “borrow values” from more typically agricultural counties outside of the metropolitan area to establish the agricultural (green acres) value. Other counties that are also experiencing significant valuation pressures from nonagricultural factors may, in theory, value their agricultural lands based upon the soil’s potential, e.g. A, B, C. However, the actual green acres value determination often has nothing to do with the soil’s productivity but is instead more reflective of a contrived value thought to reflect agricultural worth. Another survey conducted by the committee provides an explanation of how counties determine agricultural (green acres) values (see Question 3 on page 34).

The results of the survey are shown below and are displayed on the map on page 13. As can be seen on the map, there seems to be a pattern: those counties having a high level of agricultural activity tend to use the more sophisticated CER method, and those counties in the central and northeast regions, where agricultural activity is not as predominant, appear to be more likely to value soils based upon a more simplified manner, which likely also is more reflective of how the land is actually bought and sold. A brief description of each method is provided below.

- CER adjusted (40)
- A, B, C (24)
- Tillable / Non-tillable / Waste (7)
- Tillable / Non-tillable (4)
- Upland / Lowland (5)
- Borrowed values (7)

CER Adjusted: Tillable land values are based upon CERs that consider soil quality, drainage, slope, potential for erosion, growing days, etc. There are many variations for valuing non-tilled lands. Some value woodlands as a percentage of the CER-based value. One county, Waseca, does not differentiate between tillable and non-tillable but values all land based upon its CER. The CER valuation method seems to be most popular in areas of the state having the most agricultural activity.

ABC: This is the oldest method of valuing agricultural land. “A” land is land that is thought to be the best or most productive farm land; “B” land is the next best; and “C” land is the next best, etc. One county reportedly carries this system out nine places to “I.” This system can be a remarkably accurate measure of the quality of farmland. How well this system accurately identifies the quality of farm land is often dependent on participation and information provided by town board supervisors regarding the quality of farm land.

Tillable/Non-Tillable/Waste: This method breaks land into three categories: land that is tilled, land that is not tilled, and waste. This valuation method is largely concentrated in an area directly north of the twin cities metro area. Although very simplistic, this system may be a good measure of the way land is bought and sold in that part of the state.

Tillable/Non-Tillable: This method breaks land into two categories: land that is tilled and land that is not tilled. This is a further simplified version of the tillable/non-tillable/waste valuation method. This valuation method is largely concentrated in the north-central area of Minnesota. Although very simplistic, this system may be a good measure of the way land is bought and sold in that part of the state.

Upland/Lowland: This method breaks land into two categories: highland and lowland. This system does not differentiate between the use of the land, e.g., tillable or non-tillable. Instead, it bases the valuation on the land’s elevation and its resulting use potentials. This valuation method is very popular in northeastern Minnesota. Although very simplistic, it likely approximates the way land is bought and sold in that part of the state.

Borrowed Values: This method is based on the statutory practice/requirement that assessors use valuation data from “outside the seven metropolitan counties.” Valuation data is obtained from non-metropolitan counties having similar soil types, number of degree days, and other similar agricultural characteristics.

Ag Valuation Practices

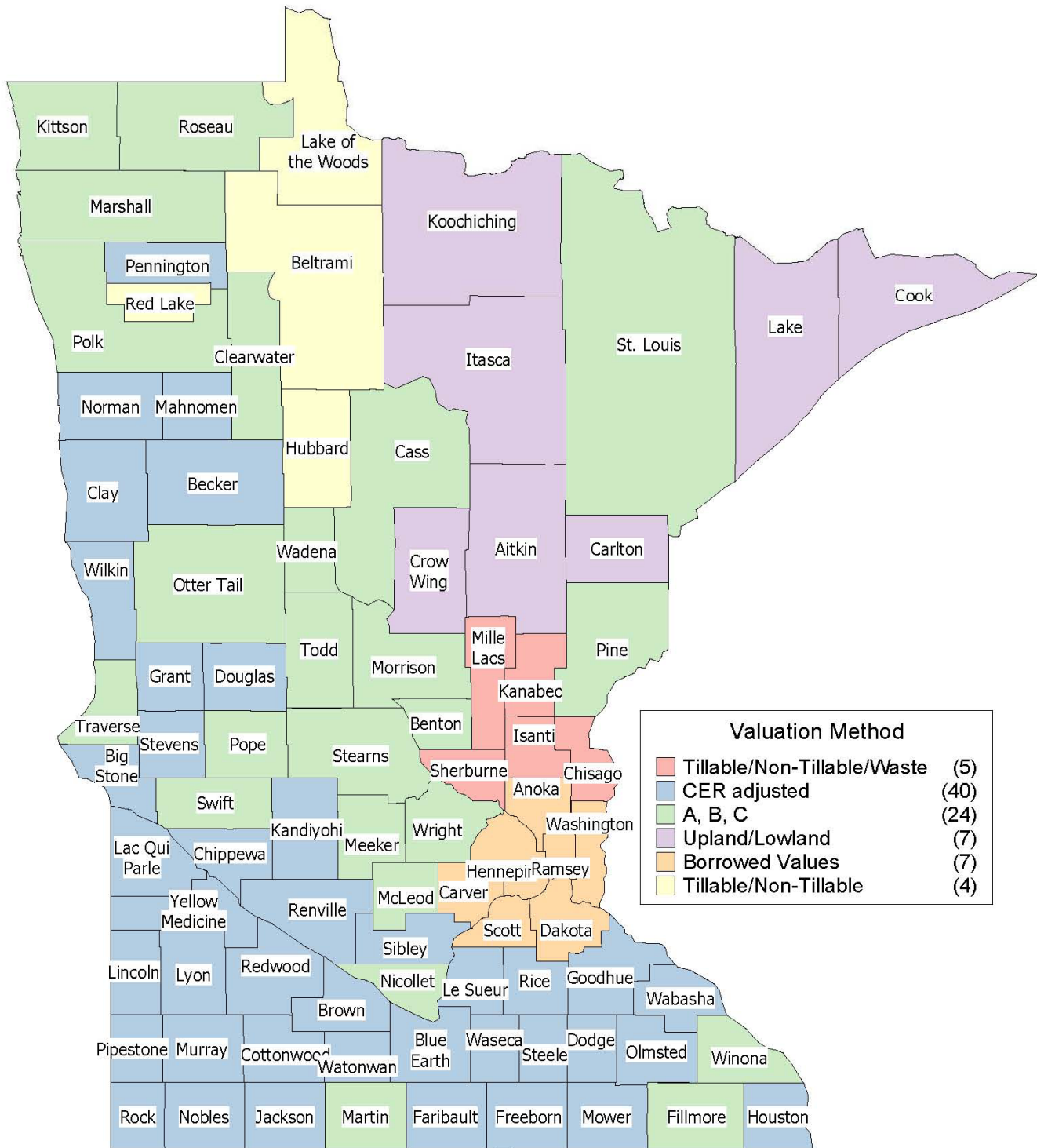


Figure 2: Ag Valuation Practices
 Source: Minnesota Department of Revenue
 Date Prepared: September 16, 2006

Recommendations:

Current law specifies that the assessor should determine the agricultural value by using agricultural sales outside the seven-county metropolitan region. However, the committee believes that it is becoming increasingly difficult to identify *true* agricultural sales. The limited number of agricultural-to-agricultural sales in many parts of the state contributes to a lack of uniformity in assessment practices. The committee also recognizes that estimating agricultural value for non-tillable agricultural land is more challenging than estimating value for tillable land.

Current approaches to estimate tillable agricultural (green acres) values: Given current law, the committee recommends that the assessor should use agricultural-to-agricultural sales for tillable or primarily tillable properties from within the county, and compare these values with neighboring counties to address border equity issues. If there are not enough tillable agricultural sales within the county, the assessor should look to tillable agricultural sales in neighboring counties. If there aren't any or too few comparable tillable agricultural sales in neighboring counties, then the assessor should consult with Department of Revenue's regional representatives to arrive at an appropriate agricultural value. The committee recommends that counties should not use capitalized rents by themselves to determine the agricultural value.

Current approaches to estimate non-tillable agricultural (green acres) values: As difficult as it is to accurately estimate the value of tillable lands, we have found it to be infinitely more difficult to come up with a meaningful value measure for non-tillable lands. Since the concept of an ad valorem property tax was implemented, debate has raged over what, if any, contributory value woodlands and waste add to the agricultural value of a farm. Years ago, farmland was reportedly sold based upon the amount of tillable acres with the woods and wasteland "thrown in." In today's market, in many parts of the state, the opposite is now often true. Due to unparalleled demand for woods and even swampy or waste type land, the greatest demand, and hence the greatest value, is now often attributable to the wooded lands with small tillable tracts arguably being "thrown in." While it is often a rather simple matter to estimate the highest and best use value for woods and waste, determining the contributory value to the farm has never been more difficult. Significant additional discussion, analysis and study will be necessary to determine how to develop an agricultural (green acres) value for non-tillable agricultural land.

Alternative approaches to estimate agricultural (green acres) values: While it may be difficult to prove or disprove the statement "there are no true agricultural sales in Minnesota," it is very apparent that true agricultural sales are rapidly diminishing. The limited number of agricultural sales contributes to the lack of uniformity statewide and makes administering the program as specified under current law very difficult to administer. If the legislature wants something other than agricultural sales to determine the agricultural (green acres) value, then a law change is needed. It should also be pointed out that the department doesn't have an alternative agricultural value methodology to use – cash rents, production values, and other approaches have problems and more analysis is needed to develop an alternative. The committee would also like to emphasize that assessors are far more successful in estimating *highest and best use* values and are far more challenged in trying to estimate *use* values.

If the sales approach remains the statutorily required method for establishing the agricultural (green acres) value, another potential approach that became the subject of extensive discussion proposed that the Department of Revenue identify agricultural (green acres) values based on sales of agricultural lands located in the western portions of the state. It could be argued that agricultural sales in these counties presently have little nonagricultural influences (or at least fewer nonagricultural influences than other areas of the state). These values could be extracted and applied to other counties horizontally across the state. This horizontal application of values would help to ensure that lands with similar growing degree days are treated similarly. As an example, it is generally agreed that Traverse County has few nonagricultural influences affecting

value. Consequently, land sales in Traverse County could be used to determine per acre valuation data that could be recommended to counties going easterly across the state. As part of this proposal, discussions included the potential to allow minor adjustments (i.e., A, B, and C) to at least recognize differences in soil quality. Counties would be allowed to use a lesser value only if they had the sales data to support that determination. It should be noted that this approach would likely only be a short-term solution. If nonagricultural influences become more prevalent in the western counties, we would be facing many of the same difficulties in developing the agricultural (green acres) value as we do today.

Requirements to be eligible for green acres

1. What are the size requirements for property to qualify for green acres?

Analysis:

Minnesota Statutes, Section 273.111, subdivision 3, paragraph (a) provides:

Real estate consisting of ten acres or more or a nursery or greenhouse, and qualifying for classification as class 1b, 2a, or 2b under section 273.13, subdivision 23, paragraph (d), shall be entitled to valuation and tax deferral under this section only if it is primarily devoted to agricultural use, and meets the qualifications in subdivision 6, and either:...

The department is in the process of recommending the reference to “*section 273.13, subdivision 23, paragraph (d)*” be changed to “*section 273.13.*” To receive green acres, the property must be classified as agricultural. Excluding nurseries and greenhouse, in order to qualify for the agricultural class, “*contiguous acreage of ten acres or more*” must be used during the preceding year for agricultural purposes or, in the case of “*real estate, excluding the house, garage, and immediately surrounding one acre of land, of less than 10 acres,*” it must be “*exclusively and intensively used for raising or cultivating agricultural products*” to receive the agricultural class.

Since the ***exclusively and intensively*** requirement pertains to properties of less than 10 acres **after** excluding the house, garage and first acre of land, the department has issued guidelines requiring a minimum of 10 acres to be used for agricultural purposes to receive the agricultural class (i.e. a 10-acre property with a residence would have to meet the ***actively and intensively*** requirement to qualify for the agricultural class).

In the past, the department has issued guidelines for exclusive and intensive use. Examples of such uses include:

- Hog confinement facilities;
- Turkey farms;
- Truck farms; and
- Feedlots.

Some counties are classifying properties of 10 acres as agricultural even if a residence is located on the property (i.e. fewer than 10 acres used for agricultural purposes) without requiring the property to be “*exclusively and intensively used for raising or cultivating agricultural products.*” Other counties require 10 acres in production to meet the requirements of the agricultural class.

Recommendations:

The department's current guidelines should be followed and will be reissued to increase uniformity. Excluding nurseries and greenhouses, the property must have a minimum of 10 acres used for agricultural purposes or it must meet the exclusive and intensive use requirement to qualify for the agricultural class. Exclusively and intensively includes operations such as turkey farms, hog confinement facilities, truck farms and feedlots.

In addition, we recommend that the legislature examine the 10-acre requirement and determine if this small acreage requirement is accomplishing the desired intent of the green acres program. As a result of the small acreage requirement and the minimal income requirements, many small suburban *hobby farms* are benefiting from the green acres program. We would recommend that any upward acreage change include a grandfather provision for properties currently receiving green acres treatment under the current acreage requirement until they change ownership or otherwise no longer qualify.

2. Should split-class properties qualify for green acres?**Analysis:**

Minnesota Statutes, Section 273.111, subdivision 3, paragraph (a) states that the property is eligible for green acres if it is "*primarily devoted to agricultural use and meets the requirements of subdivision 6.*" The vagueness of this language has led to different interpretations and therefore different applications in the counties. In 1997, "*primarily*" was deleted from the agricultural classification statute (section 273.13). That same year, the green acres statute was amended and "*actively and exclusively devoted to agricultural use*" was changed to "*primarily devoted to agricultural use.*"

The department has not issued any guidelines pertaining to green acres on split-class properties. In the past, the department's interpretation was that "*primarily*" was deleted from the agricultural classification statute to allow the agricultural class (split class) for properties with more than one use. Therefore, a logical interpretation would be that adding "*primarily*" to the green acres statute would preclude split-class properties from receiving the green acres. However, the argument could be made that *primarily* doesn't preclude other uses – it could merely mean that the primary use must be agricultural and other uses must be secondary.

Some counties deny green acres on split-class properties due to the primary use requirement. Other counties allow split-class properties to receive green acres treatment.

Recommendations:

Compelling arguments can be made for each side of the issue. Therefore, legislative clarification is needed to resolve this issue and establish uniformity among the counties.

3. If the property is deeded to a limited liability company (LLC), does the seven-year clock restart?**Analysis:**

Minnesota Statutes, Section 273.111, subdivision 3, paragraph (a) states that the property also must meet one of the following:

...(2) has been in possession of the applicant, the applicant's spouse, parent, or sibling, or any combination thereof, for a period of at least seven years prior to application for benefits under the provisions of this section, or is real estate which is farmed with the real estate which qualifies under this clause and is within four townships or cities or combination thereof from the qualifying real estate; or...

Past communications from the department have stated that a transfer from individual(s) to a partnership or limited liability company (LLC) continues to qualify if all of the members are the same as the individuals who previously owned the land (assuming the entity is allowed to farm under Minnesota Statutes, Section 500.24).

Following this rationale, a two-step process would be necessary for the land to continue to qualify in certain situations. For example, Bob owns a farm that is receiving green acres because he has owned it for at least seven years. If Bob deeds his farm to his three sons as individuals, they could notify the assessor, make application and continue to qualify because it would have been owned by the applicants' parent for at least seven years. The three sons could then form an LLC, and because the same individuals comprise the entity, they would continue to receive green acres treatment. However, if the three sons form an LLC, and the father deeds it directly to the LLC, of which his three sons are members, it would only qualify if one of the members homesteads it or after the entity has owned it for at least seven years. Upon closer review, this rationale does not seem logical.

Recommendations:

To avoid the above-mentioned two-step process and to eliminate property from being disqualified because an applicant is not aware of this avenue, we recommend that in instances in which the new owner is an entity and the owners would have qualified if they had applied as individuals, the land should be granted green acres treatment (assuming the entity is authorized to farm under Minnesota Statutes, Section 500.24 and the other requirements continue to be met). In the scenario above, for example, Bob could deed his farm directly to an LLC comprised of his three sons, and they can apply and qualify because as individuals they would meet the seven-year ownership requirement.

4. Can a fractional ownership interest qualify for green acres?

Analysis:

Minnesota Statutes, Section 273.111, subdivision 4 states that green acres treatment depends on a “...*timely application by the owner...*”

A March 26, 1996, letter from the department stated that a fractional green acres benefit would be possible:

We can find nothing in the law that would preclude a qualifying fractional homestead interest from receiving green acres on that interest.

However, a September 15, 1998, letter from the department changed that decision:

Since a person with a fractional undivided interest in the parcel is not the owner, but instead one of the owners, all of the owners would have to make application and meet the GA [green acres] requirements... This does not mean that if there are multiple owners that the property cannot qualify for green acres...if five people apply for GA treatment on a parcel, and together they own a 100 percent interest in the parcel, we would recommend that you accept their joint application as being from ‘the owner’ (assuming they otherwise qualify). However, if four people applied for GA treatment, and together they only owned a total of 99 percent of the outstanding interests in the land, we would recommend that you reject their application (i.e., because it would not be from “the owner” – it would only be from a partial owner).

Some counties allow a fractional interest to receive green acres treatment on that interest, and other counties do not allow it.

Recommendations:

Due to the inconsistency in application, we recommend that the green acres statute be changed to clarify that fractional interests do not qualify unless all owners qualify. However, when making this clarification in statute, we also recommend that it include a grandfather provision for fractional ownership interests already receiving green acres treatment.

5. What are the income requirements and should they be increased?**Analysis:**

Minnesota Statutes, Section 273.111, subdivision 6 provides:

Real property qualifying under subdivision 3 shall be considered to be in agricultural use provided that annually:

- (1) at least 33-1/3 percent of the total family income of the owner is derived there from, or the total production income including rental from the property is \$300 plus \$10 per tillable acre; and*
- (2) it is devoted to the production for sale of agricultural products as defined in section 273.13, subdivision 23, paragraph (e)...*

Department guidelines have stated that the income requirements must be calculated on all acres suitable for tilling whether they are actually being tilled or not. Department guidelines have addressed meeting the income requirements for purchasers of property that is already receiving green acres treatment. In these instances, new owners have one year to meet income requirements or they must pay back taxes.

Recommendations:

The initial income guidelines (\$750 per year plus \$25 per acre) established in 1967 were actually lowered in 1969 and have not changed since. A June 1999 study, *Evaluation of Minnesota Agricultural Land Preservation Programs*, prepared for the Minnesota Department of Agriculture, recommended that the income requirements be raised to \$200 dollars per acre in order to strengthen eligibility requirements for green acres.

We recommend that the legislature review the income requirements. However, we must caution that increasing these levels could result in significant regional impacts and consideration may need to be given to regional income requirements.

Application and reapplication procedures**1. What are the application procedures?****Analysis:**

Minnesota Statutes, Section 273.111, subdivision 8 provides:

Application for deferment of taxes and assessment under this section shall be filed by May 1 of the year prior to the year in which the taxes are payable. Any application filed hereunder and granted shall continue in effect for subsequent years until the property no longer qualifies. Such application shall be filed with the assessor of the taxing district in which the real property is located on such form as may be prescribed by the commissioner of revenue. The assessor may require proof by affidavit or otherwise that the property qualifies under subdivisions 3 and 6.

For some counties, the application process and the green acres program presents some public relations issues. For example, some counties simply say, “we don’t have green acres” and applicants are turned away.

Recommendations:

We have a few recommendations that should help to alleviate potential public relations problems. The counties should have a policy that everyone has the right to apply for the green acres program. Instead of simply turning applicants away, the assessor should accept any applications that are submitted for the program and notify property owners of the outcome. If there isn't a difference between the high and low values, the assessor should explain that the green acres program has not been implemented in that area because nonagricultural factors are not influencing values. The assessor should let the property owner know that he/she will be notified when green acres is implemented in his/her area. When it does become appropriate to apply green acres, the assessor should exercise due diligence in notifying property owners about the existence of the program including qualification requirements and the application process.

As we move forward, the department will consider requiring all counties to provide the rationale for approving or denying all green acres applications. This could be supplied to the department either on an application-by-application basis or via a summary report by township on an annual basis. Specific details will be determined, and the counties will be instructed what and how to report this information.

2. What are the reapplication procedures?**Analysis:**

Minnesota Statutes, Section 273.111, subdivision 8 provides:

Application for deferment of taxes and assessment under this section shall be filed by May 1 of the year prior to the year in which the taxes are payable. Any application filed hereunder and granted shall continue in effect for subsequent years until the property no longer qualifies. Such application shall be filed with the assessor of the taxing district in which the real property is located on such form as may be prescribed by the commissioner of revenue. The assessor may require proof by affidavit or otherwise that the property qualifies under subdivisions 3 and 6.

A February 23, 2001, letter stated as follows:

The Green Acres classification requires an ongoing agricultural use of the qualifying land including additional requirements of:

'at least 33-1/3 percent of the total family income of the owner is derived there from, or the total production income including rental from the property is \$300 plus \$10 per tillable acre;'

These are ongoing annual requirements that must be met each year. The only way compliance can be determined is through annual or at the most, semi-annual reapplication.

A June 7, 2004, letter stated as follows:

The law does not require a reapplication. The agricultural use requirements (income and production for sale of agricultural products) are annual requirements, and the assessor needs to monitor properties that are receiving Green Acres treatment to ensure that these properties continue to meet the requirements.

Therefore, it is not unreasonable to request that an annual application be filed to prove that the property continues to qualify for Green Acres treatment.

Some counties require annual applications, and other counties do not.

Recommendations:

By specifying annual income requirements, current law implies that an annual application is necessary, and the department has made this recommendation in the past. To lessen the burden on the property owner and decrease administration by simplifying the verification of this information, the department could develop a simplified green acres reapplication form to be used after green acres has initially been approved. However, assessors on the committee voiced concerns about the high burden on the assessor's office to administer an annual reapplication process. They contend that many properties easily meet the current income requirements and requiring an annual reapplication for such properties would only result in additional paperwork for the assessor's office and the landowners.

Therefore, we recommend that the statute be changed to clarify this issue. The green acres law should either specify that an annual reapplication is necessary (form to be developed by the department) or provide specific direction for monitoring the income requirements. For example, some assessors proposed a process similar to applying for homestead. Only an initial application would be required, and once granted, the property would continue to receive green acres treatment. However, the county assessor could require a green acres application/reapplication at any time should the assessor want to verify that the property still qualifies for green acres treatment (i.e. for those properties that scarcely meet the income requirement, the assessor could verify the income more frequently than those properties that greatly surpass the income threshold). The green acres law could be changed to specify that it is the property owner's responsibility to notify the assessor within 30 days that the property no longer qualifies for green acres treatment. The law also could provide an additional penalty for those who do not notify the assessor (i.e. the assessor could collect the additional taxes for not only the previous three years but for any additional years in which the property inappropriately received green acres treatment).

Payback provisions**1. Is the payback provision too complicated?****Analysis:**

Minnesota Statutes, Section 273.111, subdivision 9 provides:

When real property which is being, or has been valued and assessed under this section no longer qualifies under subdivisions 3 and 6, the portion no longer qualifying shall be subject to additional taxes, in the amount equal to the difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5, provided, however, that the amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 5. Such additional taxes shall be extended against the property on the tax list for the current year, provided, however, that no interest or penalties shall be levied on such additional taxes if timely paid, and provided further, that such additional taxes shall only be levied with respect to the last three years that the said property has been valued and assessed under this section.

Counties with established green acres programs do not perceive the payback provision as being too complicated. However, some counties that have yet to implement green acres perceive the payback provision as being too complicated and are reluctant to implement the program due to the perceived difficulty.

Recommendations:

Since changing the payback provision potentially could result in a higher payback than the actual difference in taxes over the past three years and counties with an established process do not perceive it to be too complicated, we think that the current process is satisfactory. However, we would be open to alternative approaches.

2. *Is a payback required on linked property when one parcel in a chain is sold?*

Analysis:

Minnesota Statutes, Section 273.111, subdivision 9 provides:

*When real property which is being, or has been valued and assessed under this section no longer qualifies under subdivisions 3 and 6, **the portion no longer qualifying** (emphasis added) shall be subject to additional taxes, in the amount equal to the difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5, provided, however, that the amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 5. Such additional taxes shall be extended against the property on the tax list for the current year, provided, however, that no interest or penalties shall be levied on such additional taxes if timely paid, and provided further, that such additional taxes shall only be levied with respect to the last three years that the said property has been valued and assessed under this section.*

Minnesota Statutes, Section 273.111, subdivision 5 provides:

The assessors shall, however, make a separate determination of the market value of such real estate. The tax based upon the appropriate local tax rate applicable to such property in the taxing district shall be recorded on the property assessment records.

A department letter issued November 25, 2003, states as follows:

For each parcel of property that is enrolled in Green Acres, two tax amounts are calculated – one based on the lower agricultural value and one based on the value of the property based on its highest and best use (estimated market value). If the parcel is part of a chain of parcels that are linked together, two separate tax amounts are still calculated.

The letter went on to state that when a parcel that is part of a chain of parcels no longer qualifies, the difference in the tax amounts should be collected on those parcels for the current year plus the two preceding years. Just because a parcel is removed from the chain does not mean that new tax amounts should be recalculated on the parcels that remain in the chain. No provision exists in the law that would require or even allow the recalculation.

During the course of examining green acres issues, it has come to our attention that some counties are requiring payback on all parcels when only one parcel no longer qualifies.

Recommendations:

The law only requires payment on the “*portion no longer qualifying*.” Therefore, payback should only be calculated on that portion that no longer qualifies. The payback should be calculated on an entire parcel if the entire parcel no longer qualifies. If a parcel is split and a portion of it no longer qualifies, the payback should only be calculated for the portion that no longer qualifies. A payback should not be required for property that continues to qualify for green acres.

3. *Is a payback required if property no longer meets the income requirements?*

Analysis:

Minnesota Statutes, Section 273.111, subdivision 9 provides:

When real property which is being, or has been valued and assessed under this section no longer qualifies under subdivisions 3 and 6, the portion no longer qualifying shall be subject to additional taxes, in the amount equal to the difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5, provided, however, that the amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 5. Such additional taxes shall be extended against the property on the tax list for the current year, provided, however, that no interest or penalties shall be levied on such additional taxes if timely paid, and provided further, that such additional taxes shall only be levied with respect to the last three years that the said property has been valued and assessed under this section.

The law is clear: when property no longer qualifies, it is subject to the three-year payback.

During the course of examining green acres issues, it has come to our attention that some counties are not requiring payback if a parcel no longer qualifies for green acres because it does not meet the income requirements.

Recommendations:

The income requirements are in Minnesota Statutes, Section 273.111, subdivision 6. The law specifically states that when property no longer qualifies under subdivisions 3 or 6, a payment of back taxes is required.

Confusion likely arises from the provision in Minnesota Statutes, Section 273.111, subdivision 3, paragraph (c), which states:

(c) Land that previously qualified for tax deferral under this section and no longer qualifies because it is not primarily used for agricultural purposes but would otherwise qualify under subdivisions 3 and 6 for a period of at least three years will not be required to make payment of the previously deferred taxes, notwithstanding the provisions of subdivision 9. Sale of the land prior to the expiration of the three-year period requires payment of deferred taxes as follows: sale in the year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of deferred taxes for the two prior years; sale during the second year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of the deferred taxes for the prior year; and sale during the third year the land no longer qualifies requires payment of the current year's deferred taxes...

It is our opinion that the language in Minnesota Statutes, Section 273.111, subdivision 3, paragraph (c) is archaic and should be deleted from statute so the payback provision will be applied more uniformly. This paragraph has been modified a few times over the years to correlate to changes in subdivision 3. We believe the last change was intended to allow properties that no longer qualified for green acres due to the 1997 change to subdivision 3 which required property to be “*primarily devoted to agricultural use.*” This allowed those properties that no longer qualified due to legislative change to avoid or reduce the payback if they continue to own the property which would otherwise continue to qualify under subdivisions 3 and 6.

Archaic provisions

We recommend that the following language be removed from the green acres law:

Minnesota Statutes, Section 273.111, subdivision 3 provides:

...Corporate entities who previously qualified for tax deferral pursuant to this section and who continue to otherwise qualify under subdivisions 3 and 6 for a period of at least three years following the effective date of Laws 1983, chapter 222, section 8, will not be required to make payment of the previously deferred taxes, notwithstanding the provisions of subdivision 9. Special assessments are payable at the end of the three-year period or at time of sale, whichever comes first.

(c) Land that previously qualified for tax deferral under this section and no longer qualifies because it is not primarily used for agricultural purposes but would otherwise qualify under subdivisions 3 and 6 for a period of at least three years will not be required to make payment of the previously deferred taxes, notwithstanding the provisions of subdivision 9. Sale of the land prior to the expiration of the three-year period requires payment of deferred taxes as follows: sale in the year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of deferred taxes for the two prior years; sale during the second year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of the deferred taxes for the prior year; and sale during the third year the land no longer qualifies requires payment of the current year's deferred taxes. Deferred taxes shall be paid even if the land qualifies pursuant to subdivision 11a. When such property is sold or no longer qualifies under this paragraph, or at the end of the three-year period, whichever comes first, all deferred special assessments plus interest are payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest are payable within 90 days. The provisions of section 429.061, subdivision 2, apply to the collection of these installments. Penalties are not imposed on any such special assessments if timely paid.

Appendix

Results of the green acres survey

On October 25, 2005, a survey was sent to 43 counties currently using green acres. The following counties were surveyed: Anoka, Becker, Beltrami, Benton, Big Stone, Blue Earth, Carver, Chippewa, Chisago, Clay, Dakota, Douglas, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Hubbard, Isanti, Kanabec, Kandiyohi, Lake of the Woods, Le Sueur, Lyon, McLeod, Martin, Mille Lacs, Morrison, Nicollet, Olmsted, Otter Tail, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Stearns, Steele, Wabasha, Washington, Winona, and Wright.

1. Why did you implement green acres (what were the nonagricultural factors that caused you to conclude that green acres was appropriate, what made you realize that green acres was necessary, etc.)?

Anoka: Green acres has been around long before my time, but the reason is all related to the transition of agricultural land to Residential and Commercial/Industrial development. A same acre minimum multiple of 10 or more was the impetus.

Becker: There are many lakes in Becker County – green acres is appropriate for agricultural land which has lake shore. The green acres program has been in effect for many years in Becker County; however, it has been rapidly expanding since approximately 2000 due to the increase in land values around lakes. We are in the process of increasing land values around Detroit Lakes above “normal” agricultural land values for the 2006 assessment. We will be sending green acres applications to the individuals who have property in the designated area and are classed as agricultural.

Beltrami: The majority of our large tract sales were being sold for residential and seasonal purposes. The sales were dramatically increasing in value and seemed out of proportion with what the farm economy was doing.

Benton: No response received.

Big Stone: We implemented green acres because of a sale of undeveloped pasture land along Big Stone Lake that we had no lakeshore value on. Needless to say, we had a horrible ratio on it. The land has been platted and developed and of the 60 some lots only three have sold.

Blue Earth: We have green acres around the city of Mankato where there is development and transition from agricultural land to residential land. It is also along highway 14 and around the cities of Lake Crystal and Madison Lake for the same reason: transition from agricultural to residential. We are primarily an agricultural county with sufficient numbers of sales of agricultural land. We use the sales of the agricultural land that is NOT transitioning to residential to set agricultural land values across our county. There is some influence from hunting but these sales are few in number while the actual agricultural sales are predominant. The agricultural land sales themselves appear to be primarily influenced by current market conditions including, alternative investments, the stock market and interest rates.

Carver: Carver County implemented green acres approximately 15 years ago countywide. The reason for green acres is because of increased development and speculative pressure caused by the expanding metro area. This pressure increased raw land sales above and beyond what the typical agricultural market was indicating.

Chippewa: It was obvious that there was an alternative force driving the market value of the property up other than just farming in certain areas.

Chisago: Green acres was implemented before I started at Chisago County.

Clay: Clay County uses CERs in determining agricultural valuations.

Dakota: Dakota County implemented green acres mostly in 1969 with a few approved in 1968.

Douglas: We started in Douglas County due to a growing number of sales that had some type of water (frontage) on them, and the sales ratios were so poor we had to do something to those properties because they were indirectly affecting the values of non lakeshore properties because I was raising all values to get my sales ratio up.

Fillmore: Rapid growth of the market for rougher land, primarily pasture, woods, waste (steep, rocky). This contrasted to prior years when much of this land was not much more than just a “throw in” with tillable ground. This came at a time when the number of livestock operations in the county was slowly declining in numbers.

Freeborn: We implemented green acres because of commercial development influence. We had vastly different value on agricultural property in a specific area than property that had been purchased for development and was platted or being developed in the immediate area.

Goodhue: In Goodhue County, we implemented along the north boundary near Dakota County. I ran a five-year agricultural study showing the township ratios and implemented three different zones, but noted that the sales in the northwest were particularly far beyond CER numbers and most buyers indicated speculation on long-term development. Most of it is hitting townships with CERs running 40-65 percent. We have also implemented some minimal tillable values.

Hennepin: Hennepin County began to utilize green acres from the outset of the program. The green acres program was initiated when nonagricultural market influences began to drive the values of land. The highest and best use analysis for these agriculturally used lands indicated that the demand for land would not support the agricultural use. These nonagricultural market forces include pressure from residential and commercial development. This would include high demand for lakeshore property, acreage for horse pasturing, and hobby farms. When we compare our market driven land values with surrounding agricultural counties, we see a wide disparity between our market values and those agricultural lands.

Houston: Sales for non-tillable land were coming into Houston County and all of Southeastern Minnesota, that were higher than the going values for tillable land. We discovered buyers were paying more based on a nonagricultural use. Typically this use was for hunting or recreation purposes. In the past, the purchase of a farm with rough land which contained wooded acres was almost thrown in on the deal because a farmer could not make use of the property from an agricultural standpoint. Even if the farmer had a livestock operation, woods was a detriment because it meant keeping up fences in rough terrain and checking them after every storm for fallen trees with almost no production capabilities coming from the property. The only value associated with these types of acres would be lumber from logs that could be marketed, and the time frame for harvesting would be every 20-40 years. This meant very little or no return on your investment or taxes paid over the time period to reach harvestable timber. With these types of sales occurring, we had a meeting in 2000 with the Department of Revenue and a number of southeast counties at Olmsted County. The Department of Revenue agreed with us that the sales occurring in our counties had a nonagricultural influence and recommended that we should offer the green acres deferment to those property owners who qualify. From that meeting, Houston, Fillmore, and Winona counties did begin using green acres in 2000 (pay 2001). We felt that the timing was good, because we still were carrying significant LMV on that type of land, and we wouldn't have huge tax capacity shift if we were to wait a few more years.

Hubbard: No response received.

Isanti: When I started in the Isanti County Assessor's office in 1975, green acres was already implemented. The reason it was started in the early 1970s was because we were seeing increasing land values from spill over from Anoka County.

Kanabec: Green acres was implemented by the previous county assessor due to the fact that land values in the southern portion of the county were rising between 25-50 percent per year.

Kandiyohi: Kandiyohi County has seen considerable growth around its lakes. The trees, pasture, and tillable land around the lakes has been selling for residential and seasonal development. This is where we have our green acres.

Lake of the Woods: We implemented green acres because of the higher prices paid for farm land abutting water.

Le Sueur: We were getting a metro influence on our north townships and woods, waste and wetlands were being purchased for residential and or hunting.

Lyon: No response received.

McLeod: No response received.

Martin: No response received.

Mille Lacs: Green acres was implemented two years ago. Prior to that time we had enough farms sales that I didn't think it was necessary. We are seeing growth as people move northward. I believe all of our neighboring counties are using green acres, so at the point when we weren't seeing true agricultural sales any longer, I felt that I had no choice but to implement the program.

Morrison: Because it is the law. What made us realize it was necessary? The market - The transition from a primarily agricultural market to primarily seasonal/residential is obvious when you look at what type of property is selling and for how much. What is paid in the open market is not determined by the buyer, but by what other potential buyers are willing to pay. In Morrison County, the potential for use as a homesite and/or hunting is determining the value.

Nicollet: Growth and sales of vacant land around the City of North Mankato. We tracked vacant land sales for several years. Our interpretation of what green acres is meant for - to protect farmer and farmland in "urban" areas, while equalizing and protecting other taxpayers.

Olmsted: Olmsted County implemented green acres because of the nonagricultural factors affecting agricultural values. Sales of agricultural land for \$15,000 to \$ 25,000 per acre were not purchased for agricultural production value. Many of these parcels have stayed in agricultural production until the developer was ready to start either a residential or commercial development. We needed green acres to account for the agricultural (low value) and the high value.

Otter Tail: Green acres was initially implemented in Otter Tail County around lakes and rivers that were selling for prices far in excess of agricultural values due to the lake or river frontage. The lakes and rivers selected already had some development around them. These parcels were being developed into seasonal and residential lakeshore lots after the sale.

Pine: Green acres was implemented in Pine County in 2000, prior to my arrival. The reasons for the implementation were many – primarily the transition of agricultural land to residential, seasonal/hunting, and to a lesser extent, commercial/industrial development.

Ramsey: As the most densely populated and developed county in the state, we have used green acres since at least 1984 and maybe earlier. The influence of residential and commercial development outstripped agricultural values even back then.

Rice: Rice County has had green acres since 1971.

Scott: Rising land values especially bordering 35W.

Sherburne: The green acres program has been in effect in Sherburne County long before I became county assessor, but my experience tells me that it was initiated because of residential development pressure pushing up the value per acre of farm land far beyond what the agricultural value was in Sherburne County, a county noted for its largely sandy soil. During my four years here as county assessor, I see a continued need for the program because of those same economic factors being at work today. Sherburne County has been the fastest growing county for most of the 1990s and second or third into the 2000s.

Sibley: No response received.

Stearns: Stearns County started using green acres for the 2003 assessment. We were seeing areas in the county where sales that were taking place indicated prices far exceeding agricultural values. We broke Stearns County into seven value districts and looked at the sales in each district. It was apparent that the further east you went (near St. Cloud) and those areas next to the larger cities were experiencing large increases in sale prices.

Steele: Steele County first implemented Green acres in 1993, but it was implemented for a deferral of special assessments on 120 acres within the City of Owatonna, with no high/low value differential. Several years later, the large tracts of land within the City of Owatonna were valued under green acres - with a high and low value. In the late 1990s, the potential commercial land along Interstate 35 was determined to have a value higher than farm land value and was valued accordingly, with those qualifying, applying for green acres deferment.

Wabasha: It was set up long before I arrived in Wabasha County.

Washington: No response received.

Winona: No response received.

Wright: Wright County is part of the Twin Cities Metropolitan Statistical Area as defined by the U.S. Census Bureau. Currently, 14 percent (+/-) of the property that is located in Wright County is contiguous to a body of water as defined by the Minnesota Department of Natural Resources. It was recognized in the early 1970s that there were outside influences that affect the value of farmland. These outside influences were created by our location to the Twin Cities, a high demand of land by non-farm individuals, water, etc. Wright County has experienced a very high inflation rate in all types of real estate. This high inflation rate has attracted many investors over the years. Because of competition in the real estate market, farmers are forced to pay more for land than what farmland would typically sell for if based on production.

2. Where did you implement green acres (countywide, around specific cities, lakeshore, etc.)?

Anoka: We have implemented green acres Countywide.

Becker: See answer to question 1.

Beltrami: Southern one-third of Beltrami County that was closest to the City of Bemidji. On farms that adjoined lakeshore countywide. In 2006, we will be implementing green acres in the southern one-half of Beltrami County.

Benton: No response received.

Big Stone: We implemented it on lakeshore.

Blue Earth: We have green acres around the city of Mankato where there is development and transition from agricultural land to residential land. It is also along highway 14 and around the cities of Lake Crystal and Madison Lake for the same reason: transition from agricultural to residential.

Carver: Countywide.

Chippewa: I first implemented it around the City of Montevideo. The nonagricultural forces were commercial/industrial and residential development as the city expanded. Then I expanded it to the Lac Qui Parle Goose Refuge area. I have a few private land owners within the refuge and many bordering the best hunting area. When land sold in this area, it would typically sell for double that of my farmland in the same township simply because of the proximity to the goose refuge. In order to not tax all of the farmers out of the area, green acres was the obvious solution.

Chisago: Countywide.

Clay: We have implemented green acres around our two largest cities (Moorhead and Dilworth). The demand for the developmental land surrounding the other small cities has not been great as of yet.

Dakota: The green acres legislation was initiated, to a very large extent, by property owners in Inver Grove Heights in northern Dakota County because the effects of development were very evident. We had increased the land values in Inver Grove Heights very significantly in 1967 and 1968, and the property owners lobbied hard for some tax protection. Inver Grove Heights had many small truck farms, and the high land values/taxes were devastating to them. In 1969 we implemented green acres in the entire northern part of the county. Many farmers in southern Dakota County also applied and were approved when appropriate. However, we didn't recognize two values on those properties until several years later - I'd guess in the late 1970s or early 1980s.

Douglas: We currently use it where we had added value for water (frontage or a huntable slough), where we have added a "potential" site value, and around some cities where we have placed a higher per acre value than used on our "ag" land schedule.

Fillmore: Green acres were implemented countywide.

Freeborn: Green Acres was implemented specifically along I-35 on the fringe of Albert Lea.

Goodhue: Most of our green acres is in the northwest part of the county and then by the cities. We find using green acres in all A-3 zones or along HW 52 doesn't work, as access from the city and the roadways really direct it.

Hennepin: Land values have increased dramatically over the years. Land values throughout the county exceed the agricultural values of surrounding counties. We use green acres countywide. Our biggest concern is the determination of who may qualify for the green acres program (what is a farm) versus who may get the agricultural class (2A/2B) on market value land.

Houston: We have green acres valuations for wooded land and waste (low CER valued land).

Hubbard: No response received.

Isanti: The green acres program was first implemented in the southern half of the county – south of Highway 95, and by 1975 it covered the entire county.

Kanabec: Green acres has been implemented countywide.

Kandiyohi: Around the lakes.

Lake of the Woods: We use green acres only on land that has frontage on Lake of the Woods and the Rainy River.

Le Sueur: We started with the townships next to the metro (north side of county) and have continued to do a row of townships each year. We will have the whole county in green acres for 2006 assessment.

Lyon: No response received.

McLeod: No response received.

Martin: No response received.

Mille Lacs: Green acres was implemented countywide.

Morrison: Lake and riverfront properties at least 20 years ago. Non-tillable land countywide beginning in 2004. Tillable land will be included starting in 2006.

Nicollet: Around City of North Mankato, City of St. Peter, City of Nicollet and area along Highway 14 corridor.

Olmsted: Olmsted County is implementing green acres over a five to six year time. The most active development areas run from Pine Island in the North of the county through Oronoco Township and City, through the City of Rochester and south to both Stewartville and Chatfield and west to Byron and East to Dover City and Eyota City. Assessment Year 2004, Payable 2005: Green acres was implemented in the four surrounding Townships of the City of Rochester (Cascade Twp, Haverhill Twp, Marion Twp and Rochester Twp) and agricultural land within the City of Rochester. Assessment Year 2005, Payable 2006: Green acres was implemented in New Haven and Kalmar Townships which surround or border Pine Island or Byron. Assessment Year 2006, Payable 2007: Green acres will be implemented in High Forest Township (between the city of Rochester and Stewartville by the Rochester International Airport). Assessment Year 2007, Payable 2008: Green acres will be implemented on land bordering small Cities of Dover City, City of Eyota, Chatfield.

Otter Tail: Recently we have expanded Green acres to include land around Fergus Falls City and Perham City due to high sale prices paid on agricultural parcels for residential and commercial development. I do not believe countywide green acres is necessary in our area. We are considering implementing green acres on more of the lesser known bodies of water. Otter Tail County has over 1,000 lakes and a number of rivers so this is being done in stages as the market dictates.

Pine: The program was implemented countywide.

Ramsey: From my analysis of our older records, it appears we probably implemented green acres countywide for those few owners who were actively farming, which was not very many in 1984 and is less than 15 now. Over half of our recipients are greenhouse operations.

Rice: The north two tiers of townships adjoining the metro counties were the first townships that were valued at two values. The issue was developmental, mostly residential. The remainder of the county was extended green acres in the 1990s, again because of developmental pressures. There are issues of TDRs (Transferable Developmental Rights) in place at Rice County to accent the developmental pressures of the metro area.

Scott: Countywide.

Sherburne: Countywide.

Sibley: No response received.

Stearns: We implement the law countywide because the several sales in our agricultural area were sales to out of county people who indicated that the primary use of the property was for hunting. Many times the properties were enrolled in a farm program. Other considerations were given to 1031 exchanges, DNR purchases, and the fact the lesser quality land (CER ratings) were selling for more than the better quality lands.

Steele: We have yet to implement green acres on land outside the Owatonna City limits, with the main problem being how to drop off the value as you go out from the city limits. From past sales, it is clear that a 40 adjoining the City limits is going for ~\$14,000 per acre on the average, but what is the value of the 40 acres a half mile outside of the City limits??

Wabasha: In Wabasha County there is only a small amount of land that is in green acres. The Mississippi River runs along the length of the east side of the County and there is a considerable amount of State and Federal land that surrounds the Cities of Lake City, Wabasha and Plainview.

Washington: No response received.

Winona: No response received.

Wright: Green acres was first implemented on the eastern portion of Wright County for the 1972 assessment. It was later implemented throughout the remainder of the county during the 1973 and 1974 assessments.

3. What methodology did you use to determine the agricultural (low) value?

Anoka: The agricultural value is the indicated top tillable rate of neighboring counties compared with capitalized net per acre rents from the ag services office in Elk River. We also maintain use accounts for peat, submarginal, woods and waste.

Becker: By sales which occurred in the rural areas of Becker county. Last year we implemented a land valuation model for tillable land based on CERs. A sale derived value factor is used to determine if there is a value in excess of its agricultural value. Other types of rural land valuation is also based on sales of similar type of land in a similar setting.

Beltrami: We had four sales of farmer to farmer in the far northern portion of our county that was used to establish the agricultural value countywide. The sample size was not the best, but it is difficult to find good agricultural sales. I suspect that future agricultural sales will be non-existent.

Benton: No response received.

Big Stone: Truthfully, we put a minimal front foot value on the lakeshore to recognize it. The low value is our agricultural value. Our high value includes the front foot value added for the lakeshore.

Blue Earth: We are primarily an agricultural county with sufficient numbers of sales of agricultural land. We use the sales of the agricultural land that is NOT transitioning to residential to set agricultural land values across our county. There is some influence from hunting but these sales are few in number while the actual agricultural sales are predominant. The agricultural land sales themselves appear to be primarily influenced by current market conditions including, alternative investments, the stock market and interest rates.

Carver: The low green acres values are established from land sales in Renville, Meeker and western Sibley County which represent an agricultural use value with the highest and best use being agricultural. These green acres values are also compared to surrounding counties for equity purposes.

Chippewa: I was very fortunate. I had two very distinct markets in the same townships that I started out with green acres in. I just used the other agricultural sales to base the green acres value on. Being in a primarily all agricultural area, it wasn't too difficult. After listening...I realize just how fortunate I am!!!!

Chisago: Tried to match with neighboring Counties.

Clay: Our method (outside of the city limits of Moorhead and Dilworth) has been to value the immediate surrounding tier (one-half mile radius of the cities) at a valuation of four times the agricultural valuation, and the next surrounding tier (from one-half mile to one mile radius) at a valuation of two times the agricultural valuation. We change our radius rings when annexation occurs. If the property is annexed, the City of Moorhead Assessor's Office has jurisdiction and has an even further increased valuation for the high valuation.

Dakota: In 1969 when we implemented green acres, we used the agricultural value prior to the revaluation as the green acres value. After the Conzemius court case, we are directed to use similar values that non-metro counties use for agricultural value.

Douglas: We are using a modifier on our CERs (which we have had to cap at a maximum and a minimum). Our tillable values used to be higher than non-tillable but that seems to have changed. Our waste value will be increasing to \$800 per acre and other non-tillable to \$1,800 per acre. We are using the sales of land that continue to be farmed, but in most cases, when contacting the buyers, they claim to have bought it as an investment and are simply renting out the tillable (and often hunting on the non-tillable).

Fillmore: We looked for similar sales outside our area, but finally arrived at an agricultural value by looking at rental rates for pasture in Fillmore County through annual surveys of farm rents done by the extension service, and used the income approach to arrive at an agricultural value.

Freeborn: We used the current CER method to value low value.

Goodhue: The city fringes are showing land from \$15,000 to 30,000 per acre, which is unquestionably development. We use the CER value for the low end. To determine farm rates, we look at our most agricultural townships using sales over 60 acres with 75 percent tillable and CERs over 75 percent. These are generally bought by farmers and continue in production. Smaller sales incrementally increase in price per acre. We deal mostly with tillable, and only minimal non-tillable. Our zoning allows four building sites per section, but determining which parcel could have the site is impossible. If a parcel sells with building site, we see \$75,000 to \$150,000 additional value as undeveloped.

Hennepin: Historically, we have relied on the agricultural values of counties that have like soil conditions based on the study done by the state and the University of Minnesota. The idea is to go to the traditional agricultural counties where agricultural sales are prevailing. These counties include McLeod and Sibley. We also verify agricultural values with Carver and Wright counties.

Houston: Houston County along with Fillmore and Winona counties used a value of \$300 when we began. Our value today is at \$500. I've raised the value a little over the years with the cost of money and land valuation increases. Methodology is based on the reasonableness that green acres value should be greater than no value and less than pasture and low valued CER land that cannot be converted to a tillage use.

Hubbard: No response received.

Isanti: The values originally were derived from farmer-to-farmer sales in the northern part of Isanti County. After the entire county went on green acres, we then looked to Mille Lacs county for their agricultural sales. After they went on green acres, Steve Hurni then said we had to look at values from western Minnesota counties such as Wilkin, Grant, and Stevens. I never agreed with that idea because of differences in soil, weather, etc., but we knuckled under. That is where it stands right now. Mark Larson, an agricultural appraiser in Kanabec County, did some research a couple of years ago and found that the University of Minnesota did some studies and found that there could be a case made for green acres values to be: tillable 100 percent, non-tillable 50 percent, and waste 25 percent. The majority of the counties in Region 3 followed this formula the last couple of years, and it seemed to work satisfactorily. My main question is what is the appropriate tillable value? I feel it should be based on some productivity index such as capitalized cash rents, FSA payments, CRP payments, or crop prices. Right now we pulled a number of \$1,200 per acre for tillable out of the air. It is roughly based on some purported agricultural sales from western Minnesota.

Kanabec: To determine values, we met with neighboring counties and settled on comparable values to theirs.

Kandiyohi: It was determined, several years ago, that pasture land value would be used for the green acres (low) value on this land as tillable and timber land was valued considerably higher.

Lake of the Woods: The value of the tillable portion is determined by agricultural sales that do not have frontage.

Le Sueur: Compared to a like county without green acres – we used Watonwan County (had similar CER rating).

Lyon: No response received.

McLeod: No response received.

Martin: No response received.

Mille Lacs: I didn't feel that green acres was necessary on our tillable land but rather on the pasture, woods and waste. Region 3 has an agricultural meeting every fall. I based my values so that they would be consistent with my neighbors. Last year (although some of the counties seem to have forgotten) as a region we decided that \$1,200 was appropriate for tillable land. Pasture and woods would be valued at half of that (\$600) and waste half of that (\$300). We as a region have struggled with how to determine the low value for years. The formula we came up with was actually based largely on a study that was done in Kanabec County a couple years ago. Realizing that this is no scientific formula, we came up with a system that would fit closely with what the region had previously used as their low values causing a minimal tax shift. With the large disparity between our market values and our limited market values many of Mille Lacs County's property were seeing no or very little advantage to the program. This is changing little by little each year. This was another reason that I thought the timing was right to implement the program. I didn't want to see huge tax shifts.

Morrison: For non-tillable: We used a historical ratio of the value of non-tillable as it related to tillable-looking at the past 25 years. For lakeshore: We used the agricultural value from the rest of the county.

Nicollet: All agricultural sales. Most sales for high values are change of use. We are very much still an agricultural county that has typical farm sales.

Olmsted: Olmsted County uses CERs. Agricultural sales are analyzed and then a 100 percent CER is determined and applied to the agricultural land.

Otter Tail: Otter Tail County has well over 100 agricultural sales each year that are considered good sales. The low value on parcels receiving green acres is derived from these sales. The high value is developed from the sales that are sold for development purposes whether it be lakeshore, river frontage or around expanding cities.

Pine: All sales reviewed, breakdown of tillable/pasture/meadow/waste, etc. Most properties sold used for something other than farm/agricultural use following year.

Ramsey: When I first set values in the early 1990s, my basis for low value was a study conducted by the University of Minnesota Department of Agricultural Economics. I am not sure if that report is still generated or if it is, whether we receive it, but it was very helpful.

Rice: For years, the county assumed a position of 25 percent lower values for green acres as we used all sales for valuing land. In the 1990s we look somewhat to our neighbors to the south for a peek of an indication of the green acres value. Mostly the value decision is based on other regional agricultural border situations (if used at State Board) for an indication.

Scott: The low value was matched with a study that was put out by someone at the University of Minnesota. We received the report annually until a few years ago. Since that time we have just been increasing the base values.

Sherburne: The methodology used in determining the agricultural value has always been to take into consideration the soil types present in various parts of Sherburne County, as provided by the F.S.A here in Elk River, and trying to coordinate this information with the agricultural values used by other surrounding counties in Region 3. We have an annual meeting devoted just to this issue. It is attended by one or both Regional Representatives servicing the counties in Region 3: Steve Hurni and Al Heim. These values are influenced by farmer-to-farmer sales in more western counties where a metro influence is not believed to be felt. We also try to come together on our borders with values associated with pasture/woodlot and wasteland.

Sibley: No response received.

Stearns: The methodology used to determine the “low value” was first to look at the cross county values, but also to look at those sales in our agricultural value district and try to extract an agricultural value. Again, since the poorer land sells for more than the better land, I am assuming that those sales have some indications of what the real farmers are purchasing properties for.

Steele: We have a sufficient number of farm sales to determine the “farmland value,” if you are under the opinion that farmland value is \$3,000 to \$3,500 per acre it is selling for rather than the ~\$1,200 per acre where the land itself can support the price paid.

Wabasha: The green acres values are arrived by looking at sales of agricultural land.

Washington: No response received.

Winona: No response received.

Wright: The low value was originally determined in 1972 by capitalizing agricultural rents at 5.6 percent. Since this implementation in the early 1970s, these values have been carefully reviewed on an annual basis. Our latest agricultural rent survey was compiled two years ago. This survey was used as a check against our green acres values. The number of farmers in Wright County has decreased dramatically since 1972. This is the result from the high inflation in the real estate market, relatively flat rents, and a decrease in revenue from the sale of agricultural products, etc.

