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ARTICLE

BEARING THE TORCH: A GREEN NEW DEAL FOR NEW YORK STATE AGRICULTURE

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I. INTRODUCTION: WHAT MAKES A NEW DEAL?

In response to economic and environmental catastrophe, the administration of President Franklin D. Roosevelt, over roughly six years, marshaled an overhaul of the federal government through executive action and coordination with Congressional leadership.[1] The effort advanced a wide-ranging agenda characterized by direct government intervention into the everyday lives of citizens; expansion of the government itself, with new agencies, new initiatives, and increased staffing; interagency cooperation; and programmatic experimentation.[2]

The New Deal, as it was then coined and is still commonly known, was a comprehensive mustering of United States government, ambitious in scope and impact. The Green New Deal seeks to capitalize on the name recognition of the New Deal, and, more importantly, strives to match its historic import. Although the concept of a Green New Deal has circled for the last two decades,[3] it has only recently been introduced to electoral politics.[4] By and large, the rhetorical strategy of adopting that name of grandeur has worked. The Green New Deal is now a common political term, understood to unite the issues of environment, specifically climate change, and labor in one sweeping reform of economy and politics.[5] And yet, without due observance and study of the original New Deal, calls for a Green New Deal risk becoming political memes. To avoid peddling nostalgia for a history that never repeats, the Green New Deal must learn the lessons of the New Deal and take inspiration from its programs and policies.

This Article begins in Section II with a historical analysis of the national conditions that preceded the New Deal, as compared to modern conditions. It focuses specifically on the economic and environmental conditions of agriculture, comparing the 1930s and the 2020s, concluding that while the

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1. *See, e.g.*, *Franklin D. Roosevelt*, THE WHITE HOUSE, https://www.whitehouse.gov/about-the-white-house/presidents/franklin-d-roosevelt/ [https://perma.cc/ZE7L-3K6Q].

2. *See, e.g.*, *Great Depression Facts*, FDR PRESIDENTIAL. LIBR. & MUSEUM, https://www.fdrlibrary.org/great-depression-facts [https://perma.cc/JFP6-BT7H].

3. Nicholas S. Bryner, *The Green New Deal and Green Transitions*, 44 VT. L. REV. 723, 724 (2020); Thomas L. Friedman, Opinion, *A Warning from the Garden*, N.Y. TIMES (Jan. 19, 2007), https://www.nytimes.com/2007/01/19/opinion/19friedman.html [https://perma.cc/RQ54-CV5B].

4. Bryner, *supra* note 3, at 724.

5. *See id.* at 723.

crises of agriculture are not as widespread, they still merit the governmental attention at the scope of a Green New Deal. Based on the proposition that the Green New Deal should hew closely to the actual mechanics of the original New Deal, the Article then proceeds in Section III with a report on New Deal emergency measures that addressed the economic and environmental crises of agriculture. It devotes close attention to the experimental land acquisition and community planning programs from 1933 to 1937, undertaken by administrative agencies until Congress nullified them by legislation. Finally, in Section IV, this Article positions New York State as the torchbearer for a Green New Deal, due to its role in the New Deal and current political mandate on environmental issues. Furthermore, it argues that beginning with legislation enacted in 2019, New York State has already initiated its Green New Deal agenda. In conclusion, this Article argues that any Green New Deal must include an equitable and environmentally beneficial transition for dairy farms; this Article then proposes such a program built upon New Deal policy infrastructure.

II. HISTORY RHYMES IN AGRICULTURE

A. GENERAL CONDITIONS OF THE NEW DEAL ERA

There are many parallels between the New Deal and our modern era, likenesses that tend to provoke a sense of providence. For example, the national effort to electrify rural areas as a matter of justice and economic investment is carried forward today in the effort to expand broadband internet access.[6] Alcohol prohibition came to an end in 1933, and similarly over the last decade, several states have lifted their prohibitions on cannabis.[7] Then—United States dollars were unmoored from the gold standard.[8] Now-

6. Lloyd Alter, *If You Think the Green New Deal Is Tough to Do, Think About the Rural Electrification Administration*, TREEHUGGER, https://www.treehugger.com/rural-electrification-administration-4855705 [https://perma.cc/9J3F-NXVF] (last updated Feb. 11, 2021, 8:50 PM); Press Release No. 0229.21, U.S. Dep't of Agric., USDA to Make Up to $1.15 Billion Available to Help People Living in Rural Communities Access High-Speed Internet (Oct. 22, 2021), https://www.usda.gov/media/press-releases/2021/10/22/usda-make-115-billion-available-help-people-living-rural [https://perma.cc/C3MX-34VX].

7. Larry Carroll, *The Lessons Learned from Prohibition — and how Cannabis Could Follow Their Lead*, USA TODAY (Jan. 28, 2020, 6:00 AM), https://www.usatoday.com/story/sponsor-story/rdc-collective/2020/01/28/lessons-learned-prohibition-and-how-cannabis-could-follow-their-lead/4544386002/ [https://perma.cc/7K5B-7DN9].

8. CRAIG K. ELWELL, CONG. RSCH. SERV., R41887, BRIEF HISTORY OF THE GOLD STANDARD IN THE UNITED STATES 9 (2011).

—a new currency has been created through blockchain technology.[9] Labor unions were emboldened by New Deal legislation,[10] and today, after decades of declining enrollment and political headwinds, labor unions are being organized at some of the largest international corporations (e.g. Amazon, Starbucks, Apple),[11] while established unions have notoriously exercised their right to strike (e.g. John Deere, Kellogg's, Frito-Lay).[12] Finally, in both the Presidential administrations of Roosevelt and Biden, there has been a genuine consideration of expanding the size of the United States Supreme Court by adding justices.[13]

Yet for as many similarities, there are also distinctions which remind policymakers not to simply follow a script but to address the current needs of their constituents. The early New Deal emergency legislation suspended antitrust laws under the theory that corporate coordination and price-fixing was necessary to get through the Depression;[14] contemporary policy rhetoric is aimed at breaking up Big Tech and Big Meat, as our economy is increasingly controlled by a smaller group of large international corporations.[15] Additionally, although wealth inequality persists in this country, the rates of unemployment simply do not compare. Peak unemployment during the

9. *See* Jake Frankenfield, *Bitcoin (BTC)*, INVESTOPEDIA (June 13, 2022), https://www.investopedia.com/terms/b/bitcoin.asp#:~:text=Bitcoin%20is%20a%20cryptocurrency%2C%20a,party%20involvement%20in%20financial%20transactions [https://perma.cc/95SG-VC2C].

10. *Chapter 3: The Department in the New Deal and World War II 1933-1945*, U.S. DEP'T OF LABOR, https://www.dol.gov/general/aboutdol/history/dolchp03 [https://perma.cc/R6AF-TGYM].

11. Eric Rosenbaum, *The Amazon, Starbucks, Apple Union Push is Capturing What a Majority of All American Workers Now Say They Want*, CNBC WORK, https://www.cnbc.com/2022/06/02/majority-of-american-workers-want-more-unionization-at-their-own-jobs.html [https://perma.cc/3JUE-YEW4] (last updated June 3, 2022, 9:15 AM).

12. Joe Hernandez, *Kellogg and Its Cereal Workers Union Reach a Tentative Deal to End 2-Month Strike,* NPR (Dec. 2, 2021, 3:57 PM), https://www.npr.org/2021/12/02/1060954313/kellogg-and-its-cereal-workers-union-reach-a-tentative-deal-to-end-2-month-strik [https://perma.cc/78Q5-7NL4].

13. Gillian Brockell, *FDR Tried to Pack the Supreme Court During the Depression. It Was a Disaster for Him.*, WASH. POST (Sept. 24, 2020), https://www.washingtonpost.com/history/2020/09/24/fdr-supreme-court-packing-rbg-trump/ [https://perma.cc/UNC4-2B4G]; The PRESIDENTIAL. COMM'N ON THE SUP.CT. OF THE U.S., FINAL REPORT 54 (2021).

14. *See National Industrial Recovery Act*, US HISTORY, https://www.u-s-history.com/pages/h1663.html [https://perma.cc/L4RH-6NXJ].

15. *Break Up Big Tech*, WARREN DEMOCRATS, https://2020.elizabethwarren.com/toolkit/break-up-big-tech [https://perma.cc/4L8H-SYSW]; Vicky Varela, *Biden-Harris Administration Announces US$1 Billion Investment to Break Up Big Meat*, FOODTANK (Jan. 5, 2022), https://foodtank.com/news/2022/01/biden-harris-administration-announces-us1-billion-investment-to-break-up-big-meat/ [https://perma.cc/S956-ACBS].

Great Depression was just over 25%;[16] but in the post-COVID-19 economy, businesses of almost every sector are struggling with labor scarcity, and the national rate of quitting has reached a historic high—a trend that has been deemed the Great Resignation.[17]

B. AGRICULTURE THEN

At the time of the New Deal, agriculture was a substantial part of the economy. Approximately one third of the American labor force was farmers,[18] and in his acceptance speech for the Democratic nomination, Roosevelt estimated that the livelihood of half the country relied on agriculture.[19] In the previous generation of Americans, government-sponsored homesteading and westward expansion had created a whole new region of farmers, seeking agricultural self-sufficiency with a pioneer mindset.[20] Agriculture was not just a national industry; it was a substantial measure of the American population, stewarding a majority of the landmass and fulfilling the American dream. This prominent position in the national consciousness would cast a spotlight on agriculture as it suffered through dual economic and environmental catastrophes.

1. ECONOMIC COLLAPSE: THE GREAT DEPRESSION

While the stock market crash of 1929 is remembered as the inciting event of the Great Depression, widespread financial instability had already disrupted agriculture. Responding to the First World War, farmers expanded operations to export staple goods, primarily wheat, to the European war front.[21] The United States government set favorable prices, and farmers borrowed heavily to purchase land and equipment to expand their operations.[22] By offering draft deferments to farmers, the government sent a

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16. Greg Iacurci*, Unemployment Is Nearing Great Depression Levels. Here's How the Eras Are Similar — and Different*, CNBC, https://www.cnbc.com/2020/05/19/unemployment-today-vs-the-great-depression-how-do-the-eras-compare.html [https://perma.cc/CSQ2-R68A].

17. Kim Parker & Juliana M. Horowitz, *Majority of Workers Who Quit a Job in 2021 Cite Low Pay, No Opportunities for Advancement, Feeling Disrespected*, PEW RSCH. CTR. (Mar. 9, 2022), https://www.pewresearch.org/fact-tank/2022/03/09/majority-of-workers-who-quit-a-job-in-2021-cite-low-pay-no-opportunities-for-advancement-feeling-disrespected/ [https://perma.cc/SJ3Q-EXM6].

18. SARAH T. Maddo, THIS LAND, THIS NATION: CONSERVATION, RURAL AMERICA, AND THE NEW DEAL 2 (2007).

19. *See id.* at 66.

20. *See, e.g.*, SARAH VOGEL, THE FARMER'S LAWYER 11–12 (2021).

21. *Id.* at 11.

22. *Id.*

clear message that farming was considered a form of public service.[23] Following Armistice, the wartime market disappeared, and governmental price supports were withdrawn, leaving a booming agricultural supply without any demand.[24] The inevitable bust that followed was dramatic. In the years preceding 1920, national farm incomes doubled.[25] But over the period of 1920 to 1935, land values dropped by half.[26] This financial upheaval left many farms holding land that was worth less than the mortgages owed for its purchase. Farmers in North Dakota organized citizen brigades to disrupt foreclosure auctions,[27] but ultimately 95% of North Dakotan farms declared bankruptcy.[28] Montana agriculture, recently settled by migrants on the promise of homesteads and the booming wheat market, went bust in a wave of tax delinquency, foreclosures, bankruptcy, and farm abandonment.[29] In New York State, an estimated 300,000 farms shuttered operations during the 1920s.[30] Overall, one-half of American farmers faced financial ruin, and one-quarter declared bankruptcy.[31] Simple boom-and-bust economics had devastated the agricultural industry, long before the environmental catastrophes struck.

2. ENVIRONMENTAL CATASTROPHE: THE DUST BOWL

While the drought of the early 1930s affected the entire country, it most severely impacted the Great Plains, where farmers had pushed deeply into arid lands with more invasive plowing techniques.[32] Notoriously, a single dust storm in May of 1934 relocated 300 million tons of soil eastward across the continent.[33] The National Resources Board report on the Dust Bowl, published in 1934, estimated that 35 million acres had been made permanently useless for agricultural activity, another 125 million acres had lost its topsoil, and an additional 100 million acres had been substantially damaged.[34] Surveys conducted in 1936 showed that over half the cropland

23. *Id.*
24. *Id.* at 11–12.
25. SARAH T. PHILLIPS, THIS LAND, THIS NATION: CONSERVATION, RURAL AMERICA, AND THE NEW DEAL 36 (2007).
26. VOGEL, *supra* note 20, at 12.
27. *See id.* at 14–16. .
28. PHILLIPS, *supra* note 25, at 112.
29. *Id.* at 41.
30. *Id.* at 59.
31. *See* PAUL K. CONKIN, A REVOLUTION DOWN ON THE FARM: THE TRANSFORMATION OF AMERICAN AGRICULTURE SINCE 1929 51 (2008).
32. PHILLIPS, *supra* note 25, at 123; NEIL R. SAMPSON, FOR LOVE OF THE LAND 6 (2009).
33. PHILLIPS, *supra* note 25, at 123.
34. SAMPSON, *supra* note 32, at 6.

in the Dust Bowl region had simply blown away, and one quarter of farmsteads were abandoned.[35]

C. AGRICULTURE NOW

By comparison, modern agriculture is not experiencing such dire straits, nor are its challenges impacting as high a proportion of the American people. Today less than 2% of the U.S. population is engaged in agriculture,[36] and although farm businesses play a cornerstone role in supporting rural economies, farm profitability is much less of a determinative factor in rural livelihoods. About 82% of farm families rely on off-farm income to support their households.[37] Despite the comparatively low population that relies solely on farming for their livelihood, agriculture is still a critical industry. It affords immeasurable cultural value, supplies a diverse and bountiful national food economy, and accounts for the stewardship of a substantial portion of the American landscape. Agriculture continues to face crises, more economically acute than the widespread economic failure of the Great Depression, and more environmentally nuanced than the catastrophe of the Dust Bowl. These crises deserve a Green New Deal.

1. INDUSTRY FRAGILITY: FARM SUCCESSION

Compared to the Great Depression, farm bankruptcies are now relatively rare.[38] Over the previous few decades, rural land prices have increased and outmatched most other asset classes, with an astronomical spike during the rural relocations provoked by the urban confinement of COVID-19 lockdowns.[39] Because land values are so high, the decision to cease operations does not require a complete liquidation of farm assets and reorganization of debts. Farm abandonment is an unthinkable act. Instead, depending on the real estate market, shuttered farm operations may overgrow into an unmanaged rewilding forest; or convert into housing

35. PHILIPS, *supra* note 25, at 123.

36. *See Fast Facts About Agriculture & Food*, AM. FARM BUREAU FED'N, https://www.fb.org/newsroom/fast-facts [https://perma.cc/8P6J-B2AQ].

37. *See* Jacob Bunge & Jesse Newman, *To Stay on the Land, American Farmers Add Extra Jobs*, WALL ST. J. (Feb. 25, 2018, 1:07 PM), https://www.wsj.com/articles/to-stay-on-the-land-american-farmers-add-extra-jobs-1519582071 [https://perma.cc/9KKF-U57P].

38. *See Farm Bankruptcies Down Dramatically in 2021,* AM. FARM BUREAU FED'N (Feb. 8, 2022), https://www.fb.org/market-intel/farm-bankruptcies-down-dramatically-in-2021 [https://perma.cc/GS7L-RJEG].

39. *See* Greta Moran, *Beginning Farmers, Farmers of Color Outbid as Farmland Prices Soar*, CIV. EATS (Jan. 3, 2022), https://civileats.com/2022/01/03/beginning-farmers-farmers-of-color-outbid-as-farmland-prices-soar/ [https://perma.cc/JB78-LVUE].

subdivisions, commercial development, or light industry; or reach the high-end residential market as a pastoral estate.[40] These consequences may not leave the farmer with a fulfilling farm legacy, or enough cash on which to retire, but they fall far short of the utter destitution facing farmers in the Great Depression.

Farm succession is the most acute crisis facing modern agriculture. There are simply not enough young farmers entering the agricultural profession to replace current farmers, who now claim a national average age approaching 60.[41] In New York State, 92% of farmers over the age of 65 do not have a secondary operator under the age of 45.[42] Where young and beginning farmers are stepping up, they are often seeking different production models requiring less land and more direct markets in lieu of larger commercial channels; they are coming from more diverse backgrounds, with different expectations for their farming career; they are starting their career without the benefit of inherited land and are often saddled with student debt or other non-farm obligations; they are under-resourced and in a price competition with ex-urbanites seeking a rural retreat.[43] Productive farmland, thousands upon thousands of acres, is the precious asset at the center of this mismatch that bears the risk of loss.

Dairy farmers in the Northeast are experiencing the worst of this crisis. In addition to representing the general trends above, they experience additional challenges: dairy farms are highly capitalized and therefore expensive to transfer, and the milk market has been undergoing a prolonged collapse for five years.[44] Much like the story of wheat farmers in the 1920s, modern dairy farmers expanded their operations to meet an export demand, relying

40. *See* Julia Freedgood et al., Am. Farmland Tr., *Farms Under Threat: The State of the States* 25–33 (2020), https://s30428.pcdn.co/wp-content/uploads/sites/2/2020/06/AFT_FUT_SoS_ExecutiveSummary.pdf [https://perma.cc/F3MK-3CT4].

41. U.S. Dep't of Agric., 2017 Census of Agriculture Highlights:Farm Producers 2 (2019), https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_Farm_Producers.pdf [https://perma.cc/M8GC-YQUY].

42. *Keeping Farmers on the Land, New Research Underscores Need to Address Farm Transition in New York*, Am. Farmland Tr. 2 (Mar. 2016), https://s30428.pcdn.co/wp-content/uploads/sites/2/2019/09/AFT_NH-FS_D_GainingInsights_GainingAccess.pdf [https://perma.cc/J73B-VCRJ].

43. Moran, *supra* note 39; Elizabeth G. Dunn, *How 'Fairy Tale' Farms Are Ruining Hudson Valley Agriculture*, N.Y. Times (June 9, 2022), https://www.nytimes.com/2022/06/09/nyregion/hudson-valley-farms.html [https://perma.cc/HPH6-E23J].

44. Rick Barrett, *'Struggling to Tread Water': Dairy Farmers Are caught in an Economic System with No Winning Formula*, Milwaukee J. Sentinel, https://www.jsonline.com/in-depth/news/special-reports/dairy-crisis/2019/05/16/wisconsin-dairy-farms-closing-milk-prices-drop-economics-get-tough/3508060002/ [https://perma.cc/9YD8-8XQY] (last updated Feb. 18, 2020, 4:37 PM).

on governmental support and debt-financing.[45] When international markets dried up, prices dropped off, due to a complex pricing system established by the USDA.[46] Meanwhile, domestically, people are drinking less milk. National fluid dairy consumption has declined historically, and the rate has more than doubled over the last decade.[47] Dairy farmers in the Northeast, with smaller landholdings and herd sizes, have been left struggling at a competitive disadvantage compared to massive dairy operations in the Western states.[48] Over the last generation, the number of active dairy farms in the Northeast has plummeted by 80–90%.[49] Cheese and milk processors, seeking efficiency in their own operations, have dropped hundreds of small dairies from their supply chain in recent years, leaving family farms with highly capitalized assets and no revenue, sprinkled throughout rural communities.[50] The economic fragility of farm succession, particularly in the dairy industry, should be the focal point for addressing the modern environmental catastrophe of climate change.

2. ENVIRONMENTAL OPPORTUNITY: CLIMATE CHANGE

Environmental catastrophe in the modern era is climate change. Farms simultaneously struggle with the impacts of climate change and have the opportunity to engage in the carbon cycle to mitigate those impacts. While modern agriculture is estimated to contribute only 9% of carbon emissions,[51] its capacity to sequester hundreds of metric tons of carbon, through soil conservation and forestry practices, could turn agriculture into a net

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45. *See id.*

46. *Id.*

47. HAYDEN STEWART ET AL., EXAMINING THE DECLINE IN U.S. PER CAPITA CONSUMPTION OF FLUID COW'S MILK, 2003-18 iii (2021).

48. *See* Barrett, *supra* note 44.

49. Tovia Smith, *As Milk Prices Decline, Worries About Dairy Farmer Suicides Rise*, NPR (Feb. 27, 2018), https://www.npr.org/2018/02/27/586586267/as-milk-prices-decline-worries-about-dairy-farmer-suicides-rise, [https://perma.cc/28CS-SR4U]; *see also* Melissa Clark, *America's Most Luxurious Butter Lives to Churn Another Day*, N.Y. TIMES (June 10, 2022), https://www.nytimes.com/2022/06/10/dining/animal-farm-creamery-butter.html, [https://perma.cc/HV6U-RFD8].

50. *See, e.g.*, Lisa Held, *Losing Danone Contracts Compounds the Dairy Crisis for Small Farms in the Northeast*, CIV. EATS (Nov. 8, 2021), https://civileats.com/2021/11/08/losing-danone-contract-compounds-dairy-crisis-small-farms-northeast/ [https://perma.cc/5GW7-4LXU]; *see also* Alicia Keller, *Sans Milk Contract, Dairy Cooperative Fights to Survive*, N.Y. CORRESPONDENT (Nov. 27, 2016), https://www.lancasterfarming.com/farming/dairy/sans-milk-contract-dairy-cooperative-fights-to-survive/article_2e12ca98-f77d-5fa5-8f82-16b087d98da0.html [https://perma.cc/8WVU-DERN].

51. Peter Lehner & Nathan A. Rosenberg, *Legal Pathways to Carbon-Neutral Agriculture*, 47 ENVT L. REP. NEWS & ANALYSIS 10845, 10846 (2017).

carbon reducer.[52] Indeed, New York State studies currently recommend permanent land protection, soil conservation practices, agroforestry, and reforestation as strategies for agriculture to most effectively confront climate change.[53] Studies also show that these practices would create an economic boon to rural areas, with millions of dollars in wages spread across thousands of meaningful full-time employment positions.[54]

D. LESSONS FROM THE NEW DEAL

History rhymes in agriculture. While the crises of New Deal era farmers are not exactly repeating themselves, the crises currently confronting a sizable group of American farmers are parallel in their urgency. Farmers are struggling economically – older in age and with few opportunities to transfer their operations. Their substantial private land holdings, which could serve as a meaningful venue to avert environmental catastrophe, hang in the balance. Ushering this delicate transfer of farmland is certainly within the mandate of a Green New Deal. Indeed, for a Green New Deal that aims to address issues of environment and labor, agriculture should be the centerpiece: farm work is quintessentially environmental labor. Furthermore, farms as natural landscapes with dedicated environmental stewards are a compelling venue to address climate change.

To design Green New Deal programs for agriculture, properly summoning on the historical import, policymakers should closely study the emergency measures of the original New Deal and learn its lessons.

III. THE NEW DEAL EMERGENCY MEASURES

After his 1932 campaign convincingly highlighted the intersection of rural livelihoods and sound natural resource planning, Franklin D. Roosevelt was voted into office with a decisive mandate from farm country, and his Democratic Party enjoyed a supermajority in Congress.[55] With power consolidated and agriculture in near collapse, the New Dealers made quick work

52. *Id.* at 10848.

53. Brian Steinmuller, *AFAP Recommendations in Draft Climate Act Scoping Plan*, N.Y. DEP'T OF AGRIC. & MKTS., SOIL & WATER CONSERV. COMM. (Apr. 29, 2022), https://climate.ny.gov/-/media/Project/Climate/Files/Draft-Scoping-Plan-Overview.pdf, [https://perma.cc/3A9T-LYA6].

54. JARED WOOLLACOTT ET AL., ECONOMIC IMPACTS OF INVESTING IN CLIMATE MITIGATION IN NEW YORK STATE FORESTS AND AGRICULTURE: AFFORESTATION, REFORESTATION, AND MANURE METHANE CAPTURE 1–2 (2022), https://www.nyserda.ny.gov/-/media/Project/Nyserda/files/Publications/Energy-Analysis/Economic-Impacts-of-NYS-Climate-Mitigation-Strategies.pdf [https://perma.cc/D4HF-7C2V].

55. PHILLIPS, *supra* note 25, at 76.

on their agenda. The New Deal had to respond to a multitude of issues, both with urgent direct relief and programs that could provide long-term stability to the national industry. Many of the programs and projects created by the New Deal have weathered the century since and continue to undergird the agricultural industry. Some of these policies were originally conceived of and tested in New York State by then-Governor Roosevelt.

A. STABILIZATION OF AGRICULTURAL INDUSTRY

To immediately distribute cash to those in need, the 1933 Federal Emergency Relief Act created rural rehabilitation corporations to operate in each state and redirect funds to localities, businesses, and citizens.[56] Oversight was minimal and funds were aplenty, so each state corporation was able to design its own relief packages according to the particular needs within its jurisdiction.[57] Farmers were funded directly through cash grants, crop purchases, and loans.[58] These immediate cash infusions were balanced by the long-term strategy of the Agricultural Adjustment Act—this legislation created supply control mechanisms by paying farmers to leave land fallow, based on historical outputs and funded by a tax on food processing.[59] Meanwhile the Farm Credit Act created demand control mechanisms by authorizing the Commodity Credit Corporation to function like a crop bank, loaning money on the collateral of stored crops at established prices.[60] These market manipulations survive today in the various titles of the Farm Bill, which continues to fund land conservation, offer credit to farmers, and provide crop insurance.[61]

In addition to government policy driving supply and demand of agricultural products, the agricultural industry also benefitted from deregulation of the farm labor workforce. Labor rights first appeared in the 1933 National Industrial Relief Act, when industrial workers were given the right to strike.[62] As conditions evolved, Congress passed the 1935 National Labor Relations Act and the 1938 Fair Labor Standards Act to guarantee additional minimum labor rights for workers, including the right to organize,

56. Monroe Oppenheimer, *The Development of the Rural Rehabilitation Loan Program*, 4 L. & CONTEMP. PROBS. 473, 475–78 (1937).

57. *Id.*

58. *Id.* at 473–78.

59. CONKIN, *supra* note 31, at 63–64.

60. *See id.* at 69.

61. *Frequently Asked Questions*, FARM BUREAU (2018), https://www.fb.org/issues/farm-policy/farm-bill-2018/frequently-asked-questions-farm-bill-2018/ [https://perma.cc/R4CC-YVVG].

62. *See* PHILLIPS, *supra* note 25, at 78.

collectively bargain, and receive a minimum wage.[63] However, with the political mandate of the Democratic party wearing thin, the Roosevelt administration struck a racist bargain with Southern Democrats to pass the legislation by exempting farmworkers and domestic servants from its protections, who at the time were primarily Black.[64] Thus farm businesses were spared from the expense and risk of labor law compliance, while the New Deal otherwise advanced an agenda which brought justice to the American workforce.

B. PROTECTION OF AGRICULTURAL SOILS

With humble beginnings as scientific investigations and experiment stations, the catastrophe of the Dust Bowl was first addressed in the 1933 National Industrial Relief Act with the creation of the Soil Erosion Service.[65] This new program would develop a representative network of soil erosion control demonstrations to introduce new conservation methods into agriculture.[66] Demonstration projects were designed at the scale of entire watersheds, some upwards of 30,000 acres, in order to prove that entire ecologies required remediation.[67] The program was solidified as an agency of the USDA with the passage of the 1935 Soil Conservation Act.[68] Its services were later distributed deep into the countryside through the creation of soil conservation districts—quasi-governmental offices that work in each county and report to a state-controlled board.[69] Today the Soil and Water Conservation Districts remain a vital resource for farmers to access grants and technical assistance for conservation projects.[70]

C. REFORESTATION OF ABANDONED FARMLAND

For the massive population of unemployed young men, Congress passed the 1933 Emergency Work Conservation Act, which created the

63. *See* GERALD MAYER ET AL., CONG. RSCH. SERV., R42713, THE FAIR LABOR STANDARD ACT (FLSA): AN OVERVIEW (2013); National Labor Relations Act, 29 U.S.C. §§ 151–69.

64. *Legislative Memo: Regarding the Farmworkers Fair Labor Practices Act*, N.Y.C.L.UNION (May 18, 2015), https://www.nyclu.org/en/legislation/legislative-memo-regarding-farmworkers-fair-labor-practices-act [https://perma.cc/WJ4N-62ZG].

65. SAMPSON, *supra* note 32, at 6.

66. *Id.* at 8.

67. *Id.* at 8–9.

68. *Id.* at 11.

69. *See id.* at 22–25.

70. *See, e.g.*, *Grant Opportunities Will Help NY Farmers Protect Soil and Water Quality,* MORNING AG CLIPS (Feb. 1, 2022), https://www.morningagclips.com/grant-opportunities-will-help-ny-farmers-protect-soil-and-water-quality/ [https://perma.cc/8M2T-DC3U].

Civilian Conservation Corp.[71] This labor organization, known as the "Tree Army," was charged with reforesting abandoned farms, performing soil erosion and flood control projects, and constructing civic infrastructure for parklands.[72] It offered quality job training in the trades and basic literacy education,[73] while paying laborers $30 per month, with $25 sent home to the family and $5 retained for personal use.[74] The program received the consult and input of many government agencies, but primarily it was operated as a branch of the military, handling projects on behalf of agencies managing forests, parks, agriculture, and government lands.[75] The program operated until 1942, when labor demands shifted to the Second World War.[76] With an immense impact on the landscape and numerous works of civic infrastructure, its legacy remains visible to the public.[77] However, despite the general popularity of the program, the Civilian Conservation Corp work camps were segregated by race and tribal status, thus perpetuating the institutional racism of the era.[78]

The Civilian Conservation Corp has its origins in Roosevelt's New York, where he advanced legislation to survey lands for government purchase and reforestation.[79] His government also passed a bond program and championed a state constitutional amendment, which, respectively, financed the reforestation of abandoned farmland and creation of the Adirondack and Catskill Parks.[80]

D. EXPERIMENTATION IN GOVERNMENT LAND PLANNING

Tucked into the 1933 Federal Emergency Relief Act was an appropriation for a new program called Division of Rural Rehabilitation, which purchased submarginal, eroded, and abandoned farmlands for reforestation or conversion into recreation areas.[81] Tucked into the 1933 National Industrial Recovery Act was an appropriation for a new project called the Division of Subsistence Homesteads, which chartered a series of planned communities

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71. *See* LESLIE ALEXANDER LACY, THE SOIL SOLDIERS: THE CIVILIAN CONSERVATION CORPS IN THE GREAT DEPRESSION 12 (1976).

72. *See id.*

73. *See id.* at 43–50, 70–71.

74. STAN COHEN, THE TREE ARMY: A PICTORIAL HISTORY OF THE CIVILIAN CONSERVATION CORPS, 1933–1942 8 (1980).

75. *Id.*

76. *See id.* at 129.

77. *See id.* at 133–48.

78. LACY, *supra* note 71, at 74–78.

79. PHILLIPS, *supra* note 25, at 24.

80. *Id.* at 60.

81. *See id.* at 78.

across the country.[82] These two programs, short-lived and in constant redevelopment, reveal the experimental limits to which the agencies of the New Deal pushed their political mandate.

1. PURCHASE OF SUBMARGINAL LANDS

Inspired by the submarginal land policies of Roosevelt in New York, the Division of Rural Rehabilitation addressed the interrelated issues of rural poverty and land degradation through direct governmental intervention.[83] As the New York Times bluntly reported on its front page, the program had an "AIM TO END HUMAN WASTE."[84] Of the 260 million acres suffering from various degrees of degradation,[85] the National Resources Board recommended that the government purchase 75 million acres.[86] Lands were identified for purchase and resettlement by the Agricultural Adjustment Administration, and funds were routed through the rural rehabilitation corporations for their acquisition.[87] A subsequent committee—composed of additional representatives from the National Park Service, Bureau of Biological Survey, and the Office of Indian Affairs—determined how the lands would be repurposed.[88] In the life of the program, over 11 million acres were purchased and repurposed.[89]

2. DESIGN OF HOMESTEAD COMMUNITIES

The Division of Subsistence Homesteads was premised on a socio-political belief that national prosperity existed somewhere between dense, urban industrial profit centers and the vast, rural countryside of bountiful natural resources.[90] Indeed, natural patterns demonstrated net migration to rural areas in the early 1930s.[91] The project intended to provide vitality to newly-built villages by encouraging light industry as well as agriculture so

82. *Id.*
83. *See id.* at 109.
84. *FERA Soon to Buy Submarginal Land*, N.Y. TIMES (Nov. 7, 1934), https://www.nytimes.com/1935/03/21/archives/fra-adds-to-holdings-of-submarginal-land-hopkins-buys-11000-more.html?url=http%3A%2F%2Ftimesmachine.nytimes.com%2Ftimesmachine%2F1935%2F03%2F21%2F93680716.html [https://perma.cc/EMR8-MDM4].
85. SAMPSON, *supra* note 32, at 6.
86. PHILLIPS, *supra* note 25, at 113.
87. *See id.* at 112–13.
88. *Id.* at 113.
89. *Id.* at 114.
90. *See id.*
91. *Id.*

that citizens could make a living built on wages and subsistence farming.[92] The projects selected large tracts of arable land to erect planned neighborhoods of a few hundred homes.[93] Each house was built from standardized architectural plans and included small acreage for the homestead.[94] After construction, the houses were sold to their low-income occupants on 30-year mortgages,[95] and the new homeowners were offered technical advice on subsistence farming.[96] In total the project built 34 communities across the country.[97]

3. FINAL EXPERIMENT: GREENBELT TOWNS

When the Federal Emergency Relief Act was up for reauthorization in 1935, Roosevelt signed an executive order consolidating the Division of Rural Rehabilitation and the Division of Subsistence Homesteads into a new agency called the Resettlement Administration.[98] Continuing the theory of government community planning, the Resettlement Administration ambitiously began to design whole new cities, called Greenbelt Towns, located in Maryland, Wisconsin, and Ohio.[99] The Greenbelt Town in Wisconsin required the purchase of over 3,000 acres and was intended to house a population of 12,000.[100]

The project was a general failure: the development only achieved 572 housing units, rents spiked to market rates, and consequently the community stayed racially segregated.[101] The fourth Greenbelt Town in New Jersey became the subject of litigation, and prior to construction the program was declared unconstitutional as an impermissible exercise of administrative authority.[102] So too in the court of public opinion, the work of the

92. *See, e.g.*, *Small Agriculture Subsistence Homesteads Project Summaries,* USDA (1933), https://www.nal.usda.gov/exhibits/ipd/small/exhibits/show/subsistence/administrative [https://perma.cc/KQ4X-4WNP].

93. *See id.*

94. DEP'T OF INTERIOR, DIV. OF SUBSISTENCE HOMESTEADS, HOMESTEAD HOUSES 68 (1934).

95. DEP'T OF INTERIOR, DIV. OF SUBSISTENCE HOMESTEADS, A HOMESTEAD AND HOPE 17 (1935).

96. *See* W. R. BEATTIE ET AL., SUBSISTENCE FARM GARDENS 1 (1935), https://www.nal.usda.gov/exhibits/ipd/small/items/show/2 [https://perma.cc/6XWP-9CTK].

97. USDA, *supra* note 92.

98. *See* PHILLIPS, *supra* note 25, at 120.

99. *The Green Towns Program*, GREENBELT MUSEUM, https://www.greenbelt-museum.org/copy-of-new-deal-era-housing-projec [https://perma.cc/2NRA-STDH].

100. Sierra Starner-Heffron, *The Story of Greendale: A Utopia Unrealized*, 7 E.POLIS 82, 86–87 (2015).

101. *Id.* at 94.

102. GREENBELT MUSEUM, *supra* note 99; Franklin Tp. v. Tugwell, 85 F.2d 208, 219–20 (D.C. Cir. 1936).

Resettlement Administration was criticized as government overreach and utopian in concept.[103] Although entirely voluntary to the participants, these projects tested the political mandate of the New Deal, and the agency found itself on the defensive increasingly throughout 1936.[104]

4. SECURITY OF FARMLAND TENURE

Throughout consecutive sessions, the New Deal Congress attempted to craft legislation that would comprehensively address the tenancy issue.[105] Tenancy, rather than indicating the leasehold interest of a farmer, was then a term indicating landlessness.[106] The tenant farmer had lost the land to creditors or tax delinquency but continued to occupy the land.[107] In 1935, a bill passed the Senate that mimicked the projects of the Resettlement Agency—the federal government would purchase farmland, rent it for five years to the farmer-tenant, then finance a resale to such tenant on favorable terms.[108] Likewise, in its final report in February of 1937, the Presidential Committee on Farm Tenancy was tasked with advising Congress on the land insecurity of farmers, and it recommended a farmland purchase and resale program.[109] Nevertheless, in a legislative rebuke to many years of administrative action, the Congressional subcommittee voted against authorization of farmland purchases.[110] The 1937 Farm Tenancy Act, in the form that passed Congress, created the Farm Security Agency, which instead offered government loans for the purchase of farmland[111] as well as technical assistance and tailored loans to help farmers refinance other debts and create new business enterprises.[112] The Farm Security Agency also absorbed the Resettlement Agency and summarily wound down its Rural Rehabilitation, Subsistence Homestead, and Greenbelt Town projects.[113]

The lessons and impacts of these New Deal emergency measures should inform the specific proposals for the Green New Deal agenda. Those lessons show that social justice will be undercut unless it is explicitly

103. *See* PHILLIPS, *supra* note 25, at 81.

104. *See id*. at 129.

105. James G. Maddox, *The Bankhead-Jones Farm Tenant Act*, 4 L. & CONTEMP. PROBS. 434, 443 (1937).

106. *See* FRANKLIN DELANO ROOSEVELT, THE PUBLIC PAPERS AND ADDRESSES OF FRANKLIN D. ROOSEVELT: THE COURT DISAPPROVES 434 (Samuel I. Rosenman ed., 1935).

107. *See id.*

108. Maddox, *supra* note 105, at 443.

109. *Id.*

110. *Id.* at 444.

111. *Id.* at 444–45.

112. *See* PHILLIPS, *supra* note 25, at 145.

113. *See id.*

prioritized; that the political connection between environmental and economic sustainability is demonstrably successful; and that government land programs, even if voluntary, should be responsibly narrowed to avoid utopianism. Yet modern political realities may limit the venue, scope, and impact of where a Green New Deal could be accomplished.

IV. ENVISIONING THE GREEN NEW DEAL

A. NEW DEALS: A NEW YORK AFFAIR

At the national level, the Green New Deal remains a divisive talking point, and there is limited political mandate for the Federal government to engage in bold policymaking. The Growing Climate Solutions Act, which would empower the USDA to facilitate carbon markets,[114] has broad support among advocates and passed the Senate in 2021.[115] However, this incremental progress merely facilitates a market-driven approach to climate change, rather than incentivizing carbon sequestration or penalizing carbon emissions.[116] The Farm System Reform Act—which would address consolidation throughout the agricultural industry, phase out environmentally-disastrous concentrated animal feeding operations, and support small family farms with investment—has been introduced but seen little traction.[117] Meanwhile, Build Back Better, the sweeping legislation that President Biden has championed to tackle climate change, stalled among disagreement within the Democratic party.[118] The political bargaining ultimately resulted in the Inflation Reduction Act, which authorizes huge investments in renewable energy while also prioritizing new fossil fuel leasing. [119]Certainly the 2023 Farm Bill remains an opportunity for reform of agricultural policy in an

114. S. 1251, 117th Cong. § 2 (as passed by Senate, June 24, 2021).

115. *See Growing Climate Solutions Act Passes U.S. Senate*, U.S. SEN. COMM. ON AGRIC., NUTRITION & FORESTRY (June 24th, 2021), https://www.agriculture.senate.gov/newsroom/dem/press/release/growing-climate-solutions-act-passes-us-senate [https://perma.cc/F4BU-8NY7].

116. *See* Corn Saves America, *Chosen Too*, AGRIC. ECON. INSIGHTS, at 03:28 (Nov. 22, 2021), https://aei.ag/podcast/ [https://perma.cc/SEK7-N66G].

117. *See* S. 2332, 117th Cong. (2021).

118. Jeff Stein & Tyler Pager, *How the White House Lost Joe Manchin, and its Plan to Transform America*, WASH. POST (June 5, 2022, 6:00 AM), https://www.washingtonpost.com/us-policy/2022/06/05/biden-manchin-white-house/ [https://perma.cc/BB5U-SK4E].

119. Branko Marcetic, *The Biden-Manchin Climate Bill Isn't Very Good, but It's All We've Got*, JACOBIN (August 20, 2022, 4:39 PM), https://jacobin.com/2022/07/biden-manchin-infl ation-reduction-act-climate-spending

environmentally and socially just manner, but the national politics are too volatile to result in much except incremental adjustments.

For any hope of a Green New Deal, the New York State government should take the lead. Luckily, New Deals are a New York affair. As discussed above, Franklin D. Roosevelt—a gentleman farmer of the Hudson Valley who rose through state government to the United States presidency—built much of the New Deal from his programs and policies as Governor of New York. These included the Civilian Conservation Corp, reforestation of abandoned farmlands, government land planning, and submarginal land purchases. In addition to Roosevelt, other New Deal architects claimed New York as their home. Henry Morgenthau, who served as Secretary of Treasury, came from a farming background, attended Cornell University, and specialized in economics and conservation.[120] Rexford Tugwell, who served as Administrator of the Resettlement Agency, was born in rural Western New York.[121] Later drafted from Columbia University to join the 1932 presidential campaign, Tugwell is credited with uniting the dual issues of rural economy and environmental quality, converting them into the campaign policy that secured Roosevelt's sweeping victory.[122]

Likewise, Green New Deals have been most loudly heralded and successfully implemented in New York State. The first and most detailed Green New Deal platform was introduced by Green Party candidate Howie Hawkins in his 2010 gubernatorial campaign.[123] Among a slew of proposals for environmental and labor reforms, Hawkins specifically proposed both labor protections for farmworkers and a guaranteed living wage for farm owners.[124] The most notorious Green New Deal was introduced in 2019 by Alexandria Ocasio-Cortez, as Congresswoman from District 14, representing neighborhoods in the Bronx and Queens.[125] Rather than specific programs and policies, her bill lays the groundwork for a national Green New Deal by

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120. LACY, *supra* note 71, at 19.

121. Katelin Elizabeth Olson, Columbus of the New Deal: Rexford G. Tugwell and the Goals, Challenges and Physical Legacies of the Resettlement Administration 4–5 (Aug. 2009) (M.A. thesis, Cornell University).

122. *See* PHILLIPS, *supra* note 25, at 65, 76.

123. *See* Robert Harding, *Syracuse's Howie Hawkins, a Lifelong Activist, Is Green Party's Nominee for President*, AUBURNPUB.COM, https://auburnpub.com/news/local/govt-and-politics/syracuses-howie-hawkins-a-lifelong-activist-is-green-partys-nominee-for-president/article_d592c686-3440-51da-abcd-df569564e258.html [https://perma.cc/DKN9-FJ83] (last updated Aug. 16, 2020).

124. *See Hawkins for Governor, Jones for Lt. Governor, Vote Green Party*, A GREEN ALT.: OUR PLATFORM, https://howiehawkins.com/2014/web/20141012034923/http-/www.howiehawkins.org/platform.html [https://perma.cc/S3QJ-YTPC].

125. *See* H.R. Res. 109, 116th Cong. (2019).

justifying its need and establishing its priorities.[126] This bill has been regularly reintroduced into Congress and receives regular attention, press, praise, and criticism.[127]

New York City capitalized on the renewed popularity of Green New Deals when passing the 2019 Climate Mobilization Act, which established greenhouse gas targets for real estate, required green roofs on all new construction, and updated the energy grading system.[128] New York State, in a gesture to New Deal grandeur, passed the 2019 Climate Leadership and Community Protection Act, which established greenhouse gas targets for the entire state, to be implemented across agencies after conducting a multi-year study by interlocking commissions.[129] The goal is to reach net zero greenhouse gas emissions by 2050, comprised of an 85% reduction in emissions and 15% offsets, respectively.[130] This legislation, in its process and substantive goals, also mandates a benefit for environmental justice communities.[131] Such environmental justice communities have been identified by criteria including projections of extreme heat, flooding, and impact on agricultural land, as well as poverty, housing security, and energy efficiency.[132] While these enacted Green New Deals, like any proclaimed New Deal, inevitably fall short of the comprehensive government overhaul of the original New Deal, they both successfully advance an economic and environmental agenda through political consensus. Combined with the history of Roosevelt himself, they fortify New York State as the birthplace and torchbearer of New Deals.

Yet, it is worth recalling that the New Deal was no single piece of legislation, nor any particular executive action, agency directive, or budget allocation. The New Deal was a complete mission alignment of legislative and executive branches of government, sustained over a period of years, to deploy a variety of tools and improve the national condition. It was

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126. *Id.*

127. *See, e.g.*, Yaron Steinbuch, *AOC Explains Why 'Farting Cows' Were Considered in Green New Deal,* N.Y. POST (Feb. 22, 2019), https://nypost.com/2019/02/22/aoc-explains-why-farting-cows-were-considered-in-green-new-deal/ [https://perma.cc/4YL4-4G8T].

128. *NYC's Climate Mobilization Act (CMA)*, EN-POWER GROUP, https://enpg.com/wp-content/uploads/2019/07/EN-POWER-GROUP-CMA-Summary.pdf [https://perma.cc/529Q-B5U5].

129. *Climate Leadership and Community Protection Act*, ENV'T ADVOC.S OF N.Y., https://eany.org/wp-content/uploads/2019/10/clcpa_fact_sheet_0.pdf [https://perma.cc/VE7G-PK8F].

130. *Our Progress*, N.Y.STATE: CLIMATE ACT, https://climate.ny.gov/Our-Progress [https://perma.cc/8F4S-VGQJ].

131. *Id.*

132. N.Y. STATE DEP'T OF ENV'T CONSERVATION & NYSERDA, NEW YORK STATE'S DRAFT DISADVANTAGED COMMUNITIES CRITERIA (2022).

characterized by direct intervention, expansion of government, and programmatic experimentation. Taking that broader view, the Green New Deal has already begun in New York State.

B. THE GREEN NEW DEAL BEGAN IN 2019

The moral launch of New York State's Green New Deal began with the passage of the 2019 Farm Laborers Fair Labor Practices Act. This legislation, the subject of an enduring campaign by a broad coalition, finally corrected the historical injustice of excluding farmworkers from basic protections afforded by labor law.[133] New York State farmworkers may now exercise the right to organize, collectively bargain, earn overtime wage rates, and enjoy guaranteed days of rest.[134] Although passed in the same week as the 2019 Climate Leadership and Community Protection Act, this unfinished business of the New Deal was the moral beginning of the Green New Deal here in New York State. On September 27, 2021, the first farmworker union was organized and certified at Pindar Vineyards.[135]

Ample legislative, executive, and popular action has built upon this groundwork for the Green New Deal platform. The 2021 Soil Health and Climate Resiliency Act established a framework for soil health standards regarding climate change.[136] Climate Resilient Farming grants, authorized by renewed spending, will continue to be available for farmers to implement new carbon sequestration practices.[137] The 2021 Diversity and Racial Equity Workgroup report proposed a $10 million investment for greater access to agricultural infrastructure, education, land, and capital for Black, Indigenous, and People of Color, along with a set of 21 specific recommendations to make the New York State agriculture more inclusive.[138] Ballot initiatives have proven that Green New Deal concepts are popular in New York State. The November 2021 ballot initiative to pass an Environmental Rights

133. *Advocates Rally in Albany for Farmworker Rights*, N.Y. CIVIL LIBERTIES UNION (May 15, 2018), https://www.nyclu.org/en/press-releases/advocates-rally-albany-farmworker-rights [https://perma.cc/ACN9-WBDH].

134. S. 6578, Reg. Sess. (N.Y. 2019).

135. Giulia McDonnell Nieto Del Rio, *First Farmworker Union Forms in New York State*, THE COUNTER (Oct. 12, 2021, 8:00 AM), https://thecounter.org/first-farmworker-union-forms-in-new-york-state/ [https://perma.cc/G774-V698].

136. Erica Goodman, *Agricultural and Environmental Groups Applaud Passage of New York Soil Health and Climate Resiliency Act*, AM. FARMLAND TR. (Dec. 23, 2021), https://farmland.org/agricultural-and-environmental-groups-applaud-passage-of-new-york-soil-health-and-climate-resiliency-act/ [https://perma.cc/9ZT5-S7JJ].

137. MORNING AG CLIPS, *supra* note 70.

138. N.Y. STATE DEP'T OF AGRIC. & MKT.S, DIVERSITY AND RACIAL EQUITY WORKING GROUP REPORT 12 (2021).

Amendment was overwhelmingly adopted by voters,[139] and the November 2022 ballot initiative will authorize the Clean Air, Clean Water, and Green Jobs Bond Act—a $4.2 billion fund for projects in climate change resiliency, mitigation, and adaptation.[140] The bond includes $150 million for farmland preservation,[141] and like the 2019 Climate Leadership and Community Protection Act, it mandates that 35% of its funds benefit environmental justice communities.[142]

C. BEARING THE TORCH OF THE NEW DEAL

As the Green New Deal marches forward under the leadership of Governor Hochul, with the legislature controlled by her Democratic party, a few guideposts should direct policymaking. First, where possible, the Green New Deal should utilize existing New Deal infrastructure to address contemporary environmental and labor issues. For example, Soil and Water Conservation Districts, created by the New Deal, continue to provide direct technical assistance and issue conservation grants to farmers.[143] The combined missions of reforestation, soil erosion, and flood control of the Civilian Conservation Corps lives on today through the Trees for Tribs program[144] and the Excelsior Conservation Corp.[145] The Farmland Protection Program, which effectively creates a market for surplus real estate values while protecting the land itself,[146] harkens back to the conservation programs first introduced by the Agricultural Adjustment Act. This suite of New Deal policy infrastructure,

139. Rebecca Bratspies, *This Changes Everything: New York's Environmental Amendment*, *in* N.Y.'S GREEN AMEND.: MOUNTAIN OR MOLEHILL? 1 (Albany L. Sch. Ctr. for Continuing Legal Educ. ed., 2022), https://www.albanylaw.edu/media/15366/download?attachment [https://perma.cc/K4XS-3UZ5].

140. Jeremy Cherson, *$4.2 Billion Environmental Bond Act: What You Should Know,* RIVERKEEPER (Apr. 11, 2022), https://www.riverkeeper.org/blogs/ecology/environmental-bond-act-passes-albany/ [https://perma.cc/3BLH-KQDA].

141. Mikaela Ruiz-Ramón, *AFT Applauds State Budget with Historic Investment in Key Programs that Support Farmers and Benefit All New Yorkers*, AM. FARMLAND TR. (Apr. 14, 2022), https://farmland.org/aft-applauds-state-budget-with-historic-investment-in-key-programs-that-support-farmers-and-benefit-all-new-yorkers/ [https://perma.cc/S8JG-JB7Z].

142. Cherson, *supra* note 140.

143. MORNING AG CLIPS, *supra* note 70.

144. *See generally Trees for Tribs*, N.Y. STATE DEP'T OF ENV'T CONSERV., https://www.dec.ny.gov/docs/lands_forests_pdf/tftfactsheet.pdf [https://perma.cc/B2CT-8N8L].

145. *See Excelsior Conservation Corps: A Modern Vision of an Old Idea,* N.Y. STATE PARKS & HIST. SITES (Jan. 12, 2016), https://nystateparks.blog/2016/01/12/excelsior-conservation-corps-a-modern-vision-of-an-old-idea/ [https://perma.cc/57DB-W4GH].

146. OFF. OF THE STATE COMP. OF N.Y., BET ON THE FARM: FARMLAND PROTECTION AS A STRATEGY FOR ECONOMIC GROWTH AND RENEWAL 1–2 (2010).

still in operation, should provide continued support for the Green New Deal platform.

Second, the Green New Deal should boost investment in these programs to unprecedented levels while conditioning project funding on social justice outcomes. Such outcomes should include providing a dignified retirement to farmers, advancing secure land access for Black, Indigenous, and People of Color, and investing only in farm business models that support a food system defined by viability, sustainability, and regionality. The Green New Deal cannot repeat the injustices of the New Deal by engaging in programmatic segregation, even by neglect. Social justice should be an unconditional requirement of the environmental and labor agenda.

Finally, for crafting new programs and policies, the Green New Deal should look deep into the New Deal history for inspiration. The experimental programs that culminated in the Resettlement Agency could serve as a template for direct government intervention in farmland planning by New York State. Lessons from the Resettlement Agency could inform the proposal, design, political marketing, implementation, and observation of such programs.

Following these three guideposts, the Dairy Retirement Program proposed below aims at the crisis of farm succession on dairy farms as the quintessential intersection of environmental and labor issues. First, the Dairy Retirement Program would build upon the successful Farmland Protection Program, which has its roots in the conservation policy of the Agricultural Adjustment Act. It would also utilize elements of the Soil Erosion Service and Civilian Conservation Corp by prioritizing the environmental health of land, with particular attention paid to carbon sequestration. Second, by relying on increased public funding with mandated benefit to environmental justice communities, projects could be selected based on their location in an environmental justice community, and the social justice outcomes would be obligatory to New York State government. Finally, the Dairy Retirement Program would take inspiration from the experimental Rural Rehabilitation and Subsistence Homesteads programs by purchasing farmland and repurposing it for public benefit. After a successful round of projects, the Dairy Retirement Program may just fulfill the theory of government community planning originally put forward by the Resettlement Agency. By providing an equitable and environmentally beneficial transition for dairy farms, the Dairy Retirement Program should be a requisite program of any Green New Deal for New York State agriculture.

D. A GREEN NEW DEAL FOR NEW YORK STATE AGRICULTURE

1. EVOLUTION OF THE FARMLAND PROTECTION PROGRAM

New York State has been investing in farmland conservation since 1992 through its Farmland Protection Program, operated by the Department of Agriculture and Markets.[147] The program offers technical advice by agency staff, planning grants to counties, towns, and land trusts to inventory natural resources and establish farmland conservation goals, as well as implementation grants for the purchase of conservation easements from private landowners.[148] A conservation easement is a permanent deed restriction that generally prohibits subdivision and development of real estate.[149] As applied to farmland, these conservation easements permit limited development of farm structures, while maintaining the real estate in private ownership and refraining from interference with farming practices.[150] The program is funded biannually from the Environmental Protection Fund, which is replenished by the real estate transfer tax.[151]

Over the years, the program has evolved to meet the needs of agriculture and reflect the renewed priorities of New York State government. In 2016 the program offered more than $20 million to protect farmland exclusively in the Hudson Valley, in recognition of the increased developmental pressures in the productive region with rich agricultural heritage.[152] The special offering resulted in the permanent conservation of over 5,000 acres across 28 farm operations.[153] A successful campaign by farm advocates in 2018 resulted in statutory amendments to allow the Farmland Protection Program to fund preemptive purchase rights,[154] an additional layer of permanent deed restriction that keeps farmland affordable.[155] Most recently,

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147. AM. FARMLAND TR., N.Y. STATE'S FARMLAND PROT. PROGRAM: FACT SHEET 1 (2004); OFF. OF THE STATE COMP. OF N.Y., *supra* note 146.

148. AM. FARMLAND TR., *supra* note 147.

149. *Id.*

150. *Id.*

151. *Id.* at 2.

152. Memorandum from Comm'r Richard A. Ball to Entities Interested in Farmland Protection Implementation Activities (Mar. 14, 2016), https://apps.agriculture.ny.gov/rfps/fpig14/Commissioner_Memo.pdf [https://perma.cc/R3FU-8W8B].

153. *See Recipients of Hudson Valley Agricultural Enhancement Program,* GOV. OF N.Y., https://www.governor.ny.gov/sites/default/files/atoms/files/HVAEP.pdf [https://perma.cc/7CFG-3EUF].

154. *See* Kate Bittman, *New York State Governor Andrew Cuomo Signs Working Farm Protection Act into Law,* NAT'L YOUNG FARMERS COAL. (Aug. 2, 2018), https://www.youngfarmers.org/2018/08/release-new-york-state-governor-andrew-cuomo-signs-working-farm-protection-act-into-law/ [https://perma.cc/F5EG-TNDQ].

155. *See* S. 8362A, Reg. Sess. (N.Y. 2018).

a new, more nuanced evaluation system was used to award conservation easement grants. [156] Farm businesses undergoing a transition (from conventional to organic, or from wholesale to direct market channels), practicing agroforestry, protecting water resources, adapting to climate change, and advancing food security projects were given priority.[157] Awarded projects protected 13,500 acres of land across New York State.[158]

For two funding rounds beginning in 2018, the program turned its attention to relief exclusively for dairy farms by launching the Dairy Transitions Farmland Protection Initiative, offering awards on a rolling basis.[159] The program recognized the importance of dairy farming in New York, and the threat of farmland loss posed by prolonged historic low milk prices.[160] Applicants were required to identify the type of transition the dairy farm would undergo if awarded state funding.[161] Eligible transitions included situations where (1) the next generation would continue the dairy with production modifications to ensure greater financial sustainability; (2) the farm would not undergo intergenerational transition, but it would diversify operations, while continuing, at least in part, as a dairy; or (3) the farm would fully exit the dairy industry.[162]

Of the 62 total projects awarded, a strong majority of dairy farms were pursuing farm succession with production modifications, and overall, it appears most of the $57 million spent on the conservation easements was destined to be reinvested in dairy infrastructure.[163] Significantly, 17 project narratives identified plans to expand operations by increasing their herd size and acquiring more land.[164]

156. *See Status of Awards and Applications Received*, N.Y. STATE, DEP'T OF AGRIC. & MKT.S (2022), https://agriculture.ny.gov/system/files/documents/2022/05/statusofawardsandapplicationsreceived_round18_0.pdf [https://perma.cc/N2LT-XQ4L].

157. *See id.*

158. *Id.* at 6.

159. *NYS Department of Agriculture and Markets Provides Farmland Protection Grants to New York Dairy Farms*, N.Y. STATE DEP'T OF AGRIC. & MKT.S (Feb. 8, 2019), https://agriculture.ny.gov/news/nys-department-agriculture-and-markets-provides-farmland-protection-grants-new-york-dairy [https://perma.cc/H7FU-XEBZ].

160. Request for Applications for State Assistance Payments for Round 17 Farmland Protection Implementation Grants Program, N.Y. STATE, DEP'T OF AGRIC. & MKT.S (2019), https://apps.agriculture.ny.gov/rfps/fpig17-rfa/RFA0219_FPIG%2017-Dairy%20Transitions%20Phase%202_RFA.pdf [https://perma.cc/K9L3-JXHG].

161. *Id.* at 5.

162. *Id.*

163. *See* David Behm, Round 17 Farmland Implementation Grants Request for Applications – Dairy Transitions (Phase 2) Status of Awards and Applications Received (Nov. 15, 2019) (unpublished manuscript) (on file with author).

164. *See* Jack Hornickel, Dairy Transitions Analysis – Round 1 (Nov. 15, 2019) (unpublished manuscript) (on file with author); David Behm, Dairy Transition Narratives from

This systematic reinvestment in a retracting industry calls the governmental strategy into question. That strategy—land conservation, financed by a generational bet on milk prices, with the farm family bearing the risk of failure—is unsustainable. The singular opportunity to unlock land capital through conservation easements should not be gambled away. But the evolution of the Farmland Protection Program over time shows it is flexible enough to meet demands in regional real estate markets, test innovative conservation tools for affordability, shift priorities to environmental characteristics other than soil quality and farm characteristics other than acreage and increase budget allocations to protect lands operating in deteriorating industries.

2. PROPOSAL FOR A DAIRY RETIRMENT PROGRAM

With its openness for adaptation, the Farmland Protection Program should take a page from the New Deal by piloting a bold new program—through executive and administrative leadership until legislative authorization is necessary—to intervene more directly into the crisis of dairy farm succession. Relying on financing from the Environmental Protection Fund and the sure-to-pass Clean Air, Clean Water, and Green Jobs Bond Act, a Dairy Retirement Program should be designed to offer a variety of mechanisms for eligible farmers seeking relief.

First, funding rounds for the Dairy Transitions Farmland Protection Initiative should continue to be released, but the criteria for applicants should be narrowed. No projects should be awarded which would continue the farm in the wholesale fluid milk market. Only projects that fully exit the dairy industry, transition into a livestock or crop enterprise, or diversify into value-added dairy products for direct marketing should be considered. Dairy Transitions projects would maintain land ownership by the farmer, subject to a permanent conservation easement. By restricting project awards from supporting the wholesale fluid milk market, public funds therefore would be directed at more viable, sustainable, and regional agriculture.

Second, the Farmland Protection Program should pilot a program, inspired by the work of the Resettlement Agency, that purchases dairy farms, resettles the retiring farmer, and repurposes the land. A committee representative of diverse and expert interests would review the potential new land uses, subject to public scrutiny. For properties in remote locations,

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Phase 1 (Nov. 15, 2019) (unpublished manuscript) (on file with author); *see* Jack Hornickel, Dairy Transitions Analysis – Round 2 (Sept. 20, 2021) (unpublished manuscript) (on file with author); David Behm, Dairy Transition Narratives from Phase 2 (Sept. 2, 2021) (unpublished manuscript) (on file with author).

reforestation and designation as state forest should be considered. For properties in scenic but accessible locations, light civic infrastructure development and designation as state parkland should be considered. Both of these project types would mimic the Rural Rehabilitation purchases of submarginal land and rely on contemporary programs that mirror the reforestation work of the Civilian Conservation Corp. For properties located within three to five miles of a hamlet or village center, redevelopment of the farmstead and government-financed sale to a qualified beginning farmer, subject to permanent conservation easement with resale restrictions, should be considered. These projects would utilize the purchase and resale mechanism considered in the Farm Tenancy Act, mimic the Subsistence Homesteads program, and operate publicly like Soil Erosion Service research demonstrations.

Because funds for the Dairy Retirement Program would likely draw from the Clean Air, Clean Water, and Green Jobs Bond Act, while fulfilling many goals of the 2019 Climate Leadership and Community Protection Act and the recommendations of the 2021 Diversity and Racial Equity Workgroup, the projects would be intended to directly benefit environmental justice communities. While this might include a dignified retirement for dairy farmers, it would certainly include secure land access for Black, Indigenous, and People of Color. Such projects could each carry a capital budget in the low millions. Therefore the initial pilot should be limited in scope, with a Request for Expressions of Interest seeking applicants from each of the seven Regional Economic Development Councils. With the same budget as previous rounds of farmland implementation grants, the Dairy Retirement Program could fund one project in each of the economic regions. Applicants from the New York City region would focus their materials on business planning and cooperative development and be considered for selection to occupy and ultimately purchase a retired, redeveloped dairy farm located in another economic region.

After a first successful pilot round, the Dairy Retirement Program should produce a report that documents its successes, failures, weaknesses, and opportunities. Due to the limited scope of the pilot, the Dairy Retirement Program would have negligible effect on stabilizing milk prices or impacting climate change, which are issues of international scope. However, the pilot round may successfully demonstrate adaptive reuses of farmland and rural revitalization. In the least, the program would provide further models for farm succession and documented research of carbon sequestration, and ideally, it may show some credence for the theory of government community planning promoted by the Resettlement Agency.

Therefore, in the spirit of the New Deal, the Dairy Retirement Program would not guarantee successful results. Rather, it would employ direct government intervention and interagency cooperation to provide urgent relief to an acute crisis, and its experimental model, if successful, may be replicated to provide long-term stability.

In addition to any amendments necessary to legally authorize the Dairy Retirement Program, the New York State legislature should advance supplemental policies and programs to create incentives, resources, and more favorable conditions for its operations. Such programs should provide tools, resource, and guides for farm succession planners, to educate and assist with transitions.[165] To support beginning farmers, eligibility for student loan forgiveness should be expanded to all farmers who choose agriculture as a livelihood.[166] New York State should also inventory and publicize state-owned land that could be available for farming.[167] Finally, in direct assistance to dairy farms seeking greater financial stability, a tax credit should be established for value-added processing equipment, like cheese, yogurt, and ice cream.[168] These policies and programs would also advance a Green New Deal for New York State agriculture, whether or not they supplement the proposed Dairy Retirement Program.

V. CONCLUSION

The Green New Deal has already begun in New York State. To advance this economic and environmental agenda, the Green New Deal should pay close attention to agriculture, specifically the farm succession crisis and its opportunity for climate change mitigation. Furthermore, to earn its historical import, the Green New Deal should study the history and policy tools of the original New Deal, then design new programs that hew closely to them. The most acute crises are currently faced by dairy farms. Therefore, the proposed Dairy Retirement Program advances the Green New Deal agenda, builds upon the New Deal policy infrastructure, and fulfills current New York State environmental policy.

165. *See, e.g.*, S. 7413, Reg. Sess. (N.Y. 2021).
166. *See, e.g.*, S. 4082, Reg. Sess. (N.Y. 2021).
167. *See, e.g.*, *S*. 1824, Reg. Sess. (N.Y. 2015).
168. *See, e.g.*, S. 7851, Reg. Sess. (N.Y. 2018).