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U.S. Farm Income Outlook for 2019

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Specialist in Agricultural Policy

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SUMMARY

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U.S. Farm Income Outlook for 2019

This report uses the U.S. Department of Agriculture's (USDA) farm income projections (as of March 6, 2019) and agricultural trade outlook update (as of February 21, 2019) to describe the U.S. farm economic outlook. According to USDA's Economic Research Service (ERS), national net farm income—a key indicator of U.S. farm well-being—is forecast at $69.4 billion in 2019, up $6.3 billion (+10%) from last year. The forecast rise in 2019 net farm income is the result of an increase in gross returns (up $8.5 billion or +2%)—including continued payments under the trade aid package announced by USDA in July 2018—partially offset by slightly higher production expenses (up $2.2 billion or +0.6%). Net *farm* income is calculated on an accrual basis. Net *cash* income (calculated on a cash-flow basis) is also projected higher in 2019 (+4.7%) to $95.7 billion.

The 2019 net farm income forecast is substantially below (-18%) the 10-year average of $84.8 billion (in nominal dollars)—primarily the result of the outlook for continued weak prices for most major crops. Commodity prices are under pressure from a record soybean and near-record corn harvest in 2018, diminished export prospects due to an ongoing trade dispute with China, and burdensome stocks.

Government payments are projected down nearly 17% from 2018 at $11.5 billion—due largely to lower market facilitation payments by USDA. Market facilitation payments to qualifying agricultural producers—in response to the U.S.-China trade dispute—were an estimated $5.2 billion in 2018 and are projected at $3.5 billion in 2019. Price Loss Coverage (PLC) and Agricultural Risk Coverage (ARC) payments are also projected lower in 2019 ($1.7 billion) versus 2018 ($3.0 billion). Payments to dairy producers under the new Dairy Margin Coverage (DMC) program are projected up over 200% at $600 million, while payments under conservation and disaster assistance are projected up in 2019 at $4.3 billion (+8.6%) and $1.4 billion (+20%).

Since 2008, U.S. agricultural exports have accounted for a 20% share of U.S. farm and manufactured or processed agricultural sales. In 2018 total agricultural exports were estimated up 2% at $143.4 billion. However, abundant supplies in international markets, strong competition from major foreign competitors, and the ongoing U.S.-China trade dispute are expected to shift trade patterns and lower U.S. export prospects slightly (-1%) in 2019.

In addition to the outlook for slightly higher farm income, farm asset value is also projected up 1.5% from 2018 to $3.1 trillion. However, aggregate farm debt is projected record large at $426.7 billion—up 3.9% from 2018. Farm asset values reflect farm investors' and lenders' expectations about long-term profitability of farm sector investments. USDA farmland values are projected to rise 1.8% in 2019, similar to the increases of 1.9% in 2018 and 2.3% in 2017. Because they comprise such a significant portion of the U.S. farm sector's asset base (83%), change in farmland values is a critical barometer of the farm sector's financial performance. At the farm household level, average farm household incomes have been well above average U.S. household incomes since the late 1990s. However, that advantage has narrowed in recent years. In 2014, the average farm household income (including off-farm income sources) was about 77% higher than the average U.S. household income. In 2017 (the last year with comparable data), that advantage is expected to decline to 32%.

The outlook for below average net farm income and relatively weak prices for most major program crops signals the likelihood of continued relatively lean times ahead. The U.S. agricultural sector's well-being remains dependent on continued growth in domestic and foreign demand to sustain prices at current modest levels. In addition to commodity prices, the financial picture for the agricultural sector as a whole heading into 2019 will hinge on both domestic and international macroeconomic factors, including interest rates, economic growth, and consumer demand.

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Introduction

The U.S. farm sector is vast and varied. It encompasses production activities related to traditional field crops (such as corn, soybeans, wheat, and cotton) and livestock and poultry products (including meat, dairy, and eggs), as well as fruits, tree nuts, and vegetables. In addition, U.S. agricultural output includes greenhouse and nursery products, forest products, custom work, machine hire, and other farm-related activities. The intensity and economic importance of each of these activities, as well as their underlying market structure and production processes, vary regionally based on the agro-climatic setting, market conditions, and other factors. As a result, farm income and rural economic conditions may vary substantially across the United States.

Annual U.S. net farm income is the single most watched indicator of farm sector well-being, as it captures and reflects the entirety of economic activity across the range of production processes, input expenses, and marketing conditions that have prevailed during a specific time period. When national net farm income is reported together with a measure of the national farm debt-to-asset ratio, the two summary statistics provide a quick and widely referenced indicator of the economic well-being of the national farm economy.

Measuring Farm Profitability

Two different indicators measure farm profitability: net cash income and net farm income.

Net cash income compares cash receipts to cash expenses. As such, it is a cash flow measure representing the funds that are available to farm operators to meet family living expenses and make debt payments. For example, crops that are produced and harvested but kept in on-farm storage are not counted in net cash income. Farm output must be sold before it is counted as part of the household's cash flow.

Net farm income is a more comprehensive measure of farm profitability. It measures value of production, indicating the farm operator's share of the net value added to the national economy within a calendar year independent of whether it is received in cash or noncash form. As a result, net farm income includes the value of home consumption, changes in inventories, capital replacement, and implicit rent and expenses related to the farm operator's dwelling that are not reflected in cash transactions. Thus, once a crop is grown and harvested, it is included in the farm's net income calculation, even if it remains in on-farm storage.

Key Concepts Behind Farm Income

- Net cash income is generally less variable than net farm income. Farmers can manage the timing of crop and livestock sales and purchase of inputs to stabilize the variability in their net cash income. For example, farmers can hold crops from large harvests in on-farm storage to sell in the forthcoming year, when output may be lower and prices higher.
- Off-farm income and crop insurance subsidies, both of which have increased in importance in recent years, are not included in the calculation of aggregate farm income. Crop insurance indemnity payments are included.
- Off-farm income is included in the discussion of farm income at the household level at the end of this report.

National vs. State-Level Farm Household Data

This report focuses singularly on aggregate national net farm income projections for calendar year 2019 as reported by the U.S. Department of Agriculture's (USDA) Economic Research Service (ERS).[1] Aggregate data often obscure or understate the tremendous diversity and regional variation that occurs across America's agricultural landscape. For insights into the differences in American agriculture, visit the ERS websites on "Farm Structure and Organization" and "Farm Household Well-being."[2]

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[1] For both national and state-level farm income, see ERS, "U.S. and State Farm Income and Wealth Statistics," http://www.ers.usda.gov/data-products/farm-income-and-wealth-statistics.aspx.

[2] ERS, "Farm Structure and Organization," http://www.ers.usda.gov/topics/farm-economy/farm-structure-and-organization.aspx; and "Farm Household Well-Being," http://www.ers.usda.gov/topics/farm-economy/farm-household-well-being.aspx.

USDA's 2019 Farm Income Forecast

In the first of three official U.S. farm income outlook releases scheduled for 2019, ERS projects that U.S. net farm income will rise slightly in 2019 to $69.4 billion, up $6.3 billion (+10%) from last year.[3] Net cash income (calculated on a cash-flow basis) is also projected higher in 2019 (+4.7%) to $95.7 billion. However, the initial 2019 net farm income forecast is below (-18%) the 10-year average of $84.8 billion and represents continued agriculture-sector economic weakness since 2013's record high of $123.8 billion.

Substantial Uncertainties Underpin the Outlook

Abundant domestic and international supplies of grains and oilseeds suggest a fourth straight year of relatively weak commodity prices in 2018 (**Figure A-1** through **Figure A-4**, and **Table A-4**). However, considerable uncertainty remains concerning whether the United States will achieve a resolution to its trade dispute with China and other major trading partners, what crops U.S. producers will decide to plant across the major growing regions of the United States (**Figure 3**), whether farmers and ranchers will continue to expand livestock production (**Figure 8**), what weather and growing conditions will prevail during the principal plant-growth season, and how domestic and international demand will evolve during the year.

Selected Highlights

- Since the record highs of 2012 and 2013, net cash income and net farm income have fallen by 29% and 44%, respectively (**Figure 1**), thus continuing a general downward trend in farm income since 2013—primarily the result of a significant decline in most farm commodity prices since 2013-2014.
- Cash receipts for most major field crops (feed grains, hay, and wheat), oilseeds (**Figure 12**), and animal products (beef, pork, broilers, eggs, and milk—**Figure 14**), are projected at $381.5 billion in 2019 (+2.3%) but have declined since their highs in 2012 and 2014 as U.S. and global grain and oilseed stocks and animal herds have rebuilt.
- Government payments in 2019 are projected down (-17%) from 2018 at $11.5 billion—due largely to lower payments under both the Market Facilitation Program (MFP)[4] and revenue-support programs (**Figure 16**).
- Total production expenses for 2019 (**Figure 18**), at $372 billion, are projected up slightly from 2018 (+0.6%), driven largely by feed, labor, and interest costs.
- Global demand for U.S. agricultural exports (**Figure 22**) is projected at $141.5 billion in 2019, down 1% from 2018, due largely to a decline in sales to China.[5]
- Farm asset values and debt levels are projected to reach record levels in 2019—asset values at $3.1 trillion (+1.5%) and farm debt at $427 billion (+3.9%)—pushing the projected debt-to-asset ratio up to 13.9%, the highest level since 2002 (**Figure 28**).

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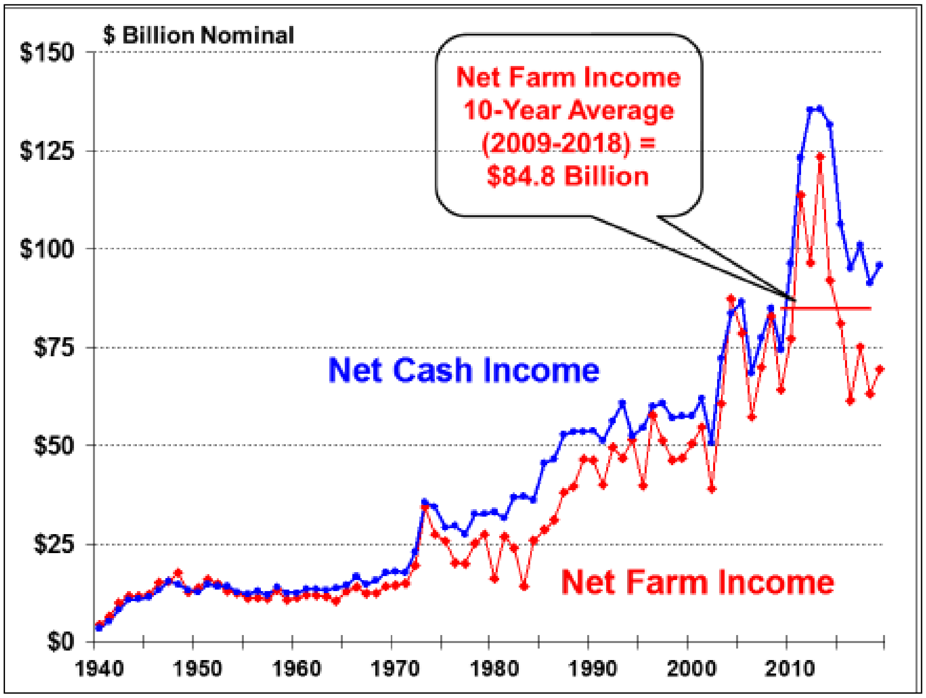
[3] ERS's first farm income forecast was released on March 6, 2019. ERS is to update its farm income outlook in August (mid-year outlook) and again in November. ERS's 2019 Farm Sector Income Forecasts are available at https://www.ers.usda.gov/topics/farm-economy/farm-sector-income-finances/farm-sector-income-forecast/.

[4] See CRS Report R45310, *Farm Policy: USDA's Trade Aid Package*.

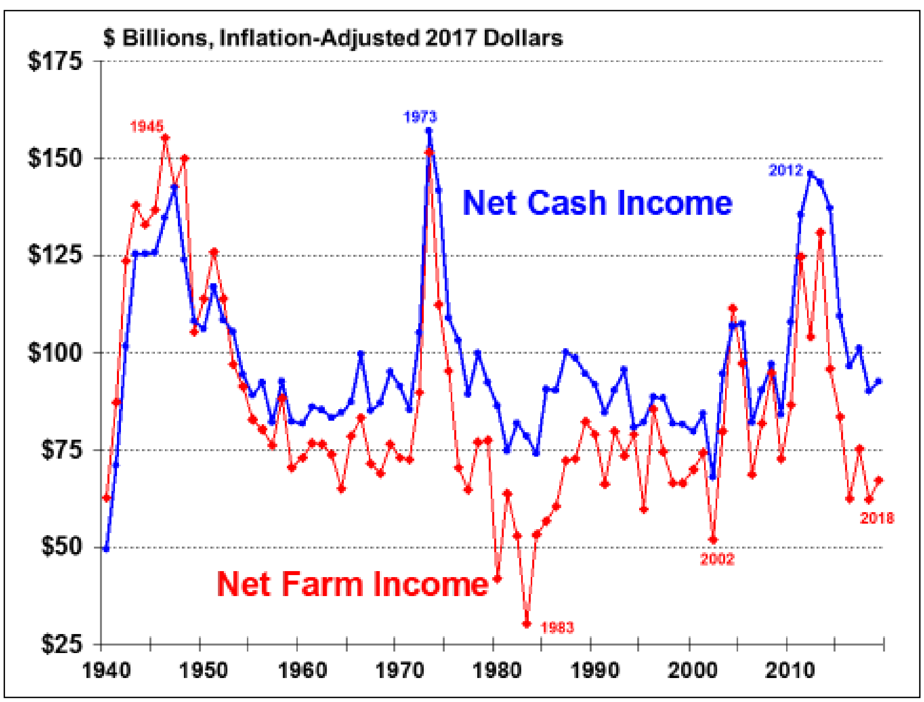
[5] ERS, *Outlook for U.S. Agricultural Trade*, AES-106, November 29, 2018.

Figure 1. Annual U.S. Farm Sector Nominal Income, 1940-2019



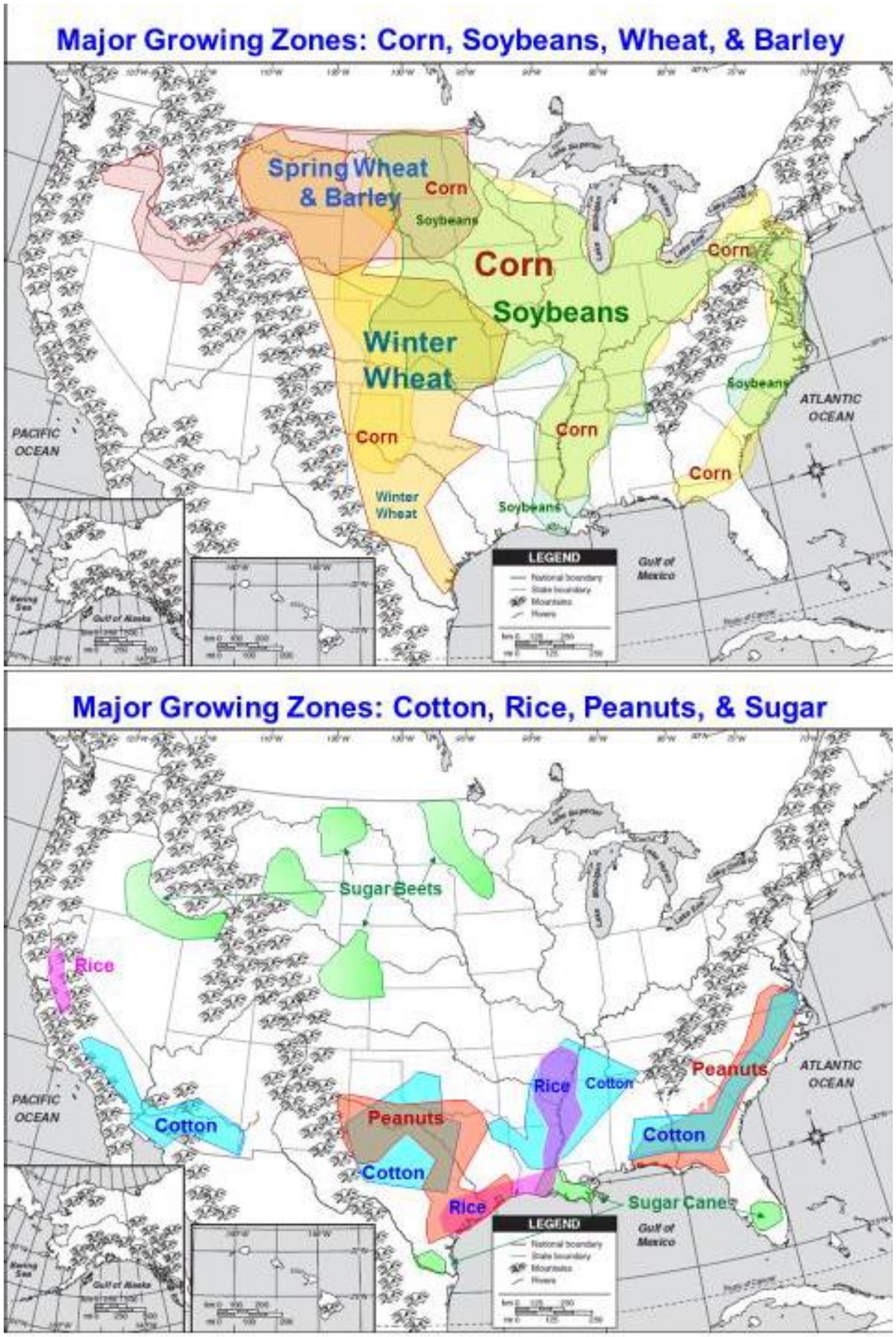
Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are nominal—that is, not adjusted for inflation. Values for 2019 are forecasts.

Figure 2. Annual U.S. Farm Sector Inflation-Adjusted Income, 1940-2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are adjusted for inflation using the chain-type gross domestic product deflator, where 2017 = 100. Office of Management and Budget, Historical Tables, Table 10.1, https://www.whitehouse.gov/omb/budget/Historicals; 2019 is forecast.

Figure 3. Principal Growing Zones for Major Program Crops



Source: Compiled by CRS based on USDA, Office of the Chief Economist, "Major World Crop Areas: North America," https://www.usda.gov/oce/weather/pubs/Other/MWCACP/namerica.htm.

Note: In the upper figure, corn zones are yellow, soybeans are green, winter wheat is brown, and spring wheat and barley are pink. In the lower figure, cotton zones are blue, rice is pink, peanuts are brown, and sugar crops are green. Additional minor production activity occurs outside of the indicated zones. See source for mappings of minor production activity.

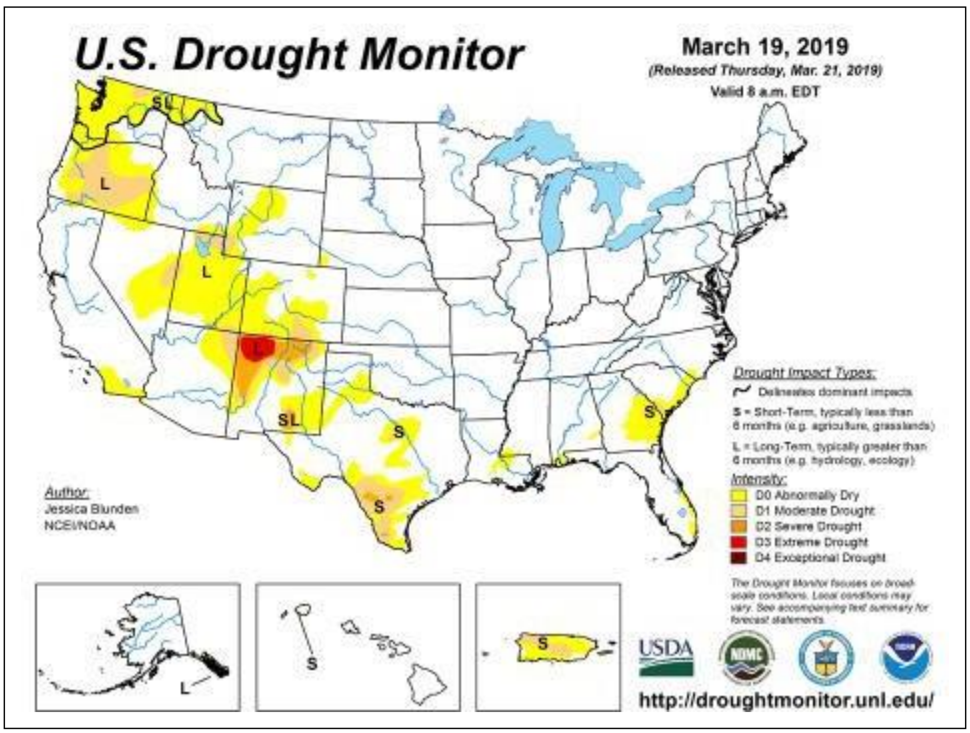
U.S. Agriculture Outlook: 2019 Overview

Farm production choices in 2019 will largely be determined by producers' expectations for relative net returns from both the market and government programs across the various crops and livestock activities. Growing-season weather, yields, and harvest-time market prices are unknown early in the year when producers must lock in their production decisions for the year.

Heading into 2019, most of the major growing zones (**Figure 3**) across the Corn Belt, Plain States, Delta, and Southeast are largely free of drought (**Figure 4**). Some dryness persists primarily in the mountain states, the Pacific Northwest, and southern Texas.

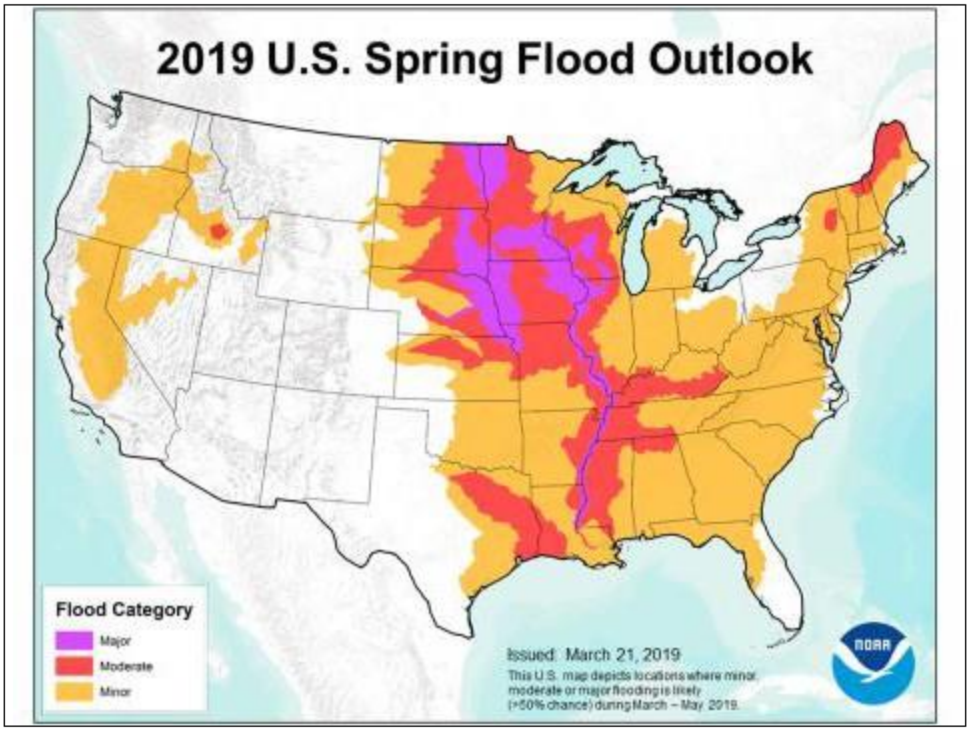
Instead of dryness, excessive precipitation and early spring flooding present potential hindrances to the normal crop-choice and planting routines for 2019, particularly in the western Corn Belt (**Figure 5**).

Figure 4. Favorable Conditions Across Most Growing Zones Heading into 2019



Source: USDA, Office of the Chief Economist, Current U.S. Drought Monitor, March 5, 2019, http://droughtmonitor.unl.edu/data/jpg/current/current_usdm.jpg.

Figure 5. U.S. Spring Flood Outlook for 2019



Source: National Oceanic and Atmospheric Administration, March 21, 2019.

Large Corn and Soybean Crops Continue to Dominate Commodity Markets

Corn and soybeans are the two largest U.S. commercial crops in terms of both value and acreage. For the past several years, U.S. corn and soybean crops have experienced strong growth in both productivity and output, thus helping to build stockpiles at the end of the marketing year. This has been particularly true for soybeans, which have seen rapid growth in yield, acres planted, and stocks. This pattern reached a historic point in 2018 when, for the first time in history, U.S. soybean plantings (at 89.196 million acres) narrowly exceeded corn plantings (89.120 million acres). The record soybean plantings, coupled with the second-highest yields on record (51.6 bushels/acres), produced a record U.S. soybean harvest of 4.5 billion bushels and record ending stocks (900 million bushels) in 2018.[6] The record harvest and abundant supply, coupled with the sudden loss of China as the principal buyer of U.S. soybeans in 2018, have pressured soybean farm prices lower (-8%) to a projected $8.60/bushel for the 2018/2019 marketing year—the lowest farm price since 2006 (**Figure 6**).[7]

Like soybeans, USDA estimated the second-highest corn yields on record in 2018 at 176.4 bushels/acre (just behind the previous year's record yield of 176.6 bushels/acre). As a result, the United States produced the third-largest corn harvest on record at 14.4 billion bushels. Despite the near-record production, USDA predicts that record large domestic usage (including for livestock feed, ethanol production, other industrial processing, and seed) plus large exports will result in a

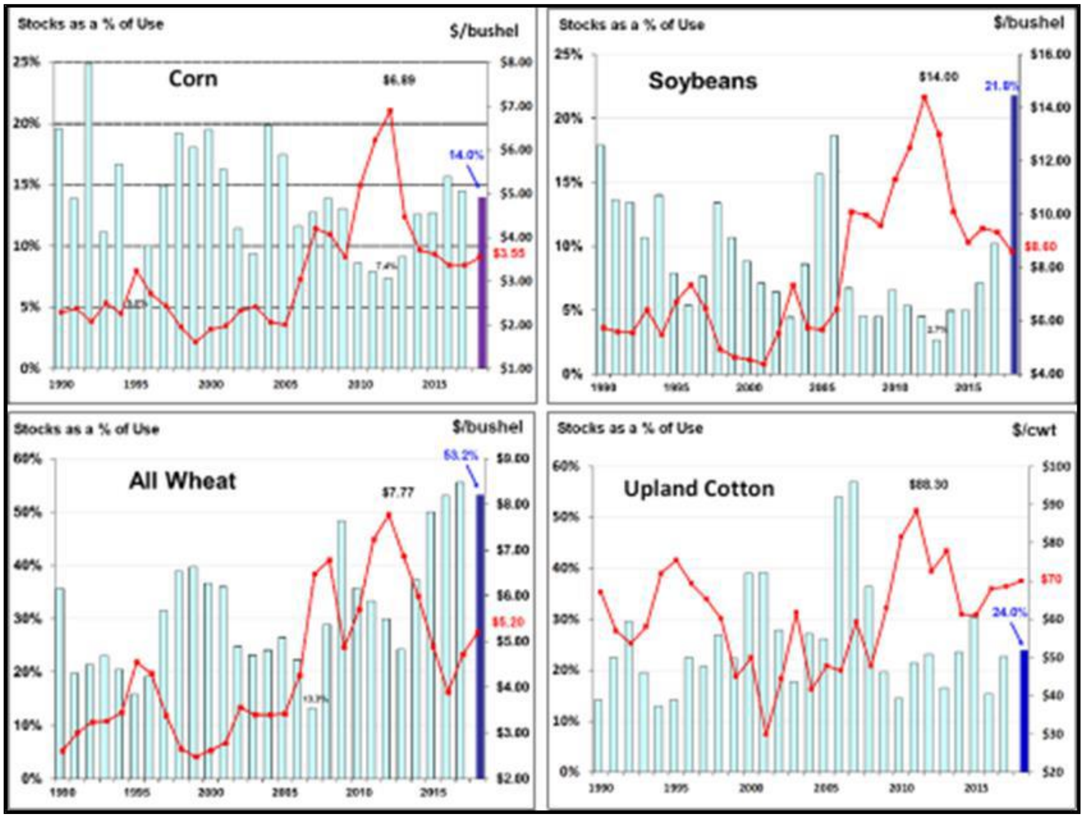
[6] USDA, World Agricultural Outlook Board (WAOB), *World Agricultural Supply and Demand Estimates (WASDE)*, March 8, 2019.

[7] The marketing year varies slightly with each agricultural commodity, but it tends to begin at harvest and end before the next year's harvest. For example, the marketing year for corn planted and harvested in 2018 begins September 1, 2018, and ends August 31, 2019.

small reduction in corn ending stocks, a decline in the ending stocks-to-use ratio to 14.0% (down from 14.5%) and a slightly higher season average farm price of $3.55/bushel.

Both wheat and upland cotton farm prices are projected up slightly from 2017 despite relatively abundant stocks-to-use ratios, largely on the strength of international demand.

Figure 6. Stocks-to-Use Ratios and Farm Prices: Corn, Soybeans, Wheat, and Cotton



Source: USDA, World Agricultural Outlook Board, *World Agricultural Supply and Demand Estimates*, April 9, 2019. All values are nominal. Values for 2019 are forecasts and are shown in dark blue.

Notes: Stocks-to-use equals the ratio of season-ending stocks relative to the season's total usage.

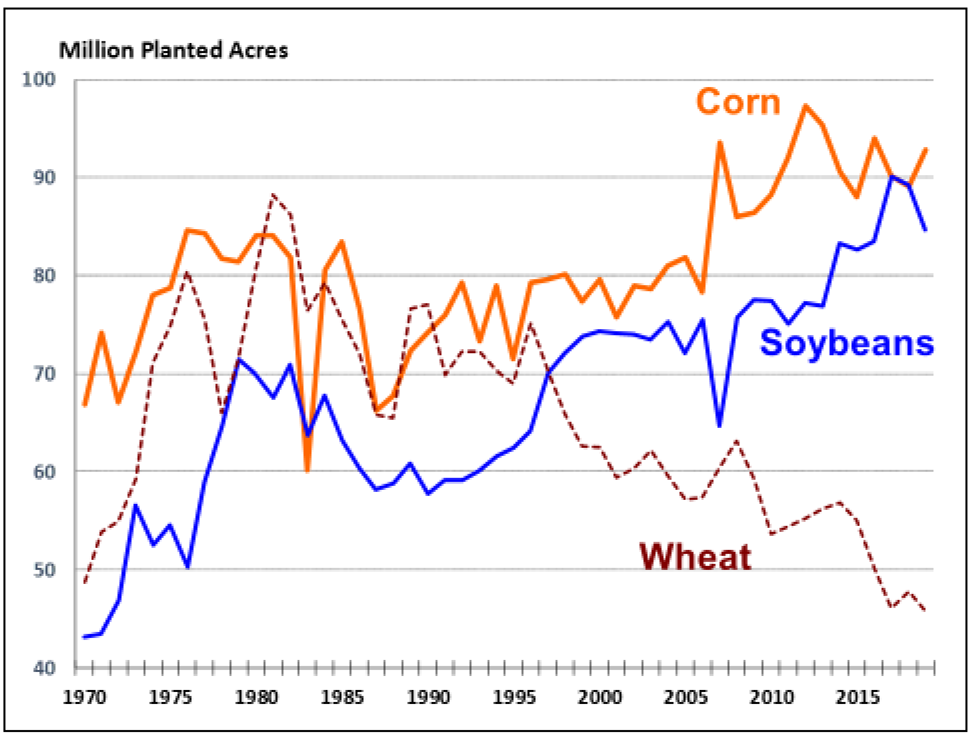
The corn and soybean crops provide important inputs for the domestic livestock, poultry, and biofuels sectors. In addition, the United States is traditionally one of the world's leading exporters of corn, soybeans, and soybean products—vegetable oil and meal. During the recent five-year period from 2013/2014 to 2017/2018, the United States exported 49% of its soybean production and 15% of its corn crop. As a result, the export outlook for these two crops is critical to both farm sector profitability and regional economic activity across large swaths of the United States as well as in international markets. However, a tariff-related trade dispute between the United States and several major trading partners (in particular, China) has cast uncertainty over the corn and soybean markets.[8]

[8] See CRS Insight IN10943, *Escalating Tariffs: Timeline*; and CRS Insight IN10880, *China's Retaliatory Tariffs on Selected U.S. Agricultural Products*.

The trade dispute has resulted in lower purchases of U.S. agricultural products by China in 2018,[9] with continued diminished prospects for 2019. China was the top export market for U.S. agricultural products in 2017 with $25.9 billion in purchases. With the realization of diminished Chinese purchases, USDA has revised downward its expected export value to China for 2018 to $20.5 billion and for 2019 to $13.6 billion.[10] Similarly, USDA has lowered its U.S. soybean export forecast from its initial estimate of 2.3 billion bushels in May 2018 to 1.875 billion bushels in its March 8, 2019, World Agricultural Supply and Demand Estimates report. The marketing year for corn and soybeans extends through August 2019. Thus, these forecasts depend on whether the trade dispute continues unabated or how the terms of any resolution (if one were to occur) would impact trade in the remaining months of the marketing year in 2019.

The rapid expansion of U.S. soybean production has come largely at the expense of the wheat sector, which has been steadily losing acreage over the past several decades (**Figure 7**). In 2017 U.S. wheat-planted acres were the lowest in over 100 years. Poor planting conditions in the fall of 2018 (for the 2019 winter wheat crop) across several states have resulted in the lowest estimated plantings outlook for winter wheat since 1909. The contraction in area is expected to support wheat prices and possibly lead to expanded spring wheat plantings in the Northern Plains in 2019.[11]

Figure 7. Planted Acres Since 1970: Corn, Soybeans, and Wheat



Source: USDA, National Agricultural Statistics Service (NASS).

[9] See CRS Report R45310, *Farm Policy: USDA's Trade Aid Package*.

[10] ERS, *Outlook for U.S. Agricultural Trade*, AES-107, February 21, 2019.

[11] Rob Johansson, "The Outlook for U.S. Agriculture—2019," USDA, February 21, 2019.

Livestock Outlook for 2019

USDA's February 2019 *Cattle* report reported that U.S. cattle herd expansion, which has been growing since 2015, has slowed markedly but is still projected to grow through 2019.[12] Similarly, U.S. hog and poultry flocks have been growing and are expected to continue to expand in 2019.[13] A key uncertainty for the meat-producing sector is whether demand will expand rapidly enough to absorb the continued growth in output or whether surplus production will begin to pressure prices lower. For 2019, expected production of beef (+1.6%), pork (+4.2%), broilers (+1.2%), and eggs (+2.3%) are projected to expand relatively robustly. This growth in protein production was preceded by strong growth rates in 2018: beef (+2.6%), pork (+2.9%), broilers (+2.2%), and eggs (+2.1%). USDA projects that combined domestic and export demand will continue to grow for red meat (+1.7%) and poultry (+0.9%) but at slower rates than projected meat production, thus contributing to the outlook for lower prices and profit margins for livestock in 2019.

Feed Margins Signal Profit Outlook

The changing conditions for the U.S. livestock sector may be tracked by the evolution of the ratios of livestock output prices to feed costs (**Figure 10**). A higher ratio suggests greater profitability for producers.[14] The cattle-, hog-, and broiler-to-feed margins all moved upward in during 2014 but have exhibited volatility during the 2015-2018 period.[15] The hog, cattle, and broiler sectors remain profitable. However, continued production growth of between 2% and 4% for red meat and poultry suggests that prices are vulnerable to weakness in demand. Both the milk- and hog-to-feed ratios fell during 2018, suggesting eroding profitability. While this result varies widely across the United States, many small or marginally profitable hog and milk producers face continued financial difficulties. In addition, both U.S. and global milk production are projected to continue growing in 2019. As a result, milk prices could come under further pressure in 2019, although USDA is currently projecting milk prices up slightly in 2019.[16]

Background on the U.S. Cattle-Beef Sector

Record profitability among cow-calf producers in 2014, coupled with then-improved forage conditions, helped to trigger the beef cow herd expansion (**Figure 9**).[17] The continued cattle expansion through 2019—despite weakening profitability—is primarily the result of a lag in the biological response to the strong market price signals of late 2014. During the 2007-2014 period, high feed and forage prices plus widespread drought in the Southern Plains—the largest U.S. cattle production region—had resulted in an 8% contraction of the U.S. cattle inventory (**Figure 9**). Reduced beef supplies led to higher producer and consumer prices, which in turn triggered the slow rebuilding phase in the cattle cycle that started in 2014 (see the price-to-feed ratio for steers and heifers, **Figure 10**). The resulting continued expansion of beef supplies pressured market prices lower in 2016. The lower price outlook is expected to persist through 2019 despite strong domestic and international demand across all meat categories—beef, pork, and poultry (**Table A-4**).

[12] USDA, National Agricultural Statistics Service, *Cattle*, February 22, 2019.

[13] WAOB, *WASDE*, Table—U.S. Quarterly Animal Product Production, March 8, 2019, p. 31.

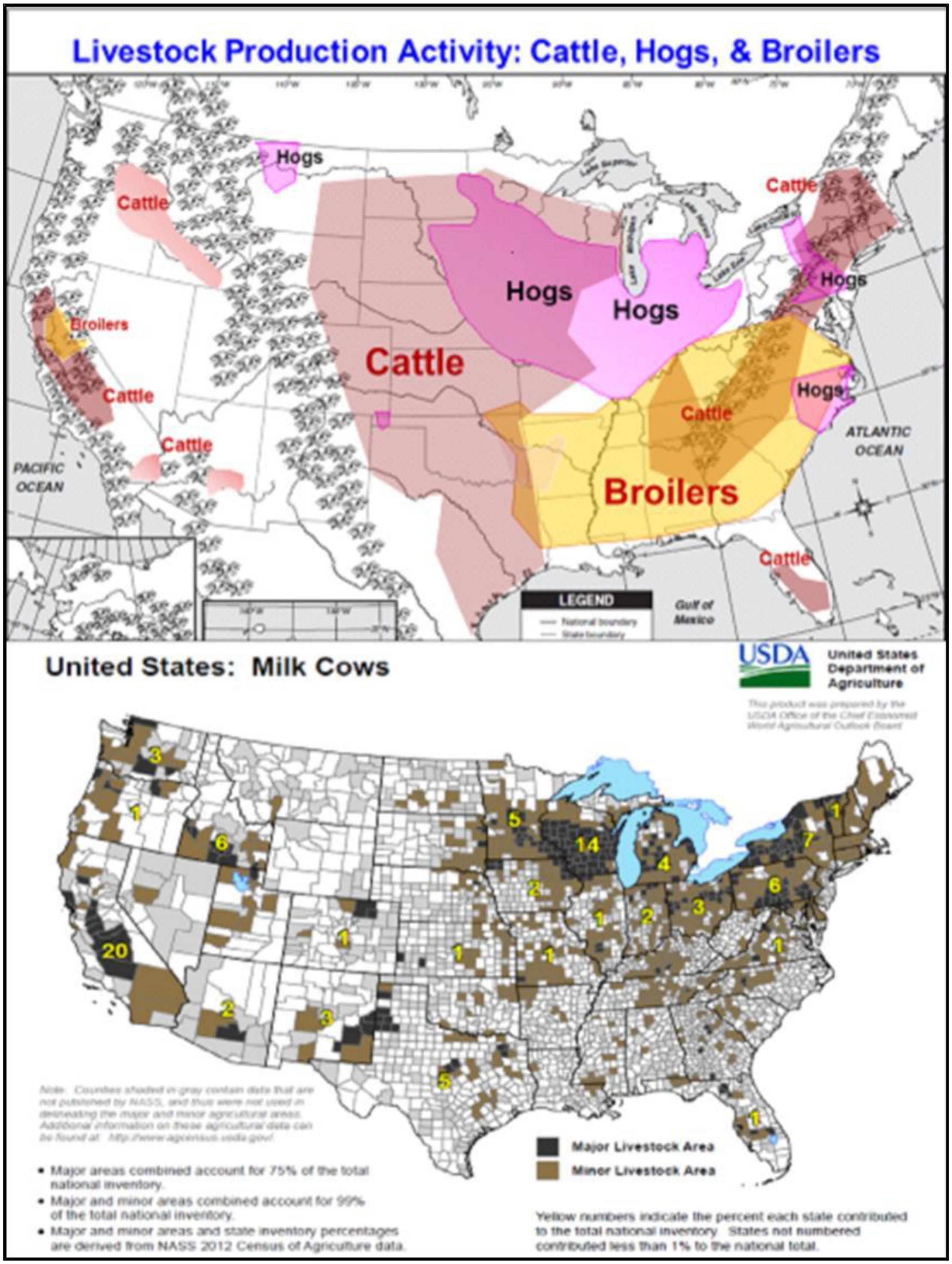
[14] Feed costs—at 30% to 80% of variable costs—are generally the largest cost component in livestock operations.

[15] Broilers are chickens raised for meat. Layers are chickens retained for egg production.

[16] WAOB, *WASDE*, Table—U.S. Quarterly Prices for Animal Products, November 8, 2018, p. 31.

[17] J. Mintert, "Cattle Inventory Growth Slowing Down, but Beef Production Still Increasing," *farmdoc daily*, vol. 8, no. 18 (February 5, 2018).

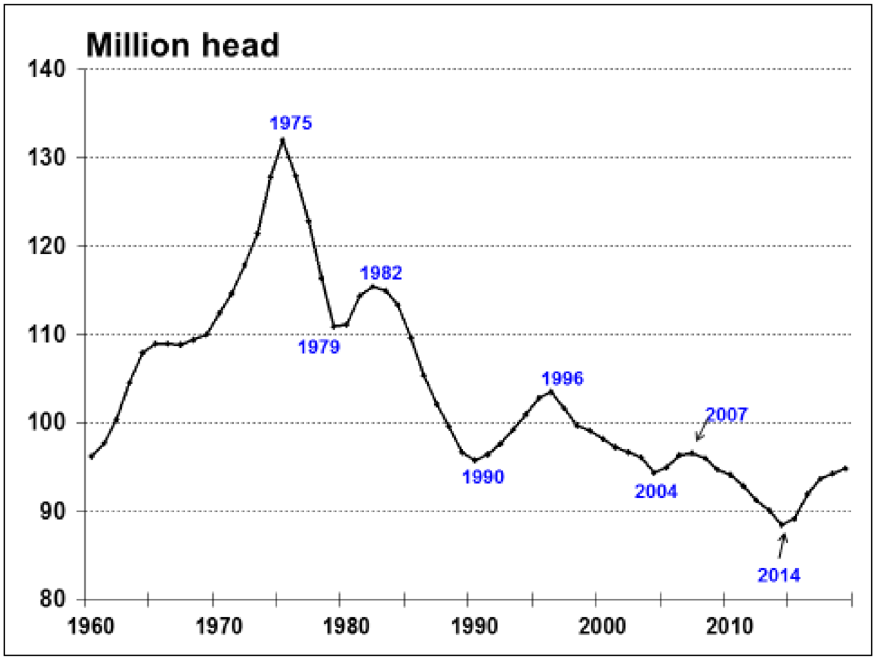
Figure 8. Principal Livestock Activity by Production Zones



Source: Compiled by CRS based on USDA, Office of the Chief Economist, "Major World Crop Areas: North America," https://www.usda.gov/oce/weather/pubs/Other/MWCACP/namerica.htm.

Notes: In the upper figure, cattle zones are purple, hogs are pink, and broilers are orange. In the lower figure, dairy zones are marked by light and dark shades of brown. Additional minor production activity occurs outside of the indicated zones. See source for mappings of minor production activity.

Figure 9. The U.S. Beef Cattle Inventory (Including Calves) Since 1960

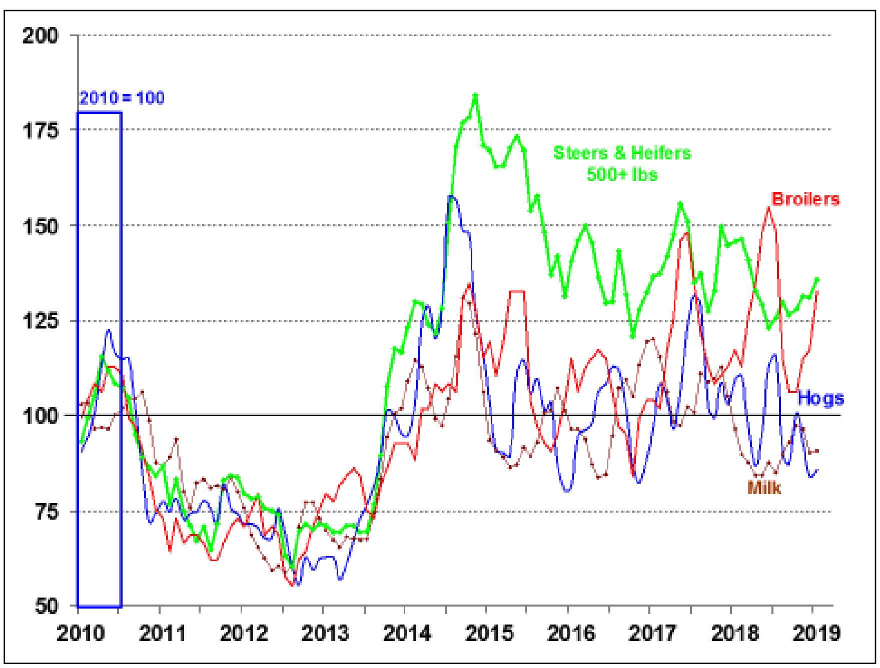


Source: NASS, *Cattle*, February 28, 2019.

Notes: Inventory data are for January 1 of each year.

Figure 10. Indexed Farm-Price-to-Feed Ratios for Cattle, Broilers, Milk, and Hogs

(Ratio of national average farm price per 100 lbs. of meat to per-unit feed cost. Indexed, 2010 = 100.)



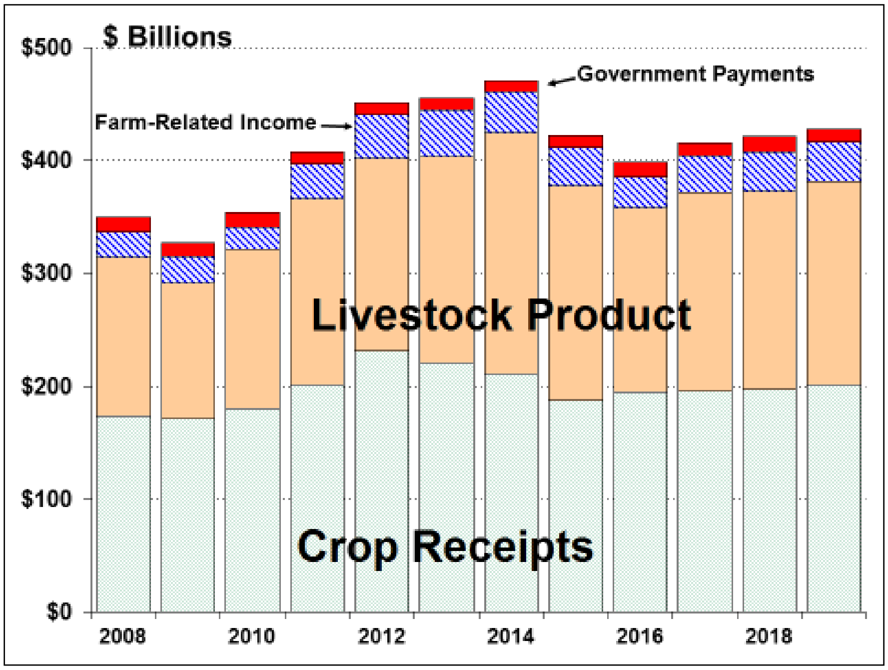
Source: NASS, *Agricultural Prices*, February 28, 2019.

Notes: Monthly farm prices for the 2010-2019 period have been divided by the annual average price for 2010 and multiplied by 100 such that 2010 = 100. Cattle and hog feed cost is 100% corn. Broilers feed cost is 58% corn and 42% soybeans. Dairy feed cost is a mix of corn, soybean meal, and alfalfa hay.

Gross Cash Income Highlights

Projected farm-sector revenue sources in 2019 include crop revenues (47% of sector revenues), livestock receipts (42%), government payments (3%), and other farm-related income (8%), including crop insurance indemnities, machine hire, and custom work. Total farm sector gross cash income for 2019 is projected to be up (+1.4%) to $427.5 billion, driven by increases in both crop (+2%) and livestock (+2.6%) receipts (**Figure 11**). Cash receipts from direct government payments (-17%) and other farm-related income (-1.2) are down slightly from 2018.

Figure 11. Farm Cash Receipts by Source, 2008-2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are nominal—that is, not adjusted for inflation. Values for 2019 are forecasts.

Notes: Farm-related income includes income from custom work, machine hire, agro-tourism, forest product sales, crop insurance indemnities, and cooperative patronage dividend fees.

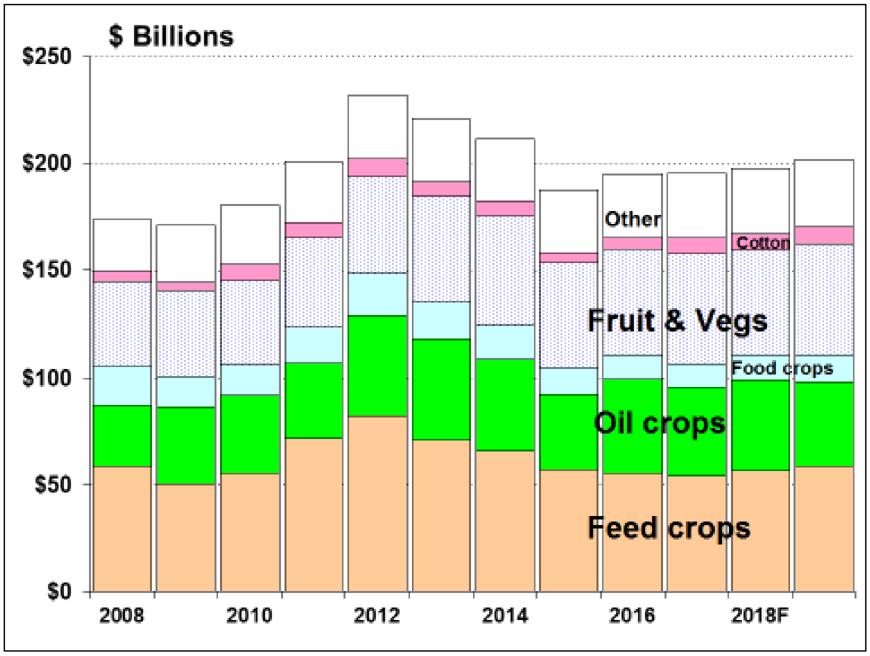
Crop Receipts

Total crop sales peaked in 2012 at $231.6 billion when a nationwide drought pushed commodity prices to record or near-record levels. In 2019, crop sales are projected at $201.7 billion, up slightly from 2018 (**Figure 12**). Projections for 2019 and percentage changes from 2018 include:

- Feed crops—corn, barley, oats, sorghum, and hay: $58.8 billion (+4.0%);
- Oil crops—soybeans, peanuts, and other oilseeds: $39.5 billion (-6.6%);
- Fruits and nuts: $32.9 billion (+8.2%);
- Vegetables and melons: $18.6 billion (+0.9%);
- Food grains—wheat and rice: $12.4 billion (+6.2%);

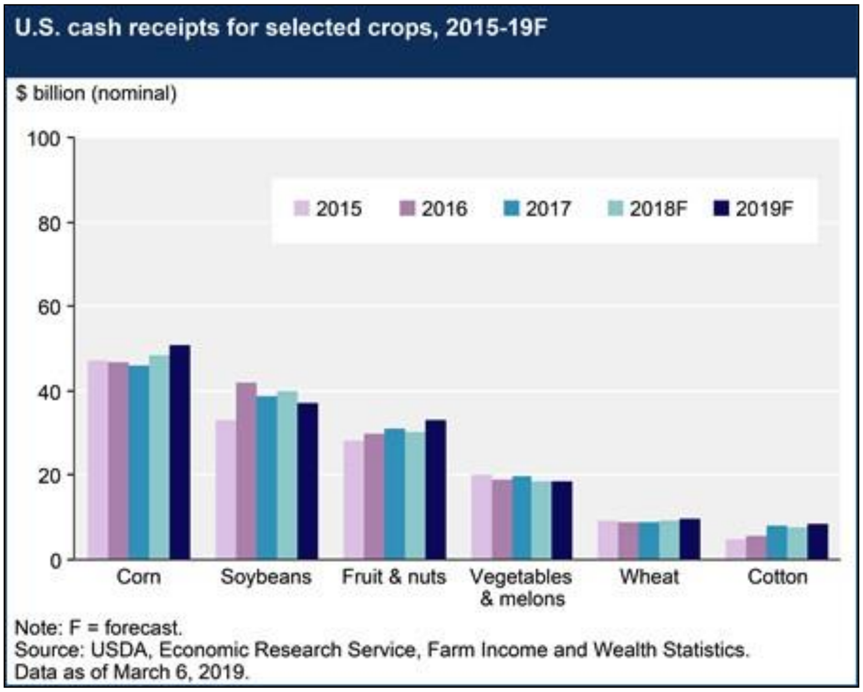
- Cotton: $8.3 billion (+6.5%); and
- Other crops including tobacco, sugar, greenhouse, and nursery: $29.8 billion (+2%).

Figure 12. Crop Cash Receipts by Source, 2008-2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are nominal—that is, not adjusted for inflation. Values for 2019 are forecasts.

Figure 13. Cash Receipts for Selected Crops, 2015-2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are nominal—that is, not adjusted for inflation. Values for 2019 are forecasts.

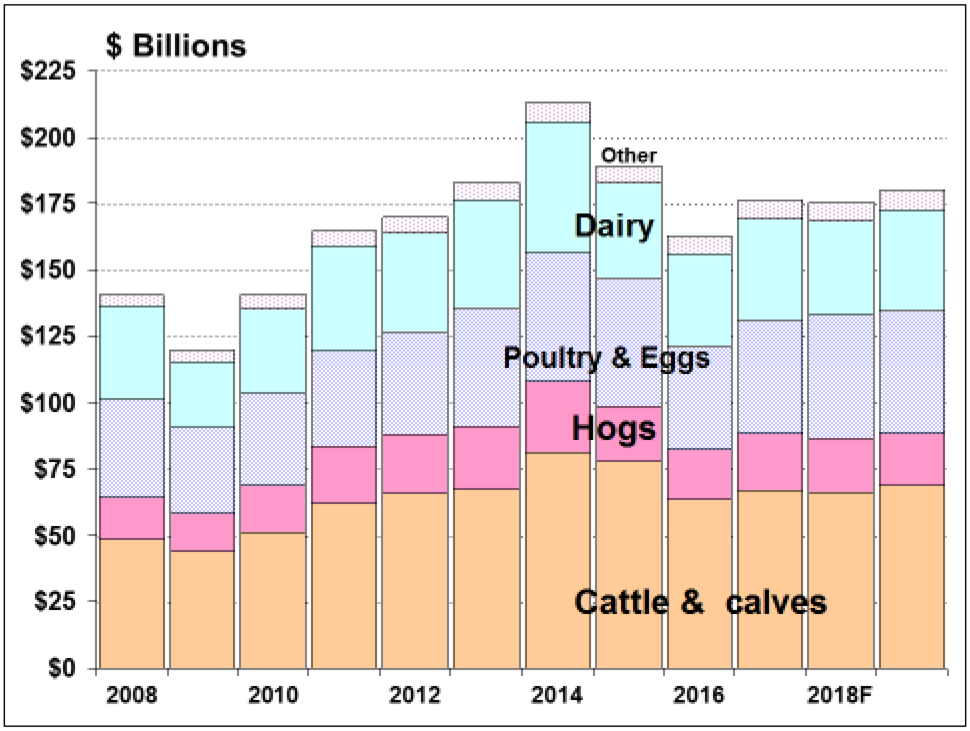
Livestock Receipts

The livestock sector includes cattle, hogs, sheep, poultry and eggs, dairy, and other minor activities. Cash receipts for the livestock sector grew steadily from 2009 to 2014, when it peaked at a record $212.8 billion. However, the sector turned downward in 2015 (-11.0%) and again in 2016 (-14.1%), driven largely by projected year-over-year price declines across major livestock categories (**Table A-4** and **Figure 14**). In 2017, livestock sector cash receipts recovered with year-to-year growth of 8.1% to $176.0 billion. In 2018, cash receipts were nearly unchanged. In 2019, cash receipts are projected up 2.6% for the sector at $179.9 billion as cattle and dairy sales partially offset declines in hog and poultry. Projections for 2019 (and percentage changes from 2018) include:

- Cattle and calf sales: $69.2 billion (+4.0%);
- Poultry and egg sales: $46.0 billion (-0.7%);
- Dairy sales, valued at $37.8 billion (+7.8%);
- Hog sales: $19.5 billion (-3.2%); and
- Miscellaneous livestock,[18] valued at $7.4 billion (+2.7%).

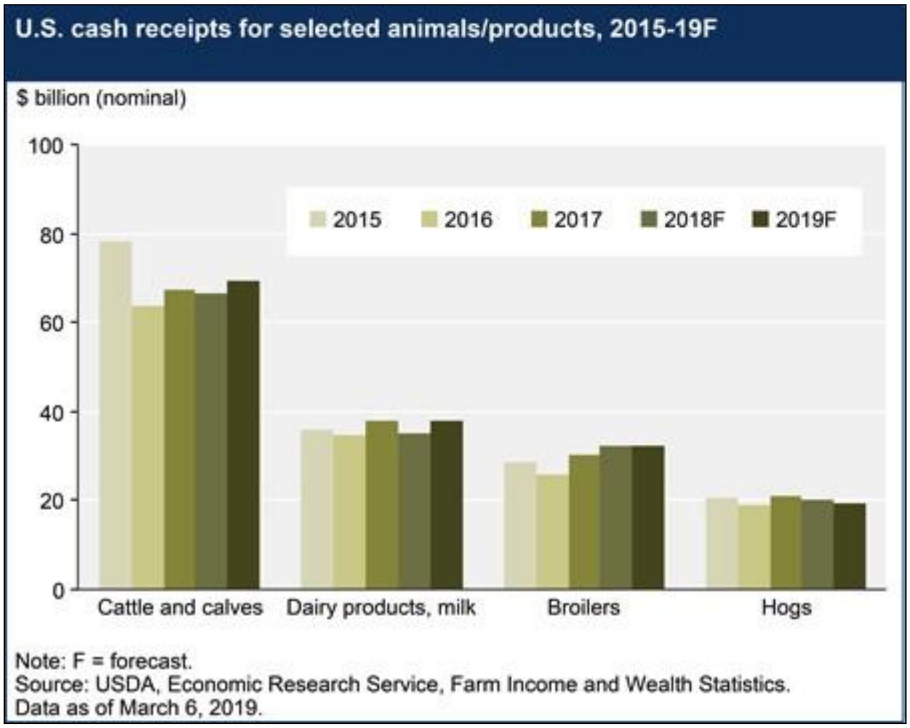
[18] Miscellaneous livestock includes aquaculture, sheep and lambs, honey, mohair, wool, pelts, and other animal products.

Figure 14. U.S. Livestock Product Cash Receipts by Source, 2008-2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are nominal—that is, not adjusted for inflation. Values for 2019 are forecasts.

Figure 15. Cash Receipts for Selected Animal Products, 2015-2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are nominal—that is, not adjusted for inflation. Values for 2019 are forecasts.

Government Payments

Government payments include direct payments (decoupled payments based on historical planted acres), price-contingent payments (program outlays linked to market conditions), conservation payments (including the Conservation Reserve Program and other environmental-based outlays), ad hoc and emergency disaster assistance payments (including emergency supplemental crop and livestock disaster payments and market loss assistance payments for relief of low commodity prices), and other miscellaneous outlays (including market facilitation payments, cotton ginning cost-share, biomass crop assistance program, peanut quota buyout, milk income loss, tobacco transition, and other miscellaneous payments).

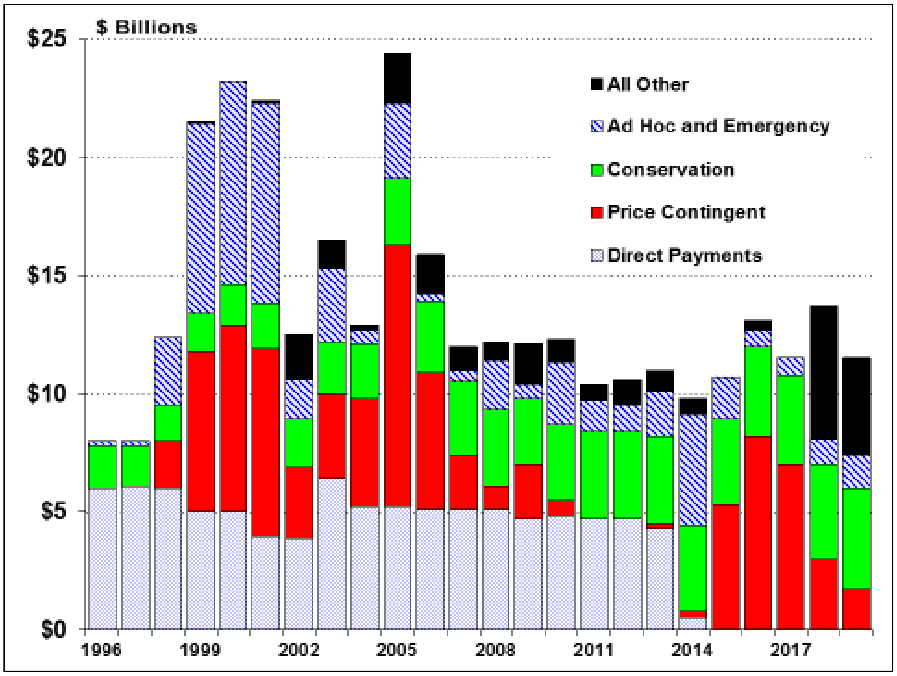
Total government payments of $11.5 billion still represent a relatively small share (3%) of projected gross cash income of $427.5 billion in 2019. In contrast, government payments are expected to represent 16% of the projected net farm income of $69.4 billion. However, the importance of government payments as a percentage of net farm income varies nationally by crop and livestock sector and by region.

Government payments in 2019 are projected down 16.8% from 2018 at $11.5 billion (**Figure 16** and **Table A-4**). Government payments in 2018 were inflated by unexpected payments of approximately $5.2 billion under the MFP initiated by USDA in response to the U.S.-China trade dispute.[19] MFP payments to qualifying agricultural producers were estimated at $5.7 billion in

[19] In July 2018, USDA announced a trade aid package including up to $12 billion in financial support designed to partially offset the negative price and income effects of lost commodity sales to major markets. The trade aid package included direct payments of up to an estimated $9.7 billion to qualifying producers of soybeans, corn, cotton, sorghum,

2018 and are projected at $3.5 billion in 2019, thus accounting for a year-to-year difference of -$2.2 billion. USDA ad hoc disaster assistance,[20] at $1.4 billion, is projected up (+20.4%). MFP and ad hoc disaster assistance payments are expected to add $6.8 billion, or about 12%, to net farm income in 2018 and $4.9 billion, or about 8%, to net farm income in 2019.

Figure 16. U.S. Government Farm Support, Direct Outlays, 1996-2019F



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are nominal—that is, not adjusted for inflation. Values for 2019 are forecasts.

Notes: Data are on a calendar year basis and reflect the timing of the actual payment. "Direct Payments" include production flexibility contract payments enacted under the 1996 farm bill and fixed direct payments of the 2002 and 2008 farm bills. "Price-Contingent" outlays include loan deficiency payments, marketing loan gains, counter-cyclical payments, Average Crop Revenue Election, Price Loss Coverage, and Agricultural Risk Coverage payments. "Conservation" outlays include Conservation Reserve Program payments along with other conservation program outlays. "Ad Hoc and Emergency" includes emergency supplemental crop and livestock disaster payments and market loss assistance payments for relief of low commodity prices. "All Other" outlays include market facilitation payments, cotton ginning cost-share, biomass crop assistance program, peanut quota buyout, milk income loss, tobacco transition, and other miscellaneous payments.

Payments under the Agricultural Risk Coverage and Price Loss Coverage programs are projected lower in 2019 at $1.7 billion compared with an estimated $3.0 billion in 2018 (see "Price Contingent" in **Figure 16**).[21] No payments are forecast under the marketing loan program in 2019, the same as in 2018, as program crop prices are expected to remain above most farm-bill loan rates through 2019. The new Dairy Margin Coverage program is expected to make $600

wheat, hogs, dairy, fresh sweet cherries, and shelled almonds. The trade aid package also included $1.2 billion in government purchases of excess food supplies and $200 million in trade promotion. See CRS Report R45310, *Farm Policy: USDA's Trade Aid Package*.

[20] Fiscal year payments generally involve outlay commitments incurred during the previous crop year. For example, FY2019 disaster assistance payments are primarily related to disasters for crops that were grown and harvested in 2018. See CRS Report RS21212, *Agricultural Disaster Assistance,* for information on available farm disaster programs.

[21] For details see CRS Report R43448, *Farm Commodity Provisions in the 2014 Farm Bill (P.L. 113-79)*.

million in payments in 2019, up from $188 million under the previous milk Margin Protection Program (MPP) in 2018 (see next section for details).

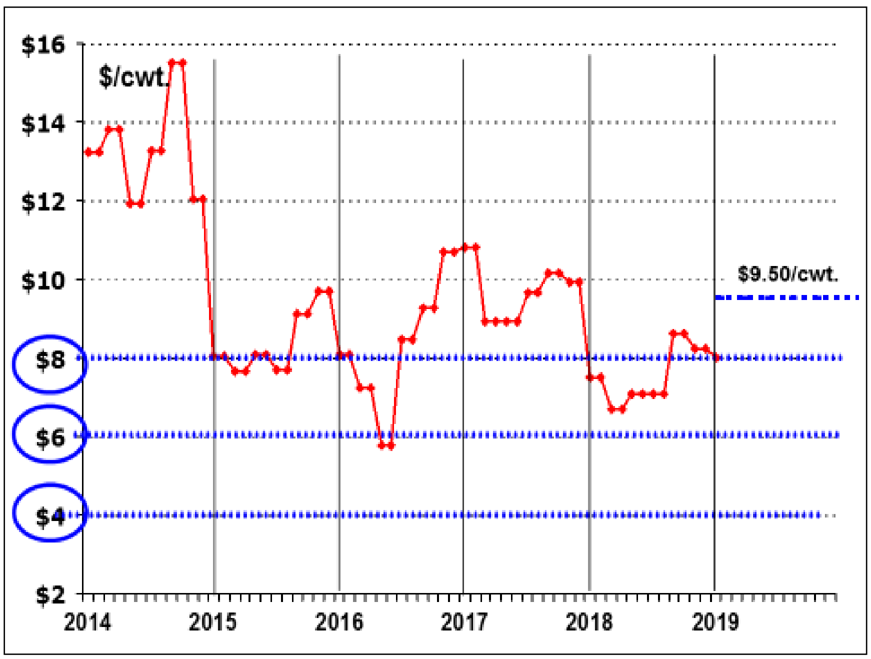
Conservation programs include all conservation programs operated by USDA's Farm Service Agency and the Natural Resources Conservation Service that provide direct payments to producers. Estimated conservation payments of $4.3 billion are forecast for 2019, up slightly from $4.0 billion in 2018.

Dairy Margin Coverage Program Outlook

The 2018 farm bill (Agricultural Improvement Act of 2018, P.L. 115-334) made several changes to the previous MPP program, including a new name—the Dairy Margin Coverage (DMC) program—and expanded margin coverage choices from the original range of $4.00-$8.00 per hundredweight (cwt.).[22] Under the 2018 farm bill, milk producers have the option of covering the milk-to-feed margin at a $9.50/cwt. threshold on the first 5 million pounds of milk coverage under the program.

Figure 17. The Dairy Output-to-Input Margin Has Fallen Below $8/cwt. in Early 2018

(The dairy margin equals the national average farm price of milk less average feed costs per 100 lbs.)



Source: NASS, *Agricultural Prices*, February 28, 2019; calculations by CRS. All values are nominal.

Note: The margin equals the All Milk price minus a composite feed price based on the formula used by the DMC of the 2018 farm bill starting January 2019 and, for all prior months, the MPP of the 2014 farm bill (P.L. 113-79). See CRS Report R45525, *The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison*.

The DMC margin differs from the USDA-reported milk-to-feed ratio shown in **Figure 10** but reflects the same market forces. As of January 2019, the formula-based milk-to-feed margin used

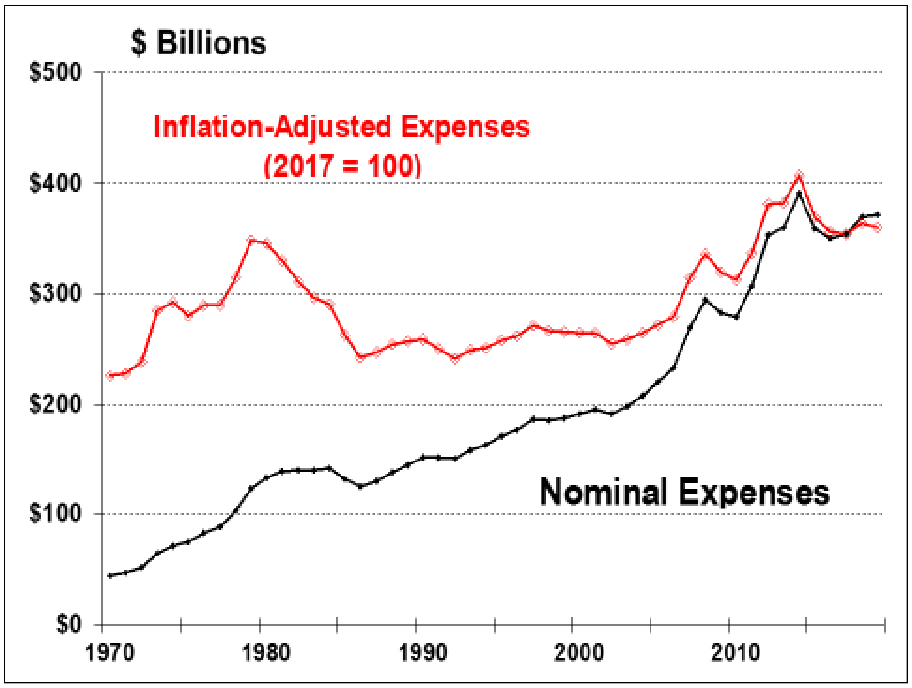
[22] The margin equals the All Milk price minus a composite feed price based on the formula used by the DMC of the 2018 farm bill starting January 2019 and, for all prior months, the MPP of the 2014 farm bill (P.L. 113-79). See CRS Report R45525, *The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison*, and CRS In Focus IF10195, *U.S. Dairy Programs After the 2014 Farm Bill (P.L. 113-79)*.

to determine government payments was below the newly instituted $9.50/cwt. threshold (**Figure 17**), thus increasing the likelihood of DMC payments in 2019.

Production Expenses

Total production expenses for 2019 for the U.S. agricultural sector are projected to be up slightly (+0.6%) from 2018 in nominal dollars at $372.0 billion (**Figure 18**). Production expenses peaked in both nominal and inflation-adjusted dollars in 2014, then declined for two years before resuming their upward trend in nominal dollars in 2017.

Figure 18. Total Annual Farm Production Expenses, 1970-2019

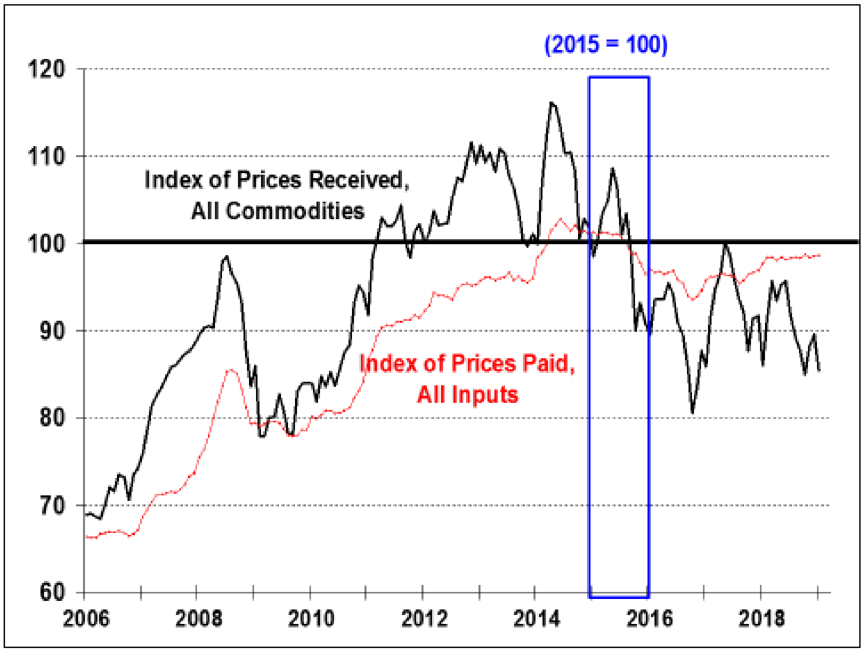


Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are nominal—that is, not adjusted for inflation. Inflation-adjusted expenses are calculated using the chain-type GDP deflator. OMB, Historical Tables, Table 10.1. Amounts for 2019 are forecasts.

But how have production expenses moved relative to revenues? A comparison of the indexes of prices paid (an indicator of expenses) versus prices received (an indicator of revenues) reveals that the prices received index generally declined from 2014 through 2016, rebounded in 2017, then declined again in 2018 (**Figure 19**). Farm input prices (as reflected by the prices paid index) showed a similar pattern but with a much smaller decline from their 2014 peak, thus suggesting that farm sector profit margins have been squeezed since 2014.

Production expenses will affect crop and livestock farms differently. The principal expenses for livestock farms are feed costs, purchases of feeder animals and poultry, and hired labor. Feed costs, labor expenses, interest costs, and property taxes are all projected up in 2019 (**Figure 20**). In contrast, fuel, land rent, and fertilizer costs are projected lower.

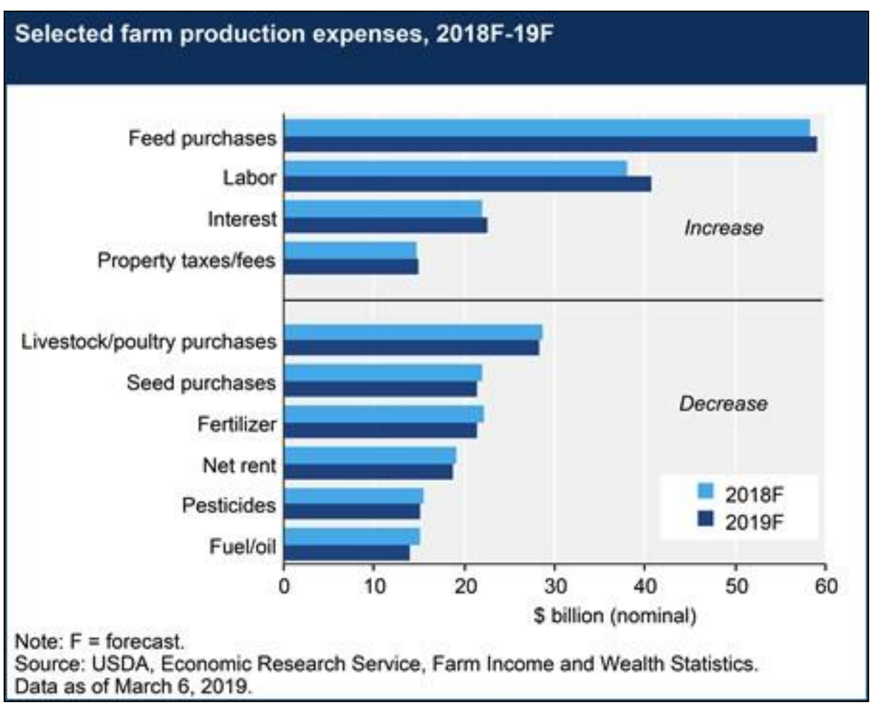
Figure 19. Index of Monthly Prices Received vs. Prices Paid, 2006-2019



Source: NASS, *Agricultural Prices*, February 28, 2019.

Notes: Monthly farm prices for the 2010-2019 period have been divided by the annual average price for 2010 and multiplied by 100 such that 2015 = 100. Prices are indexed to 2015 = 100 to permit relative comparisons. Calculations by CRS.

Figure 20. Farm Production Expenses for Selected Items, 2018 and 2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are nominal—that is, not adjusted for inflation. Values for 2019 are forecasts.

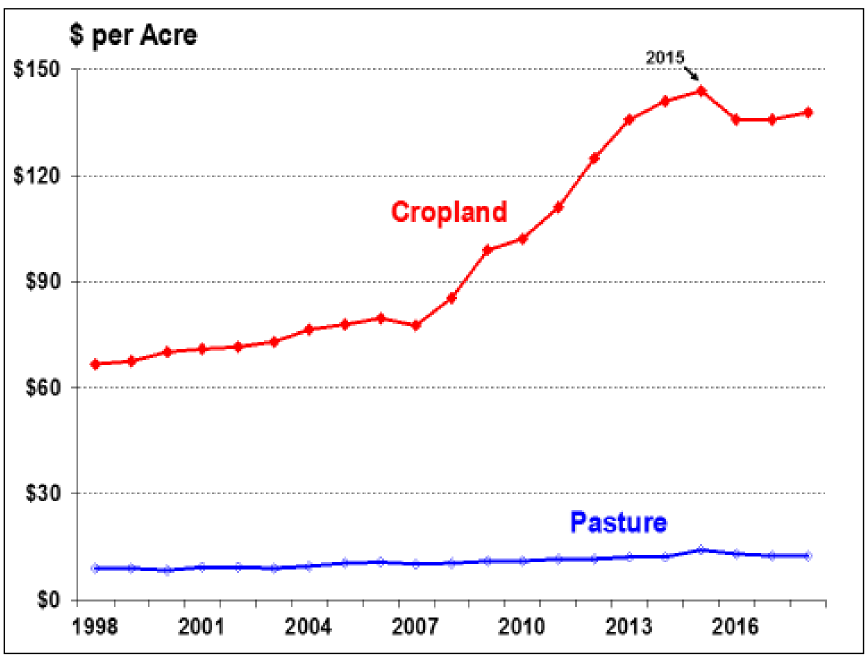
Cash Rental Rates

Renting or leasing land is a way for young or beginning farmers to enter agriculture without incurring debt associated with land purchases. It is also a means for existing farm operations to adjust production more quickly in response to changing market and production conditions while avoiding risks associated with land ownership. The share of rented farmland varies widely by region and production activity. However, for some farms it constitutes an important component of farm operating expenses. Since 2002, about 38% of agricultural land used in U.S. farming operations has been rented.[23]

The majority of rented land in farms is rented from nonoperating landlords. Nationally in 2012, 30% of all land in farms was rented from someone other than a farm operator. Some farmland is rented from other farm operations—nationally about 8% of all land in farms in 2012 (the most recent year for which data are available)—and thus constitutes a source of income for some operator landlords. Total net rent to nonoperator landlords is projected to be down (-2.1%) at $14.3 billion in 2019.

Cash rental rates for 2019 are not yet available. Average cash rental rates for 2018 were up year-over-year ($138 per acre versus $136 in 2017). Although rental rates—which for 2019 were set the preceding fall of 2018 or in early spring of 2019—dipped in 2016, they still reflect the high crop prices and large net returns of the preceding several years, especially the 2011-2014 period (**Figure 21**). The national rental rate for cropland peaked at $144 per acre in 2015.[24]

Figure 21. U.S. Average Farmland Cash Rental Rates Since 1998



Source: NASS, *Agricultural Land Values*, August 2, 2018. All values are nominal.

[23] ERS, "Land Use, Land Values and Tenure: Farmland Ownership and Tenure," https://www.ers.usda.gov/topics/farm-economy/land-use-land-value-tenure/farmland-ownership-and-tenure/.

[24] Local and regional land rental rates may vary substantially from the national average.

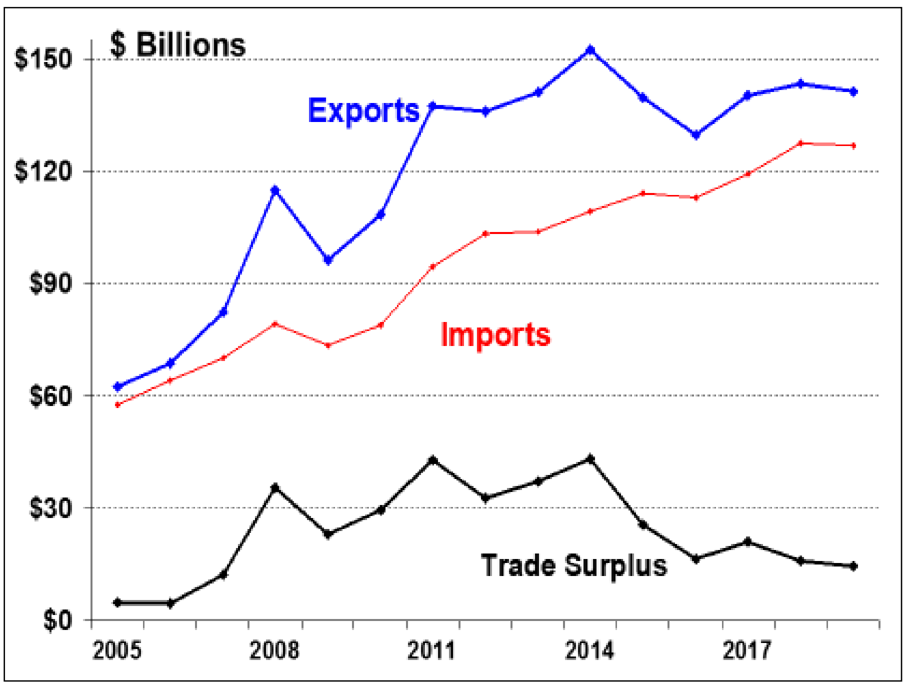
Agricultural Trade Outlook

U.S. agricultural exports have been a major contributor to farm income, especially since 2005. As a result, the downturn in those exports that started in 2015 (**Figure 22**) deepened the downturn in farm income that had started in 2013 (**Figure 1**).

Hey U.S. Agricultural Trade Highlights

- USDA projects U.S. agricultural exports at $141.5 billion in FY2019, down slightly (-1%) from $143.4 billion in FY2018. Export data include processed and unprocessed agricultural products. This downturn masks larger country-level changes that have occurred as a result of ongoing trade disputes (as discussed below).
- In FY2019, U.S. agricultural imports are projected nearly unchanged at $127.0 billion, but the resultant agricultural trade surplus of $14.5 billion would be the lowest since 2007.

Figure 22. U.S. Agricultural Trade Since 2005, Nominal Values



Source: ERS, *Outlook for U.S. Agricultural Trade*, AES-107, February 21, 2019. Amounts for 2018 and 2019 are projected.

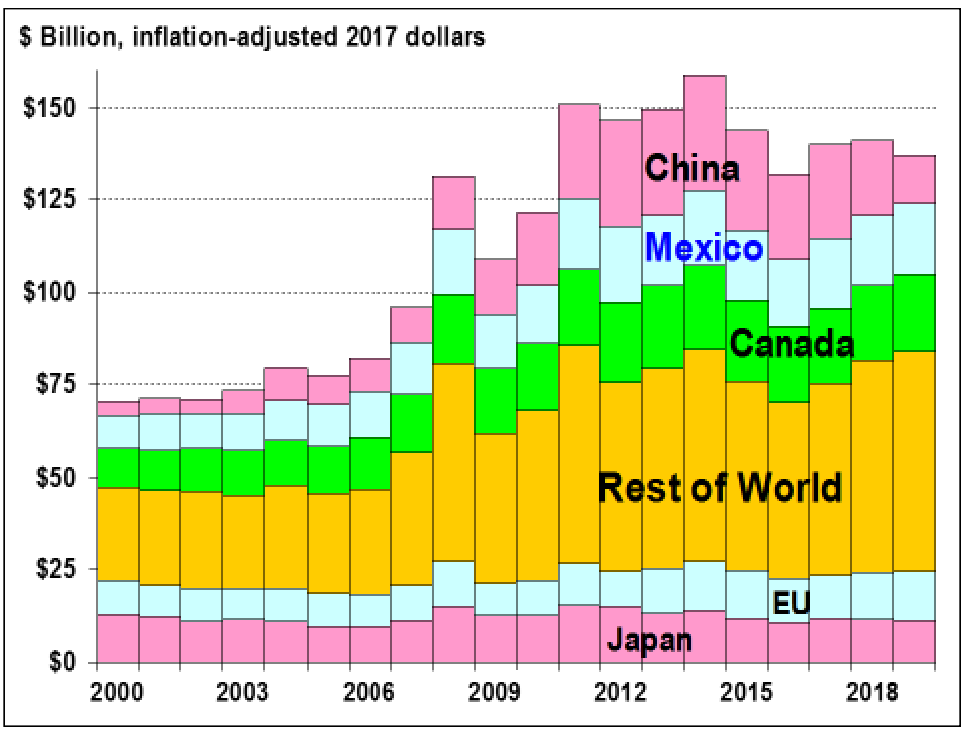
- A substantial portion of the surge in U.S. agricultural exports that occurred between 2010 and 2014 was due to higher-priced grain and feed shipments, including record oilseed exports to China and growing animal product exports to East Asia. As commodity prices have leveled off, so too have export values (see the commodity price indexes in **Figure A-1** and **Figure A-2**).
- In FY2017, the top three markets for U.S. agricultural exports were China, Canada, and Mexico, in that order. Together, these three countries accounted for

46% of total U.S. agricultural exports during the five-year period FY2014-FY2018 (**Figure 23**).

- However, in FY2019 the combined share of U.S. exports taken by China, Canada, and Mexico is projected down to 42% largely due to sharply lower exports to China. The ordering of the top three markets is reordered to Canada, Mexico, and China, as China is projected to barely stay ahead of the European Union and Japan as a destination for U.S. agricultural exports.
- From FY2014 through FY2017, China imported an average of $26.2 billion of U.S. agricultural products. However, USDA forecasts China's imports of U.S. agricultural products to decline to $20.5 billion in FY2018 and to $13.6 billion in FY2019 as a result of the U.S.-China trade dispute.
- The fourth- and fifth-largest U.S. export markets are the European Union and Japan, which have accounted for a combined 17% of U.S. agricultural exports during the FY2014-FY2018 period. This same share is projected to continue in FY2019 (**Figure 23**). These two markets have shown relatively limited growth in recent years when compared with the rest of the world.

Figure 23. U.S. Agricultural Exports Have Leveled Off Since FY2011

(Inflation adjusted using the implicit chain GDP deflator, 2017 = 100)



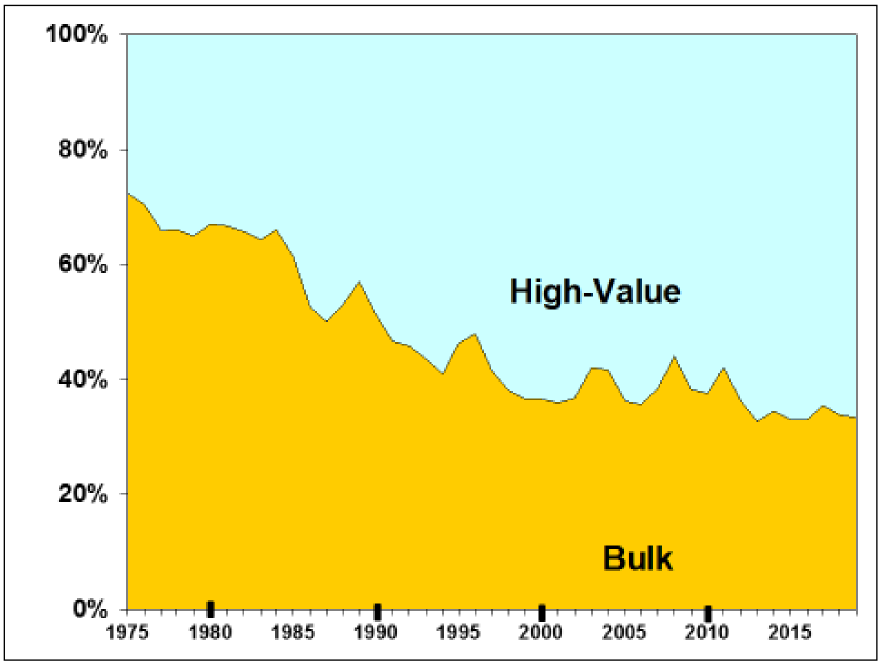
Source: ERS, *Outlook for U.S. Agricultural Trade*, AES-107, February 21, 2019. Amounts for 2018 and 2019 are projected. All values are adjusted for inflation by CRS using the chain-type gross domestic product deflator, where 2017 = 100. OMB, Historical Tables, Table 10.1, https://www.whitehouse.gov/omb/budget/Historicals.

Note: Data are for fiscal years (October to September).

- The "Rest of World" (ROW) component of U.S. agricultural trade—South and Central America, the Middle East, Africa, and Southeast Asia—has shown strong import growth in recent years. ROW is expected to account for 41% of U.S. agricultural exports in FY2019. ROW import growth is being driven in part by both population and GDP growth but also from shifting trade patterns as some products previously targeting China have been diverted to new markets.

- Over the past four decades, U.S. agricultural exports have experienced fairly steady growth in shipments of high-value products—including horticultural products, livestock, poultry, and dairy. High-valued exports are forecast at $94.3 billion for a 66.6% share of U.S. agricultural exports in FY2019 (**Figure 24**).
- In contrast, bulk commodity shipments (primarily wheat, rice, feed grains, soybeans, cotton, and unmanufactured tobacco) are forecast at a 33.4% share of total U.S. agricultural exports in FY2019 at $47.2 billion. This compares with an average share of over 60% during the 1970s and into the 1980s. As grain and oilseed prices decline, so will the bulk value share of U.S. exports.

Figure 24. U.S. Agricultural Trade: Bulk vs. High-Value Shares



Source: ERS, *Outlook for U.S. Agricultural Trade*, AES-107, February 21, 2019. Amounts for 2018 and 2019 are projected.

U.S. Farm and Manufactured Agricultural Product Export Shares

The share of agricultural production (based on value) sold outside the country indicates the level of U.S. agriculture's dependence on foreign markets, as well as the overall market for U.S. agricultural products.

The U.S. Export Share Measurement for Agriculture

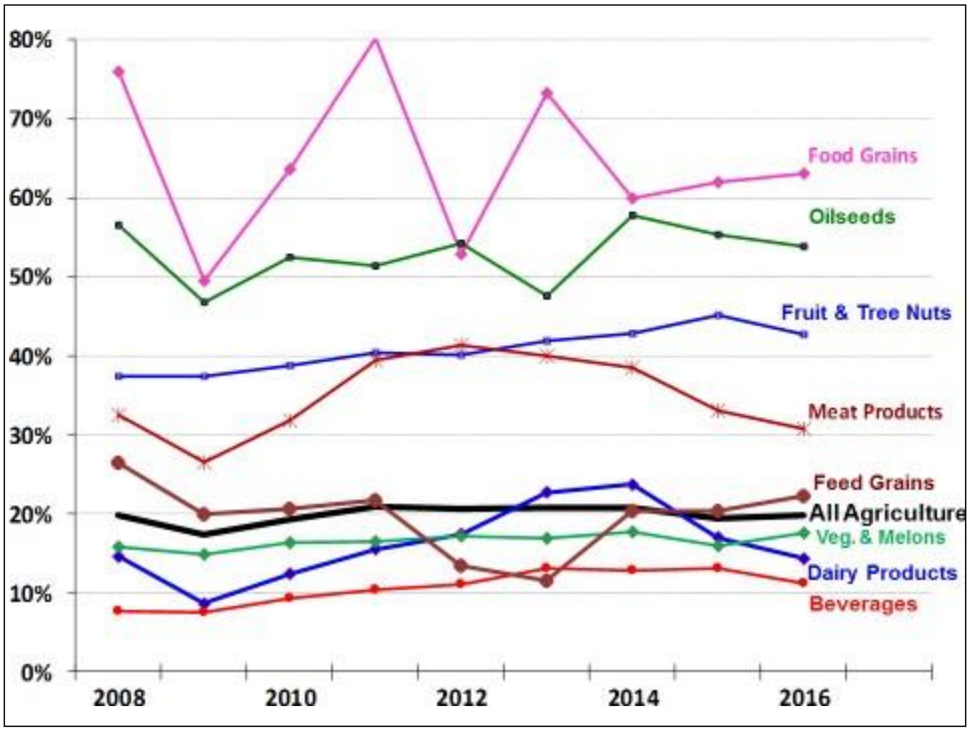
Because agricultural and food exports consist of farm commodities and their manufactured products, a substantial component of export value represents value-added from marketing and processing. This value-added must be accounted for in measuring the U.S. export share. With this in mind, ERS calculates the export value share for agriculture as follows:[25] The numerator includes aggregated export values for all agricultural products—including

[25] The methodology is described at ERS, "U.S. Export Share of Production," https://www.ers.usda.gov/topics/international-markets-us-trade/us-agricultural-trade/.

bulk commodities and manufactured products. The denominator includes the total value of U.S. farm and manufactured agricultural production—estimated as farm cash receipts for crop and livestock production plus the value added by agricultural manufacturers. The value-added amount for agricultural processing is from the U.S. Census Bureau's Annual Survey of Manufacturers.

As a share of total farm and manufactured agricultural production, U.S. exports were estimated to account for 19.8% of the overall market for agricultural products from 2008 through 2016—the most recent data year for this calculation (**Figure 25**). The export share of agricultural production varies by product category.

Figure 25. U.S. Export Share of Farm and Manufactured Agricultural Production



Source: ERS, "U.S. Export Share of Production," as of February 9, 2018.

Note: The export value share includes aggregated export values for all agricultural products—including bulk commodities and manufactured products—in the numerator and the total value of U.S. farm and manufactured agricultural production—estimated as farm cash receipts for crop and livestock production plus the value added by agricultural manufacturers—in the denominator.

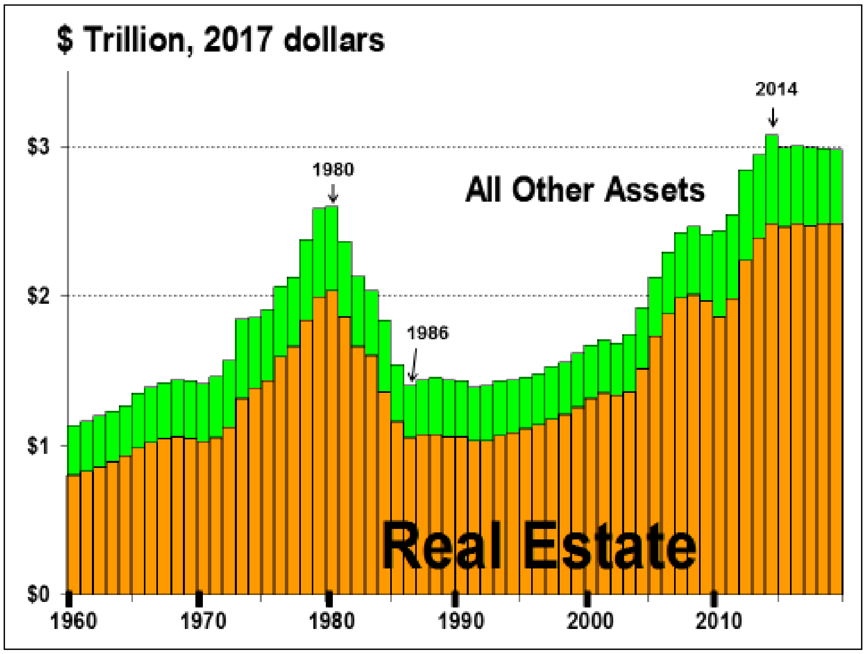
- At the upper end of the range for export shares, the bulk food grain export share has varied between 50% and 80% since 2008, while the oilseed export share has ranged between 47% and 58%.
- The mid-spectrum range of export shares includes the export share for fruit and tree nuts, which has ranged from 37% to 45%, while meat products have ranged from 27% to 41%.
- At the low end of the spectrum, the export share of vegetable and melon sales has ranged from 15% to 18%, the dairy products export share from 9% to 24%, and the agricultural-based beverage export share between 7% and 13%.

Farm Asset Values and Debt

The U.S. farm income and asset-value situation and outlook suggest a relatively stable financial position heading into 2019 for the agriculture sector as a whole—but with considerable uncertainty regarding the downward outlook for prices and market conditions for the sector and an increasing dependency on international markets to absorb domestic surpluses

- Farm asset values—which reflect farm investors' and lenders' expectations about long-term profitability of farm sector investments—are projected to be up 1.5% in 2019 to a nominal $3.1 trillion (**Table A-3**). In inflation-adjusted terms (using 2017 dollars), farm asset values peaked in 2014 (**Figure 26**).

Figure 26. Real Estate Assets Comprise 83% of Total Farm Sector Assets in 2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are adjusted for inflation using the chain-type GDP deflator such that 2017 = 100. OMB, Historical Tables, Table 10.1; 2018 and 2019 are forecasts.

Note: Nonreal estate assets include financial assets, inventories of agricultural products, and the value of machinery and motor vehicles.

- Nominally higher farm asset values are expected in 2019 due to higher real estate values (+1.8%), which offset a slight decrease in nonreal estate values (-0.1%). Real estate is projected to account for 83% of total farm sector asset value.
- Crop land values are closely linked to commodity prices. The leveling off of crop land values since 2015 reflects mixed forecasts for commodity prices (corn, soybeans, and cotton lower; wheat, rice, and livestock products higher) and the uncertainty associated with international commodity markets (**Figure 27**).
- Total farm debt is forecast to rise to a record $426.7 billion in 2019 (+3.9%) (**Table A-3**). Farm equity—or net worth, defined as asset value minus debt—is projected to be up slightly (+1.1%) at $2.7 trillion in 2019 (**Table A-3**).
- The farm debt-to-asset ratio is forecast up in 2019 at 13.9%, the highest level since 2002 but still relatively low by historical standards (**Figure 28**).

Measuring Farm Wealth: The Debt-to-Asset Ratio

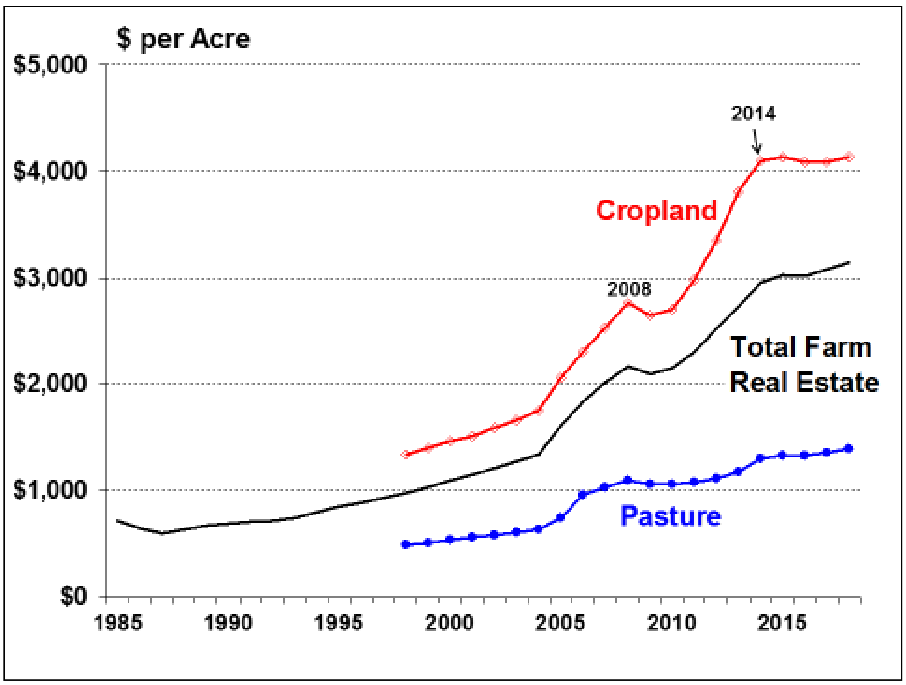
A useful measure of the farm sector's financial well-being is net worth as measured by farm assets minus farm debt. A summary statistic that captures this relationship is the debt-to-asset ratio.

Farm assets include both physical and financial farm assets. **Physical assets** include land, buildings, farm equipment, on-farm inventories of crops and livestock, and other miscellaneous farm assets. **Financial assets** include cash, bank accounts, and investments such as stocks and bonds.

Farm debt includes both business and consumer debt linked to real estate and nonreal-estate assets (e.g., financial assets, inventories of agricultural products, and the value of machinery and motor vehicles) of the farm sector.

The **debt-to-asset ratio** compares the farm sector's outstanding debt related to farm operations relative to the value of the sector's aggregate assets. Change in the debt-to-asset ratio is a critical barometer of the farm sector's financial performance, with lower ratios indicating greater financial resiliency. A lower debt-to-asset ratio suggests that the sector is better able to withstand short-term increases in debt related to interest rate fluctuations or changes in the revenue stream related to lower output prices, higher input prices, or production shortfalls. The largest single component in a typical farmer's investment portfolio is farmland. As a result, real estate values affect the financial well-being of agricultural producers and serve as the principal source of collateral for farm loans.

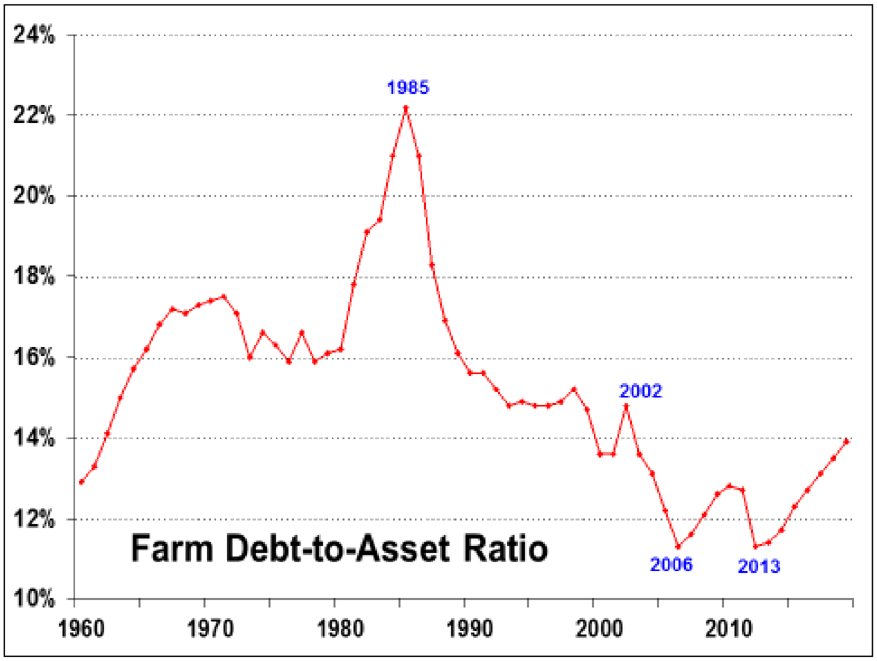
Figure 27. U.S. Average Farm Land Values, 1985-2018



Source: NASS, *Land Values 2018 Summary*, August 2018.

Notes: Farm real estate value measures the value of all land and buildings on farms. Separate cropland and pasture values are available only since 1998. All values are nominal.

Figure 28. U.S. Farm Debt-to-Asset Ratio, 1960-2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. Values for 2019 are forecasts.

Average Farm Household Income

A farm can have both an on-farm and an off-farm component to its income statement and balance sheet of assets and debt.[26] Thus, the well-being of farm operator households is not equivalent to the financial performance of the farm sector or of farm businesses because of the inclusion of nonfarm investments, jobs, and other links to the nonfarm economy.

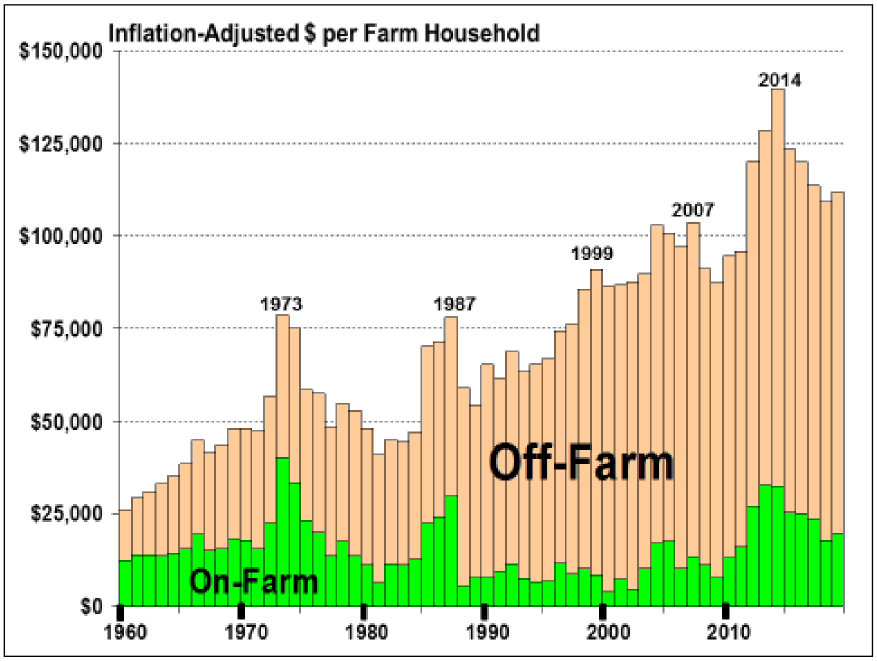
- Average farm household income (sum of on- and off-farm income) is projected at $115,588 in 2019 (**Table A-2**), up 4.3% from 2018 and below the record of $134,164 in 2014.
- About 18% ($20,365) of total farm household income is from farm production activities, and the remaining 82% ($95,223) is earned off the farm (including financial investments).
- The share of farm income derived from off-farm sources had increased steadily for decades but peaked at about 95% in 2000 (**Figure 29**).

Total vs. Farm Household Average Income

- Since the late 1990s, farm household incomes have surged ahead of average U.S. household incomes (**Figure 30**).
- In 2017 (the last year for which comparable data were available), the average farm household income of $113,495 was about 32% higher than the average U.S. household income of $86,220 (**Table A-2**).

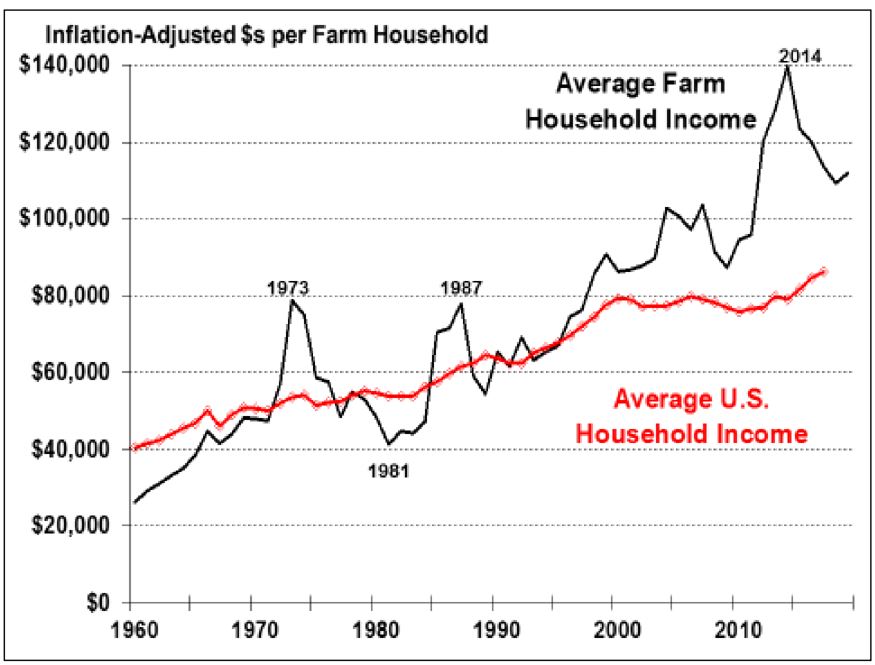
[26] ERS, "Farm Household Well-Being," http://www.ers.usda.gov/topics/farm-economy/farm-household-well-being.aspx.

Figure 29. U.S. Average Farm Household Income, by Source, 1960-2019



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are adjusted for inflation using the chain-type GDP deflator, 2017 = 100. OMB, Historical Tables, Table 10.1. Values for 2019 are forecasts.

Figure 30. Farm Household Income Has Been Above U.S. Average Since1996



Source: ERS, "2019 Farm Income Forecast," March 6, 2019. All values are adjusted for inflation using the chain-type GDP deflator, 2017 = 100. OMB, Historical Tables, Table 10.1. Values for 2019 are forecasts.

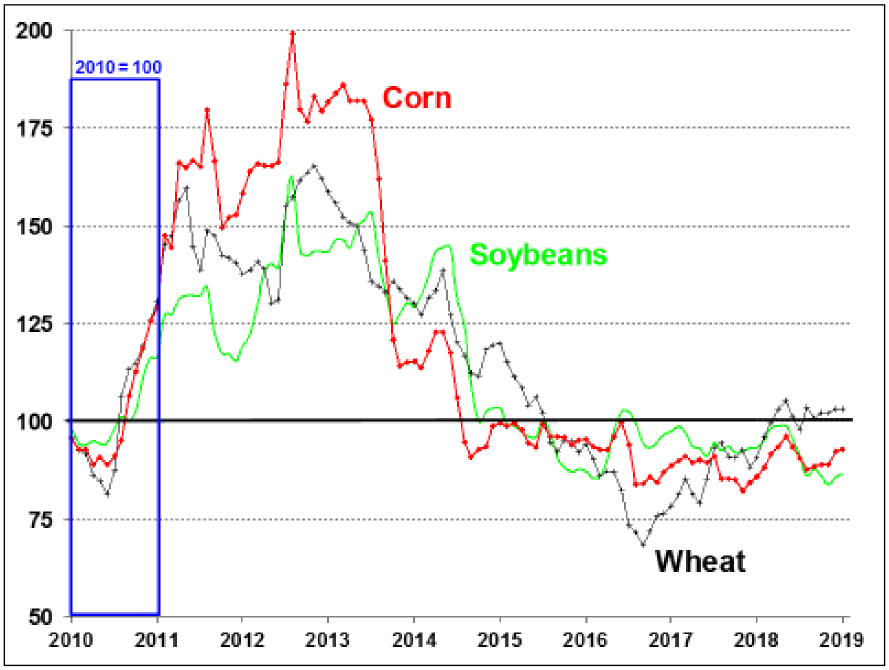
Appendix. Supporting Charts and Tables

Figure A-1 to **Figure A-4** present USDA data on monthly farm prices received for several major farm commodities—corn, soybeans, wheat, upland cotton, rice, milk, cattle, hogs, and chickens. The data are presented in an indexed format where monthly price data for year 2010 = 100 to facilitate comparisons.

USDA Farm Income Data Tables

Table A-1 to **Table A-3** present aggregate farm income variables that summarize the financial situation of U.S. agriculture. In addition, **Table A-4** presents the annual average farm price received for several major commodities, including the USDA forecast for the 2018-2019 marketing year.

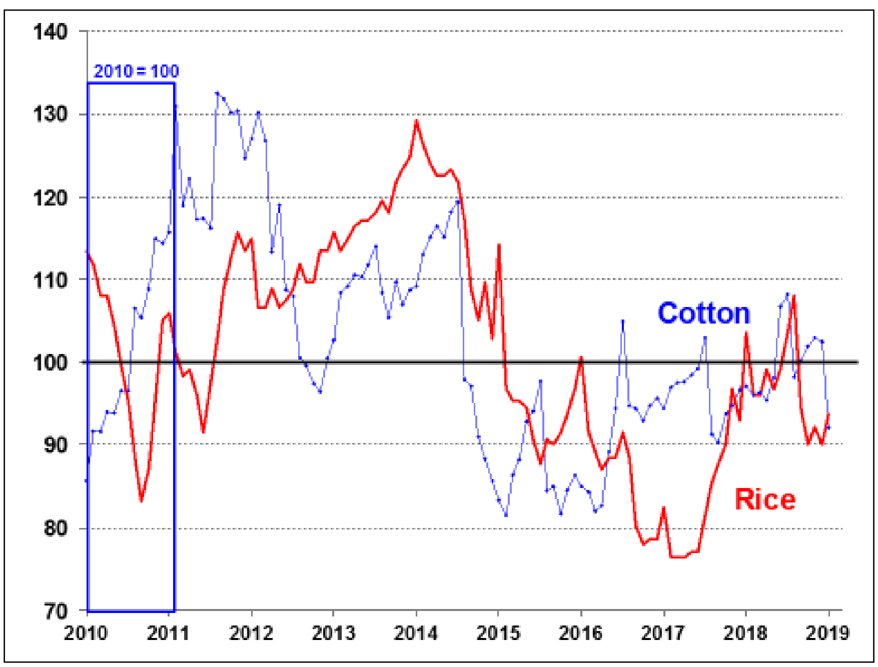
Figure A-1. Monthly Farm Prices for Corn, Soybeans, and Wheat, Indexed Dollars



Source: NASS, *Agricultural Prices*, February 28, 2019. Calculations by CRS.

Notes: Monthly farm prices for the 2010-2019 period have been divided by the annual average price for 2010 and multiplied by 100 such that 2010 = 100. Such price indexing facilitates relative comparisons.

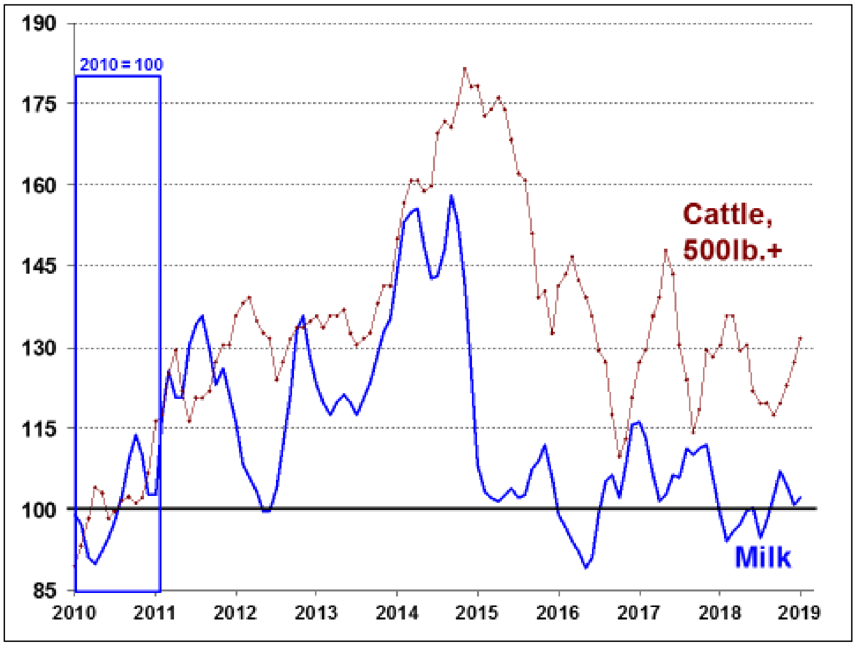
Figure A-2. Monthly Farm Prices for Cotton and Rice, Indexed Dollars



Source: NASS, *Agricultural Prices*, February 28, 2019. Calculations by CRS.

Notes: Monthly farm prices for the 2010-2019 period have been divided by the annual average price for 2010 and multiplied by 100 such that 2010 = 100. Such price indexing facilitates relative comparisons.

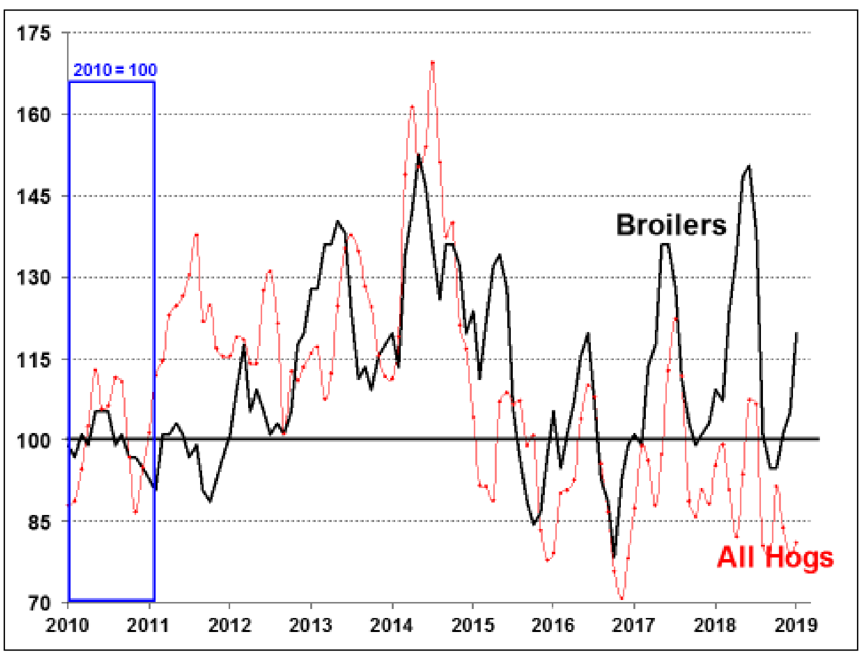
Figure A-3. Monthly Farm Prices for All-Milk and Cattle (500+ lbs.), Indexed Dollars



Source: NASS, *Agricultural Prices* February 28, 2019. Calculations by CRS.

Notes: Monthly farm prices for the 2010-2019 period have been divided by the annual average price for 2010 and multiplied by 100 such that 2010 = 100. Such price indexing facilitates relative comparisons.

Figure A-4. Monthly Farm Prices for All Hogs and Broilers, Indexed Dollars



Source: NASS, *Agricultural Prices*, February 28, 2019. Calculations by CRS.

Notes: Monthly farm prices for the 2010-2019 period have been divided by the annual average price for 2010 and multiplied by 100 such that 2010 = 100. Such price indexing facilitates relative comparisons.

Table A-1. Annual U.S. Farm Income Since 2012

($ billions)

Item	2012	2013	2014	2015	2016	2017	2018	2019[a]	Change (%)[a]
1. Cash receipts	**401.4**	**403.6**	**424.2**	**377.1**	**357.8**	**371.4**	**372.9**	**381.5**	**2.3%**
Crops[b]	231.6	220.8	211.4	187.6	195.0	195.4	197.6	201.7	2.0%
Livestock	169.8	182.7	212.8	189.5	162.8	176.0	175.3	179.9	2.6%
2. Government payments[c]	**10.6**	**11.0**	**9.8**	**10.8**	**13.0**	**11.5**	**13.8**	**11.5**	**-16.8%**
Fixed direct payments[d]	4.7	4.3	0.5	0.0	0.0	0.0	0.0	0.0	NA
CCP-PLC-ARC[e]	0.0	0.0	0.0	5.3	8.2	7.0	3.0	1.7	-45.7%
Marketing loan benefits[f]	0.0	0.0	0.1	0.2	0.2	0.0	0.0	0.0	NA
Conservation	3.7	3.7	3.6	3.6	3.8	3.8	4.0	4.3	8.6%
Ad hoc and emergency[g]	1.1	2.1	5.0	1.8	0.7	0.7	1.1	1.4	20.4%
All other[h]	1.1	0.9	0.7	0.0	0.4	0.0	5.6	4.1	-26.6%
3. Farm-related income[i]	**39.2**	**41.0**	**36.6**	**34.4**	**27.9**	**32.9**	**35.0**	**34.5**	**-1.2%**
4. Gross cash income (1+2+3)	451.3	455.5	470.6	422.3	398.7	415.8	421.6	427.5	1.4%
5. Cash expenses[j]	316.1	320.0	339.0	315.9	303.8	314.8	330.3	331.9	0.5%
6. NET CASH INCOME	**135.3**	**135.6**	**131.6**	**106.3**	**94.9**	**101.0**	**91.4**	**95.7**	**4.7%**
7. Total gross revenues[k]	449.8	483.8	483.1	440.5	411.8	429.5	433.0	441.5	2.0%
8. Total production expenses[l]	353.4	360.4	391.1	359.4	350.2	354.3	369.8	372.0	4.2%
9. NET FARM INCOME	**96.4**	**123.4**	**92.0**	**81.1**	**61.5**	**75.2**	**63.1**	**69.4**	**10.0%**

Source: ERS, *Farm Income and Wealth Statistics*; U.S. and State Farm Income and Wealth Statistics, updated as of March 6, 2019. NA = not applicable.

a. Data for 2019 are USDA forecasts. Change represents year-to-year projected change between 2018 and 2019.
b. Includes Commodity Credit Corporation loans under the farm commodity support program.
c. Government payments reflect payments made directly to all recipients in the farm sector, including landlords. The nonoperator landlords' share is offset by its inclusion in rental expenses paid to these landlords and thus is not reflected in net farm income or net cash income.
d. Direct payments include production flexibility payments of the 1996 Farm Act through 2001 and fixed direct payments under the 2002 Farm Act since 2002.
e. CCP = counter-cyclical payments. PLC = Price Loss Coverage. ARC = Agricultural Risk Coverage.
f. Includes loan deficiency payments, marketing loan gains, and commodity certificate exchange gains.
g. Includes payments made under the Average Crop Revenue Election program, which was eliminated by the 2014 farm bill (P.L. 113-79).
h. Market facilitation payments, cotton ginning cost-share, biomass crop assistance program, milk income loss, tobacco transition, and other miscellaneous payments.
i. Income from custom work, machine hire, agri-tourism, forest product sales, and other farm sources.
j. Excludes depreciation and perquisites to hired labor.
k. Gross cash income plus inventory adjustments, the value of home consumption, and the imputed rental value of operator dwellings.
l. Cash expense plus depreciation and perquisites to hired labor.

Table A-2. Average Annual Income per U.S. Household, Farm Versus All, 2012-2019

($ per household)

	2012	2013	2014	2015	2016	2017	2018	2019
Average U.S. farm income by source								
On-farm income	$25,038	$30,639	$31,025	$24,740	$24,731	$23,678	$18,228	$20,365
Off-farm income	$86,486	$90,481	$103,140	$95,140	$93,187	$89,817	$92,644	$95,223
Total farm income	$111,524	$121,120	$134,165	$119,880	$117,918	$113,495	$110,872	$115,588
Average U.S. household income	$71,274	$75,195	$75,738	$79,263	$83,143	$86,220	NA	NA
Farm household income as share of U.S. avg. household income (%)	**156%**	**161%**	**177%**	**151%**	**142%**	**132%**	**NA**	**NA**

Source: ERS, *Farm Household Income and Characteristics*, principal farm operator household finances, data set updated as of March 6, 2019, http://www.ers.usda.gov/data-products/farm-household-income-and-characteristics.aspx.

Note: NA = not available. Data for 2018 and 2019 are USDA forecasts.

Table A-3. Average Annual Farm Sector Debt-to-Asset Ratio, 2012-2019

($ billions)

	2012	2013	2014	2015	2016	2017	2018	2019
Farm assets	2,638.2	2,776.1	2,949.2	2,909.7	2,956.5	2,993.1	3,032.8	3,077.4
Farm debt	297.5	315.3	345.2	356.7	374.2	393.0	410.8	426.7
Farm equity	2,340.7	2,460.8	2,604.0	2,552.9	2,582.3	2,600.0	2,621.9	2,650.7
Debt-to-asset ratio (%)	**11.3%**	**11.4%**	**11.7%**	**12.3%**	**12.7%**	**13.1%**	**13.5%**	**13.9%**

Source: ERS, *Farm Income and Wealth Statistics*; U.S. and State Farm Income and Wealth Statistics, updated as of March 6, 2019, http://www.ers.usda.gov/data-products/farm-income-and-wealth-statistics.aspx.

Note: Data for 2018 and 2019 are USDA forecasts.

Table A-4. U.S. Farm Prices and Support Rates for Selected Commodities Since 2013-2014 Marketing Year

Commodity[a]	Unit	Year	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019[b]	% Chg[c] 2017/18 to 2018/19	2019-2020[b]	% Chg[d] 2018/19 to 2019/20	Loan Rate[e]	Reference Price
Wheat	$/bu	Jun-May	6.87	5.99	4.89	3.89	4.72	5.15-5.25	10.2%	—	—	3.38	5.50
Corn	$/bu	Sep-Aug	4.46	3.70	3.61	3.36	3.36	3.40-3.70	5.7%	—	—	2.20	3.70
Sorghum	$/bu	Sep-Aug	4.28	4.03	3.31	2.79	3.22	3.05-3.35	-0.6%	—	—	2.20	3.95
Barley	$/bu	Jun-May	6.06	5.30	5.52	4.96	4.47	4.40-4.80	2.9%	—	—	2.50	4.95
Oats	$/bu	Jun-May	3.75	3.21	2.12	2.06	2.59	2.60-2.70	2.3%	—	—	2.00	2.40
Rice	$/cwt	Aug-Jul	16.30	13.40	12.10	10.40	12.90	11.80-12.40	-6.2%	—	—	7.00	14.00
Soybeans	$/bu	Sep-Aug	13.00	10.10	8.95	9.47	9.33	8.35-8.85	-7.8%	—	—	6.20	8.40
Soybean Oil	¢/lb	Oct-Sep	38.23	31.60	29.86	32.48	30.0	28.00-30.00	-3.5%	—	—	—	—
Soybean Meal	$/st	Oct-Sep	489.94	368.49	324.6	316.9	345.0	305-325	-8.7%	—	—	—	—
Cotton, Upland	¢/lb	Aug-Jul	77.9	61.3	61.2	68.0	68.6	69-71	2.0%	—	—	45-52	none
Choice Steers	$/cwt	Jan-Dec	125.89	154.56	148.12	120.86	121.52	117.12	-3.6%	117-122	2.0%	—	—
Barrows/Gilts	$/cwt	Jan-Dec	64.05	76.03	50.23	46.16	50.48	45.93	-9.0%	45-47	0.2%	—	—
Broilers	¢/lb	Jan-Dec	99.7	104.90	90.5	84.3	93.5	97.8	4.6%	94-98	-1.8%	—	—
Eggs	¢/doz	Jan-Dec	124.7	142.3	181.8	85.7	100.9	137.6	36.4%	103-108	-23.3%	—	—
Milk	$/cwt	Jan-Dec	20.05	23.97	17.12	16.30	17.65	16.18	-8.3%	17.25-17.75	8.2%	—	—

Source: Various USDA agency sources as described in the notes below.

Notes: bu = bushels, cwt = 100 pounds, lb = pound, st = short ton (2,000 pounds), doz = dozen.

a. Price for grains and oilseeds are from USDA, *World Agricultural Supply and Demand Estimates (WASDE)*, April 8, 2019. Calendar year data are for the first year. For example, 2018-2019 = 2018. "—" = no value, and USDA's out-year 2019-2020 crop price forecasts will first appear in the May 2019 *WASDE*. Soybean and livestock product prices are from USDA, Agricultural Marketing Service: soybean oil—Decatur, IL, cash price, simple average crude; soybean meal—Decatur, IL, cash price, simple average 48% protein; choice steers—Nebraska, direct 1,100-1,300 lbs.; barrows/gilts—national base, live equivalent 51%-52% lean; broilers—wholesale, 12-city average; eggs—Grade A, New York, volume buyers; and milk—simple average of prices received by farmers for all milk.

b. Data for 2018-2019 are USDA forecasts. Data for 2019-2020 are USDA projections.

c. Percentage change for 2017/18 to 2018/19, calculated using difference from the midpoint of the range for 2018-2019 with estimate for 2017-2018.

d. Percentage change for 2018/19 to 2019/20, calculated using difference from the midpoint of the range for 2019-2020 with midpoint of the range for 2018-2019.

e. Loan rate and reference prices are for the 2019-2020 market year as defined under the 2018 farm bill (P.L. 115-334). The loan rate for upland cotton equals the average market-year-average price for the two preceding crop years but within the range of 45 cents/lb. and 52 cents/lb. See CRS Report R45525, *The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison*.

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FINANCING ISSUES

Before bankruptcy – state law lending rules:

O.C.G.A. § 11-9-322.1 (crop enabling loan)
O.C.G.A. § 11-9-334 (priority over mortgage)
O.C.G.A. § 11-9-502 (financing statement requirements)
O.C.G.A. § 11-9-306 (proceeds)
Prepetition perfection – see In re Coody, 59 B.R. 164 (Bankr. M.D. Ga. 1986).

After bankruptcy: 11 U.S.C. § 364
Fed. R. Bankr. P. 4001

A. Section 364(a) – unsecured credit. Ordinary course of business. Section 503(b)(1) administrative expense priority. No court permission required.

B. Section 364(b) – unsecured credit. Outside of ordinary course of business with court authorization. Section 503(b)(1) administrative expense priority is authorized.

C. Section 364(c) states:

(c) If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—

(1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;

(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or

(3) secured by a junior lien on property of the estate that is subject to a lien.

D. Section 364(d) states:

(d)(1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if—

(A) the trustee is unable to obtain such credit otherwise; and

(B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

(2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

E. Section 364(e) states:

(e) The reversal or modification on appeal of an authorization under this section to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

F. Fed. R. Bankr. P. 4001(c) provides:

(c) OBTAINING CREDIT.

(1) *Motion; Service.*

(A) *Motion.* A motion for authority to obtain credit shall be made in accordance with Rule 9014 and shall be accompanied by a copy of the credit agreement and a proposed form of order.

(B) *Contents.* The motion shall consist of or (if the motion is more than five pages in length) begin with a concise statement of the relief requested, not to exceed five pages, that lists or summarizes, and sets out the location within the relevant documents of, all material provisions of the proposed credit agreement and form of order, including interest rate, maturity, events of default, liens, borrowing limits, and borrowing conditions. If the proposed credit agreement or form of order includes any of the provisions listed below, the concise statement shall also: briefly list or summarize each one; identify its specific location in the proposed agreement and form of order; and identify any such provision that is proposed to remain in effect if interim approval is granted, but final relief is denied, as provided under Rule 4001(c)(2). In addition, the motion shall describe the nature and extent of each provision listed below:

(i) a grant of priority or a lien on property of the estate under §364(c) or (d);

(ii) the providing of adequate protection or priority for a claim that arose before the commencement of the case, including the granting of a lien on property of the estate to secure the claim, or the use of property of the estate or credit obtained under §364 to make cash payments on account of the claim;

(iii) a determination of the validity, enforceability, priority, or amount of a claim that arose before the commencement of the case, or of any lien securing the claim;

(iv) a waiver or modification of Code provisions or applicable rules relating to the automatic stay;

(v) a waiver or modification of any entity's authority or right to file a plan, seek an extension of time in which the debtor has the exclusive right to file a plan, request the use of cash collateral under §363(c), or request authority to obtain credit under §364;

(vi) the establishment of deadlines for filing a plan of reorganization, for approval of a disclosure statement, for a hearing on confirmation, or for entry of a confirmation order;

(vii) a waiver or modification of the applicability of nonbankruptcy law relating to the perfection of a lien on property of the estate, or on the foreclosure or other enforcement of the lien;

(viii) a release, waiver, or limitation on any claim or other cause of action belonging to the estate or the trustee, including any modification of the statute of limitations or other deadline to commence an action;

(ix) the indemnification of any entity;

(x) a release, waiver, or limitation of any right under §506(c); or

(xi) the granting of a lien on any claim or cause of action arising under §§544,[1] 545, 547, 548, 549, 553(b), 723(a), or 724(a).

(C) *Service*. The motion shall be served on: (1) any committee elected under §705 or appointed under §1102 of the Code, or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under §1102, on the creditors included on the list filed under Rule 1007(d); and (2) on any other entity that the court directs.

(2) *Hearing*. The court may commence a final hearing on a motion for authority to obtain credit no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a hearing before such 14-day period expires, but the court may authorize the obtaining of credit only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

(3) *Notice*. Notice of hearing pursuant to this subdivision shall be given to the parties on whom service of the motion is required by paragraph (1) of this subdivision and to such other entities as the court may direct.

(4) *Inapplicability in a Chapter 13 Case*. This subdivision (c) does not apply in a chapter 13 case.

G. Effect of section 552(b).

a. 11 U.S.C. § 552(a):

(a) Except as provided in subsection (b) of this section, property acquired by the estate or by the debtor after the commencement of the case is not subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

b. 11 U.S.C. § 552(b):

(b)(1) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548 of this title, if the debtor and an entity entered into a security agreement before the commencement of the case and if the security interest created by such security agreement extends to property of the debtor acquired before the commencement of the case and to proceeds, products, offspring, or profits of such property, then such security interest extends to such proceeds, products, offspring, or profits acquired by the estate after the commencement of the case to the extent provided by such security agreement and by applicable nonbankruptcy law, except to any extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.

c. Planting date. It seems to be settled law that section 552(a) cuts off a prepetition lender's prepetition security interest in crops planted after the bankruptcy filing date. In re Sheehan, 38 B.R. 859 (Bankr. S.D. 1984); In re Kruge, 35 B.R. 958 (Bankr. Kan. 1983); In re Lorenz, 57 B.R. 734 (Bankr. E.D. Ill. 1986). Likewise, if crops are planted prepetition they will attach to the prepetition security agreement, although valuation and "equities" issues may arise. Lorenz provides an example of this principle. There, it was asserted that the debtor used prepetition crop proceeds, which were pledged to Lender A, to help produce post-petition crops financed by Lender B. The crops were planted after the petition date. The Court held that the prepetition security interest was cut off with regard to the crop planted after the petition date. Therefore, the question arose as to whether the "proceeds" exception would apply. The Court relied on the Illinois version UCC § 9-306, which defines proceeds as whatever is received in exchange for disposition of collateral. Section 522 did not apply, therefore, to post-petition proceeds because proceeds had to arise from the post-petition crop.

d. "Equities of the case." In re Lawrence, 41 B.R. 36 (Bankr. D. Minn. 1984) discusses "equities" in the case of milk production. The Court held that even if milk were proceeds of prepetition collateral, the equities required the termination or adjustment of the lien due to be expenditure of labor, feed, etc. A contrary decision was reached in In re Johnson, 47 B.R. 204 (Bankr. W.D. Wisc. 1985) where the Court held that equity was not appropriate due to an adequate remedy in law (adequate protection or use of cash collateral).

In Gray v. Bank of Early, 2018 U.S. Dist. Lexis 231210 (M.D. Ga. 2018), Bank of Early (BOE) held a prepetition security interest on crops for 2015 and subsequent years. Debtor filed for chapter 12 on May 7, 2016. Two to three weeks before the petition date, the debtor planted a corn crop. The parties stipulated that the security interest attached to the corn crop. The debtor alleged that he obtained $11,100.40 in funds post-petition from another creditor to bring the corn crop to maturity. The debtor also used $25,000.00 of his own money prepetition to plant the crop. The Court found that the security interest attached under the UCC because the crop was planted before the petition. The Bankruptcy Court held that the "equities" exception in section 552(b) not applicable as a matter of law to post-petition financing. The District Court reversed holding that a balancing of the equities should have been undertaken by the Bankruptcy Court. It held that the exception was intended to apply where the trustee uses estate funds to increase the value of the collateral. The Court held that $25,000.00 in unencumbered funds used in the prepetition planting did not trigger the exception. However, the exception could apply to the post-petition expenditures, but the record was inadequate for the District Court to apply the balance test.

e. Program payments.

In Bracewell v. Kelley (In re Bracewell), 454 F.3d 1234 (11th Cir. 2006), the Eleventh Circuit held that a post-petition disaster program was not property of the bankruptcy estate because it was not in existence "as of the commencement of the case as required by 11 U.S.C. § 541(a). Followed Eighth, Fifth, and Ninth Circuits dissenters argued that the payments were "rooted" in prepetition conduct (prepetition crops).

In re Klaus, 247 B.R. 761 (Bankr. C.D. Ill. 2000), dealt with prepetition LDP payments. Secured creditor held security agreement and UCC covering "all entitlements and payments from and state or federal farm program . . . and general intangibles." The debtors argue LDPs acquired post-petition for prepetition crop program in existence prepetition and the debtor could have applied before bankruptcy. The debtor's right to apply prepetition was a sufficient property right for the security interest to attach. See also In re Lesmeister, 242 B.R. 920 (Bankr. N. Dak. 1999); In re Otto Farms, Inc., 247 B.R. 757 (Bankr. C.D. Ill. 2000).

Cases are in conflict as to whether program payments are substitutes for crops or general intangibles. The problem arises when the security agreement or financing statement only lists crops. See In re Schmaling, 783 F.2d 680 (7th Cir. 1985), relies on § 9-306 designation of proceeds. Proceeds under § 306 is something received by sale or exchange. PIK payments were not received upon sale or exchange and were not proceeds or crop substitutes.

For cases holding payments as substitute for crops see In re Judkins, 41 B.R. 369 (Bankr. D. Tenn. 1984) ("substitute for crops"); In re Kruse, 35 B.R. 958 (D. Kan. 1983) (PIK payment for planted crops were crop proceeds but PIK for crops not planted were general intangibles).

"General intangibles including government payments" is generally considered as adequate description. In re Otto Farms, 247 B.R. 757 (Bankr. S.D. Ill. 2000).

f. Cross-collateralization.

Cross-collateral clauses provide that the post-petition financing arrangement will cover the prepetition unsecured debt. Such would be the case where the farmer has a prepetition deficiency under an operating loan. See In re Texlon, 596 F.2d 1092 (2nd Cir. 1979); In re Vanguard Diversified, Inc., 31 B.R. 364 (Bankr. E.D. N.Y. 1983). These cases note that such arrangement are disfavored, but are available if the debtor will not survive without such arrangements, if no other loan is available and if such arrangement is in the interest of the creditor body.

H. Use of cash collateral.

11 U.S.C. § 363(a) provides:

(a) In this section, "cash collateral" means cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents whenever acquired in which the estate and an entity other than the estate have an interest and includes the proceeds, products, offspring, rents, or profits of property and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties subject to a security interest as provided in section 552(b) of this title, whether existing before or after the commencement of a case under this title.

11 U.S.C. § 363(c) provides:

(c)(1) If the business of the debtor is authorized to be operated under section 721, 1108, 1183, 1184, 1203, 1204, or 1304 of this title and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

(2) The trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless—

(A) each entity that has an interest in such cash collateral consents; or

(B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

(3) Any hearing under paragraph (2)(B) of this subsection may be a preliminary hearing or may be consolidated with a hearing under subsection (e) of this section, but shall be scheduled in accordance with the needs of the debtor. If the hearing under paragraph (2)(B) of this subsection is a preliminary hearing, the court may authorize such use, sale, or lease only if there is a reasonable likelihood that the trustee will prevail at the final hearing under subsection (e) of this section. The court shall act promptly on any request for authorization under paragraph (2)(B) of this subsection.

(4) Except as provided in paragraph (2) of this subsection, the trustee shall segregate and account for any cash collateral in the trustee's possession, custody, or control.

Adequate protection of required 11 U.S.C. § 363(e).

I. <u>Liquidation of assets</u>.

A debtor may sell property of the estate to generate funds. Court permission is required if the sale is outside the ordinary course of business. 11 U.S.C. § 363. Section 363 provides with regard to sales free and clear:

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

(1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

(4) such interest is in bona fide dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

Chapter 12 afforded special tax treatment. 11 U.S.C. § 1232. Capital gains ordinarily treated as an expense of administration with highest priority, now treated as general unsecured. In effect, a farmer in Chapter 12 may liquidate assets with no capital gains tax (provided there is no distribution to unsecured creditors).

EXAMPLES

Situation 1

Farmer Brown has a $1,000,000.00 operating line with AgBank prior to bankruptcy. After collecting his 2019 crops, which were secured by the line, there is a deficiency of $500,000.00. Farmer Brown collected $100,000.00 of the 2019 crop proceeds in early 2020 and paid land rent for the 2020 crop. In April 2020, Farmer Brown files chapter 12. New Lender, in order to finance Farmer Brown, wants a first priority security interest in all crops and government benefits. AgBank claims that it should be compensated for the rent proceeds that went into the 2020 crop.

Situation 2

Farmer Brown files chapter 12 in May 2020. As a peanut planting deadline approaches, Lender advances $50,000.00 without Bankruptcy Court approval. The lender wishes to advance an additional 500,000.00 to be secured by 2020 crops and government payments. How does the Court deal with the initial, unauthorized $50,000.00 advance?

Situation 3

In 2019, prepetition lender takes an assignment of 2019, 2020, and 2021 crops for government payments to secure a multi-year credit line. Debtor executes a CCC form 36 assignment. Debtor files chapter 12 in March 2020. Can new lender take the 2020 government payments?

Situation 4

Lender does not get Bankruptcy Court approval to loan funds even though Farmer Brown has filed chapter 12. Lender advances crop money, takes a security agreement in crops, and files an otherwise appropriate UCC financing statement. What are the results?

Situation 5

Lender has 2019 deficiency of $400,000.00 and is undercollateralized by that amount. Debtor files Chapter 12. Lender is willing to make a new operating loan provided that $400,000.00 deficiency can be "rolled into" the new loan.

Situation 6

Farmer Brown files for chapter 12 in January 2020. Lender will advance $500,000.00 if secured by 2020 crops, crop insurance and government benefits. Farmer must pay $100,000.00 land rent within seven days. Fed. R. Bankr. P. 4001 states that a preliminary hearing on financing may be held on less than 15 days' notice, during which debtor can borrow only enough to prevent irreparable damage to estate. Lender does not want to lend $100,000.00 for rent and then risk being denied authority to lend the rest at a final hearing.

Situation 7

Farmer Brown cannot obtain financing. He has prepetition crop proceeds of $500,000.00, which are sufficient for his currently planned crop. The prepetition crops are pledged to AgBank.

Situation 8

Farmer Brown has a 200-acre farm tract that is unencumbered. It was inherited many years ago and has a very low tax basis. If he can sell it, he will have sufficient funds to operate the current year.

In re Coody

United States Bankruptcy Court for the Middle District of Georgia, Macon Division

March 25, 1986

Case No. 86-50433, Chapter 11

Reporter

59 B.R. 164 *; 1986 Bankr. LEXIS 6421 **; 1 U.C.C. Rep. Serv. 2d (Callaghan) 581

In the Matter of Rufus Bartlett COODY, Debtor

Core Terms

crops, grown, collateral, lot number, security agreement, security interest, financing statement, rented, perfected security interest, covering, proceeds, cotton, description of land, crop proceeds, perfected

Case Summary

Procedural Posture

Debtor filed a petition under Chapter 11 of the Bankruptcy Code and brought before the court a motion to use cash collateral for a debt owed to a bank in relation to a security agreement.

Overview

Debtor granted a bank a security interest in all crops grown on real estate described in a security agreement. The bank filed a financing statement to perfect the security agreement. The financing statement covered crops grown on land owned by debtor, crops grown on land rented by debtor, and crop proceeds. The court held that the bank's security agreement did not contain a sufficient description to have a security interest in the crops grown on rented land or the resulting proceeds because the security agreement contained no reference to or description of the rented land. The court held that bank did not sufficiently describe the crops grown on one lot; therefore, its security interest in those crops was not perfected. Without a reference, a third party would not be put on notice that crops grown on that lot and the resulting proceeds represented collateral in which the bank claimed a security interest. The court held that since debtor had the status of a hypothetical lien creditor, bank had no claim to cash proceeds from the rented land. The court held debtor demonstrated adequate protection to protect the bank's interest, and that debtor was authorized to use cash collateral.

Outcome

The motion to use cash collateral filed by debtor was granted. The court also directed the bank to endorse joint checks and authorized debtor to sell cotton upon which the bank had a security interest and to use the proceeds from the sale in accordance with the court's order.

LexisNexis® Headnotes

Business & Corporate Compliance > ... > Contracts Law > Standards of Performance > Creditors & Debtors

Commercial Law (UCC) > Secured Transactions (Article 9) > General Provisions > General Overview

Commercial Law (UCC) > Secured Transactions (Article 9) > General Overview

Commercial Law (UCC) > ... > Attachment, Effectiveness & Rights > Attachment & Effectiveness > General Overview

Commercial Law (UCC) > ... > Attachment, Effectiveness & Rights > Attachment & Effectiveness > Enforceability of Security Interests

Commercial Law (UCC) > ... > Attachment, Effectiveness & Rights > Attachment & Effectiveness > Security Interest Requirements

Commercial Law (UCC) > ... > Filing > Financing Statements > Requirements

Commercial Law (UCC) > Secured Transactions (Article 9) > Attachment, Effectiveness & Rights > General Overview

Commercial Law (UCC) > ... > Attachment, Effectiveness & Rights > Attachment & Effectiveness > Security Agreement Requirements

Contracts Law > ... > Secured Transactions > Attachment of Security Interests > General Overview

Business & Corporate Compliance > ... > Secured Transactions > Attachment of Security Interests > Enforceability

HN1[] **Standards of Performance, Creditors & Debtors**

Under Georgia law, a security interest is not enforceable against a debtor regarding the collateral and does not attach unless debtor has signed a security agreement which contains a description of the collateral and, when the security interest covers crops growing or to be grown, a description of the land concerned. *O.C.G.A. § 11-9-110* governs sufficiency of the description of land contained in a security agreement in that any description of land is sufficient if it reasonably identifies what is described. Several courts addressing the sufficiency issue of a description of growing crops under this section have upheld descriptions listing the name of the landowner, the approximate number of acres involved, the county, and the direction and distance of the land from a named town. Georgia courts have held that the description of collateral is sufficient if the key to the identity of the collateral is present.

Business & Corporate Compliance > ... > Methods of Perfection > Financing Statements > Requirements

Commercial Law (UCC) > ... > Filing > Financing Statements > General Overview

Commercial Law (UCC) > Secured Transactions (Article 9) > General Overview

Commercial Law (UCC) > ... > Methods of Perfection > Filing > General Overview

Commercial Law (UCC) > Secured Transactions (Article 9) > Attachment, Effectiveness & Rights > General Overview

Commercial Law (UCC) > ... > Attachment, Effectiveness & Rights > Attachment & Effectiveness > Security Agreement Requirements

HN2[] **Financing Statements, Requirements**

The description of the land in the security agreement cannot be enlarged by filing a financing statement in which the land is more broadly described in order to cover land not included in the security agreement.

Business & Corporate Compliance > ... > Contracts Law > Standards of Performance > Creditors & Debtors

Commercial Law (UCC) > ... > Filing > Financing Statements > Requirements

Contracts Law > ... > Perfections & Priorities > Perfection > General Overview

Commercial Law (UCC) > Secured Transactions (Article 9) > General Overview

Commercial Law (UCC) > ... > Perfection & Priority > Perfection > General Overview

Commercial Law (UCC) > ... > Perfection > Methods of Perfection > General Overview

Commercial Law (UCC) > ... > Methods of Perfection > Filing > General Overview

Commercial Law (UCC) > ... > Filing > Financing Statements > General Overview

Commercial Law (UCC) > Secured Transactions (Article 9) > Attachment, Effectiveness & Rights > General Overview

Contracts Law > ... > Secured Transactions > Perfections & Priorities > General Overview

Contracts Law > ... > Perfection > Methods of Perfection > General Overview

HN3[] **Standards of Performance, Creditors & Debtors**

In order for a security agreement to be properly perfected, O.C.G.A. §§ 11-9-303(1), 11-9-302(1) requires a creditor to file a financing statement covering his security interest. O.C.G.A. § 11-9-402(5) provides that a financing statement covering crops growing or to be grown must show that it covers this type of collateral, must recite that it is to be indexed in the real estate records, and the financing statement must contain a description of the real estate. O.C.G.A. § 11-9-110 determines what type of description is sufficient to comply with O.C.G.A. § 11-9-402(5).

Bankruptcy Law > ... > Examiners, Officers & Trustees > Duties & Functions > Capacities & Roles

Commercial Law (UCC) > Secured Transactions (Article 9) > Default

Contracts Law > ... > Perfections & Priorities > Perfection > General Overview

Bankruptcy Law > ... > Prepetition Transfers > Voidable Transfers > Lien Creditors & Purchasers

Bankruptcy Law > Reorganizations > Debtors in Possession > General Overview

Bankruptcy Law > ... > Reorganizations > Debtors in Possession > Powers & Rights

Contracts Law > ... > Secured Transactions > Perfections & Priorities > General Overview

Real Property Law > Bankruptcy > Secured Claims

HN4[] **Duties & Functions, Capacities & Roles**

Under 11 U.S.C.S. § 544(a)(1) of the Bankruptcy Code, a trustee in bankruptcy is granted to the status of a hypothetical lien creditor who is deemed to have perfected his interest as of the date of the filing of the bankruptcy petition. In a Chapter 11 case in which no trustee has been appointed, § 1107(a) of the Bankruptcy Code grants to a debtor, in his capacity as a debtor in possession under § 1101 of the Bankruptcy Code, certain of the trustee's rights and powers, one of which is the status of a hypothetical lien creditor under § 544(a)(1). Under Georgia law, an unsecured creditor and an unperfected secured creditor are subordinate to the claim of a subsequent intervening lien creditor.

Counsel: **[**1]** Rufus Bartlett Coody, Debtor, is represented by Jerome L. Kaplan, James P. Smith, and Wesley J. Boyer.

Bank of Dooly is represented by John Carswell Pridgen.

Judges: Robert F. Hershner, Jr., Chief United States Bankruptcy Judge.

Opinion by: HERSHNER, JR.

Opinion

[*164] MEMORANDUM OPINION AND ORDER

On March 10, 1986, Rufus Bartlett Coody, Debtor, filed a petition under Chapter 11 of the Bankruptcy Code. Before the Court is the "Motion to Use Cash Collateral" that was filed by Debtor on March 11, 1986. The motion came on for hearing on March 18, 1986, and the Court, having considered the evidence presented and the arguments of counsel, now publishes its opinion.

[*165] The initial issue for the Court's determination is whether under the security agreement executed on February 15, 1985, the Bank of Dooly has a properly perfected security interest in certain crops and crop proceeds under Georgia law. Under the security agreement, Debtor granted to the Bank of Dooly a security interest in "all crops grown on real estate shown on exhibit A." Exhibit A identifies and specifically describes three tracts of land, which includes Land Lot Numbers 172, 180, 181, 203, and 204. The financing [**2] statement filed on February 15, 1985, to perfect this security agreement states that the financing statement covers crops grown on land owned by Debtor, crops grown on land rented by Debtor, and crop proceeds. The financing statement lists the following land lot numbers as lots owned by Debtor -- Land Lot Numbers 180, 181, 203, and 204; and the following land lot numbers as lots rented by Debtor -- Land Lot Numbers 139, 140, 166, 168, 169, 179, 188, 198, 199, 200, 201, 202, and 218. Debtor asserts that the Bank of Dooly does not have a properly perfected security interest in the crops Debtor grew on rented land because the security agreement does not specifically cover those crops.

HN1[] Under Georgia law, a security interest is not enforceable against a debtor with respect to the collateral and does not attach unless "the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown, a description of the land concerned; . . . ." *O.C.G.A. § 11-9-203(1)(a)* (Michie 1982). *See* *United States v. Big Z Warehouse, 311 F. Supp. 283, 286 (S.D. Ga. 1970)* ("security agreements covering crops [**3] must contain 'a description of the land concerned.'"); *In re Couch, 5 U.C.C. Rep. Serv. 255, 257 (Bankr. M.D. Ga. 1968)*. *Georgia Code section 11-9-110* [1] governs the sufficiency of the description of land contained in a security agreement. Under this section, any description of land is sufficient if it reasonably identifies what is described. *O.C.G.A. § 11-9-110* (Michie 1982). Several courts addressing the issue of the sufficiency of a description of growing crops under this section have upheld descriptions listing the name of the landowner, the approximate number of acres involved, the county, and the direction and distance of the land from a named town. *First National Bank of Franklin County, Tennessee v. Smith, 447 So.2d 705, 707 (Ala. 1984)* (citing *United States v. Newcomb, 682 F.2d 758 (8th Cir. 1982)*; *United States v. Oakley, 483 F. Supp. 762 (E.D. Ark. 1980)*; *United States v. Smith, 22 U.C.C. Rep. Serv. 502 (D. N.D. Miss. 1977)*; *United States v. Big Z Warehouse, 311 F. Supp. 283 (S.D. Ga. 1970)*). Georgia courts have held that the description of the collateral is sufficient if the key to the identity of the collateral is present. *In re A & T Kwik-n-Handi,* [**4] *Inc., 12 U.C.C. Rep. Serv. 765, 766 (Bankr. M.D. Ga. 1973)*; *Yancey Brothers Co. v. Dehco, Inc., 108 Ga. App. 875, 877, 134 S.E.2d 828, 830 (1964)*; *United States v. Big Z Warehouse, 311 F. Supp. at 286*.

This Court finds that the Bank of Dooly's security agreement does not contain a sufficient description under Georgia law in order for the Bank of Dooly to have a security interest in the crops grown on the rented land and the resulting crop proceeds. The security agreement contains absolutely no reference to or description of the rented land on which the crops were grown. The failure to include such a description leads the Court to conclude that no security interest in the crops grown on the rented land was ever created. *See* 8 R. Anderson, *Uniform Commercial Code § 9-203*:30 (3d ed. 1985). *HN2*[] The description of the land in the security agreement cannot be enlarged by filing a financing statement in which the land is more broadly described in order to cover land [**5] not included in the security agreement. *Id. See also* *Tri-County Livestock Auction Co. v. Bank of Madison, 228 Ga. 325, 329, 185 S.E.2d 393, 396 (1971)*. Under the security agreement, the Bank of Dooly took a security interest in only the crops grown on the land listed [*166] in Exhibit A, which includes Land Lot Numbers 172, 180, 181, 203, and 204, and the crop proceeds from that land.

The Court now must determine if the Bank of Dooly properly perfected its security interest in the crops grown on Land Lot Numbers 172, 180, 181, 203, and 204. *HN3*[] In order for a security agreement to be properly perfected, Georgia law requires a creditor to file a financing statement covering his security interest. *O.C.G.A. §§ 11-9-303(1)*, *11-9-302(1)* (Michie 1982). *See Tidwell v. Bethlehem Steel Corp. (In re Georgia Steel, Inc.),* 56 Bankr. 509, 515 (Bankr. M.D. Ga.1985). *Section 11-9-402(5) of the Georgia Code* provides that "[a] financing statement covering crops growing or to be grown . . . . must show that it covers this type of collateral, must recite that it is to be indexed in the real estate records, and the financing statement must contain a description of the real estate." *O.C.G.A.* [**6] *§ 11-9-402(5)* (Michie Supp. 1985). *Section 11-9-110 of the Georgia Code* determines what type of description is sufficient to comply with *section 11-9-402(5)*.

The Court finds that the financing statement filed by the Bank of Dooly sufficiently describes the crops grown on Land Lot Numbers 180, 181, 203, and 204 for the Bank of Dooly to have a properly perfected security interest in those crops and the proceeds from those crops. The Court, however, finds that the Bank of Dooly did not sufficiently describe the crops grown on Land Lot

[1] *O.C.G.A. § 11-9-110* (Michie 1982).

Number 172; therefore, its security interest in the crops grown on that land lot was not perfected. As previously noted, the financing statement covered only Land Lot Numbers 180, 181, 203, and 204. No reference was made to crops grown on Land Lot Number 172. Without a reference to Land Lot Number 172, a third party would not be put on notice that the crops grown on that land lot and the resulting crop proceeds represent collateral in which the Bank of Dooly claims a security interest. *Goodman v. Schenck (In re Swafford Furniture Co. of College Park, Inc.)*, 10 Bankr. 293, 295 (Bankr. N.D. Ga. 1981); Thomas Ford Tractor, Inc. v. North Georgia Production [**7] Credit Association, 153 Ga. App. 820, 822, 266 S.E.2d 571, 572-73 (1980). *See generally* J. White & R. Summers, *Uniform Commercial Code* § 23-16, at 964 (2d ed. 1980). The Court concludes that the Bank of Dooly has a perfected security interest in the crops grown on Land Lot Numbers 180, 181, 203, and 204, but the Bank of Dooly has only an unperfected security interest in the crops grown on Land Lot Number 172.

Having concluded that the Bank of Dooly has no security interest in the crops grown on the rented land and an unperfected security interest in the crops grown on Land Lot Number 172, the Court must now decide how the Bankruptcy Code applies in this situation. Section 544(a)(1) of the Bankruptcy Code **HN4**[] grants to a trustee in bankruptcy the status of a hypothetical lien creditor who is deemed to have perfected his interest as of the date of the filing of the bankruptcy petition. 11 U.S.C.A. § 544(a)(1) (West Supp. 1985). In a Chapter 11 case, such as this, in which no trustee has been appointed, section 1107(a) of the Bankruptcy Code [2] grants to a debtor, in his capacity as a debtor in possession under section 1101 of the Bankruptcy Code, [3] certain of the trustee's **[**8]** rights and powers, one of which is the status of a hypothetical lien creditor under section 544(a)(1). *See* Tinsley & Groom v. West Kentucky Production Credit Association (In re Tinsley & Groom), 49 Bankr. 85, 92 nn.1-2, 12 Bankr. Ct. Dec. 1368, 1371 nn.1-2 (Bankr. W.D. Ky. 1984); Cash Register Systems, Inc. v. Munsey Corp. (In re Munsey Corp.), 10 Bankr. 864, 866, 7 Bankr. Ct. Dec. 674, 675 (Bankr. E.D. Penn. 1981); *cf. Rechnitzer v. Boyd (In re Executive Growth Investments, Inc.), 40 Bankr. 417, 420, 11 Bankr. Ct. Dec. 1239, 1241 (Bankr. C.D. Cal. 1984)*. In this case, Debtor has the status of a hypothetical lien creditor. Under Georgia law, an unsecured creditor and an unperfected secured creditor are subordinate to the **[*167]** claim of a subsequent intervening lien creditor. [4] The Bank of Dooly thus has no claim to the $42,900 in cash proceeds from the rented land.

[9]** Debtor does not dispute that the Bank of Dooly has a validly perfected security interest in the $39,000 in proceeds attributable to crops grown on land owned by Debtor. Under section 363 of the Bankruptcy Code, [5] Debtor may not use this $39,000 in cash collateral unless the Bank of Dooly consents or Debtor has demonstrated that the Bank of Dooly's security interest is adequately protected. The Court notes that some of the collateral involved herein is in the form of bales of cotton, but the Court will consider them as if they were cash collateral because as soon as the bales are sold, the proceeds will be cash collateral.

As adequate protection, Debtor proposes to give the Bank of Dooly a first lien on the cotton and peanut crops that Debtor will shortly plant, and also proposes assignment of a $10,000 Agricultural Stabilization and Conservation Service (ASCS) set aside payment. Debtor also proposes to assign his crop insurance to the Bank of Dooly. The question **[**10]** presented is whether this is sufficient adequate protection for $39,000 in cash collateral so that the Court may authorize its use. Debtor needs the use of the cash collateral to plan his 1986 cotton, peanut, and silage crops. Because the cotton and peanut crops generate income for Debtor, and the silage is needed to feed Debtor's dairy cattle, the Court is persuaded that the three crops are necessary for Debtor to have a chance to reorganize under Chapter 11 of the Bankruptcy Code.

Debtor's testimony is that he expects a $49,000 profit from his 1986 cotton and peanut crops. He bases this estimate upon prior crop yields and the fact that irrigation is available this year to avoid the drought problems that he suffered last year. The undisputed testimony is that Debtor will participate in the government price support program, which will give added protection for the crops. Debtor also has agreed

[2] 11 U.S.C.A. § 1107(a) (West Supp. 1985).

[3] 11 U.S.C.A. § 1101 (West 1979).

[4] *See* Nicholson v. First Investment Co., 705 F.2d 410, 413 (11th Cir. 1983); United States Fidelity & Guaranty Co. v. Leach (In re Merts Equipment Co.), 438 F. Supp. 295, 298 (M.D. Ga. 1977); O.C.G.A. § 11-9-301(1)(b), (3) (Michie 1982).

[5] 11 U.S.C.A. § 363 (West 1979 & Supp. 1985).

to assign his crop insurance to the Bank of Dooly and estimates that if he suffered a total loss on his crops, he would receive $141,800 in insurance proceeds.

Debtor has agreed to assign the $10,000 ASCS payment to the Bank of Dooly. While there may be some risk involved, it is relatively **[**11]** certain that the payment will be made to Debtor and thus through the assignment to the Bank of Dooly.

The Court is persuaded that Debtor has demonstrated that his offer of adequate protection is more than enough to protect the interest of the Bank of Dooly, and that Debtor, therefore, should be authorized to use the $39,000 in cash collateral. While the Court is unable to determine from the evidence what part of the cash collateral is attributable to Land Lot Number 172, the fact that the Bank of Dooly does not have a validly perfected security interest in the crops grown on that land lot leads to the conclusion that the Bank of Dooly may not have a valid claim to all of the $39,000 which the Court has considered as cash collateral.

Accordingly; it is

ORDERED that the Motion to Use Cash Collateral filed by Rufus Bartlett Coody, Debtor, on March 11, 1986, is granted; and it is further

ORDERED that the Bank of Dooly is hereby directed to endorse the joint checks which are made out to it and Debtor in order to comply with this order of the Court; and it is further

ORDERED that Debtor is authorized to sell the bales of cotton upon which the Bank of Dooly has a security interest and **[**12]** to use the proceeds from the sale in accordance with this order; and it is further

[*168] ORDERED that Debtor strictly comply with the terms of the adequate protection which he has offered to the Bank of Dooly.

ROBERT F. HERSHNER, JR., Chief United States Bankruptcy Judge

End of Document

In re Lorenz

United States Bankruptcy Court for the Northern District of Illinois, Eastern Division

February 21, 1986, Decided

No. 85 B 907

Reporter

57 B.R. 734 *; 1986 Bankr. LEXIS 6640 **

In re Anthony Peter LORENZ, Joseph Andrew Lorenz, and Robert Dean Lorenz, a Partnership, d/b/a Lorenz Brothers Farm, Debtors

Core Terms

crop, proceeds, security interest, security agreement, collateral, pre-petition, harvested, commencement of the case, post-petition

Case Summary

Procedural Posture

Plaintiff bank moved to terminate or modify the automatic stay under *11 U.S.C.S. § 362* and to prevent the use of certain cash collateral under *11 U.S.C.S. § 363* after defendant partnership declared Chapter 11 bankruptcy.

Overview

After defendant debtor declared Chapter 11 bankruptcy, plaintiff bank moved to terminate or modify the automatic stay under *11 U.S.C.S. § 362* and to prevent debtor's use of certain cash collateral under *11 U.S.C.S. § 363*. The court said that in as much as defendant incurred new debt to buy, seed, and lease lands for the crop, the proceeds of that crop were not generated by pre-petition collateral. The court ordered plaintiff to turn over proceeds of crop to defendant to pay administrative and operating expenses because plaintiff's security interest did not encompass cash proceeds generated by the crop, which was planted and harvested after debtor filed for bankruptcy. Consequently, the proceeds of the crop were not cash collateral as defined in *§ 363(a)*.

Outcome

The court ordered plaintiff to give crop proceeds to defendant to pay administrative and operating expenses because plaintiff's security interest did not include cash proceeds from the crop, which was harvested after debtor filed Chapter 11 petition, and so the proceeds of the crop were not cash collateral.

LexisNexis® Headnotes

Bankruptcy Law > ... > Bankruptcy > Estate Property > Defenses

HN1[] **Estate Property, Defenses**

See *11 U.S.C.S. § 552*.

Bankruptcy Law > ... > Bankruptcy > Estate Property > Defenses

Contracts Law > ... > Secured Transactions > Application & Construction > General Overview

Contracts Law > Types of Commercial Transactions > Secured Transactions > General

Overview

HN2[] **Estate Property, Defenses**

Once a bankruptcy petition is filed, 11 U.S.C.S. § 552 abrogates the effect of all pre-petition security interests in subsequently acquired property except those security interests in proceeds to the extent recognized by applicable state law.

Commercial Law (UCC) > General Provisions (Article 1) > Definitions & Interpretation > General Overview

Commercial Law (UCC) > ... > Subject Matter > Definitions > General Overview

Commercial Law (UCC) > Secured Transactions (Article 9) > General Overview

Commercial Law (UCC) > ... > Definitions & General Concepts > Definitions > General Overview

Commercial Law (UCC) > ... > Definitions > Collateral > General Overview

Commercial Law (UCC) > ... > Definitions & General Concepts > Definitions > Proceeds

Commercial Law (UCC) > ... > Perfection > Methods of Perfection > Proceeds From Collateral

HN3[] **General Provisions (Article 1), Definitions & Interpretation**

Section 9-306(1) of the Illinois Commercial Code defines proceeds to include whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Ill. Rev. Stat. ch. 26, para. 9-306(1).

Commercial Law (UCC) > Secured Transactions (Article 9) > Attachment, Effectiveness & Rights > General Overview

Commercial Law (UCC) > Secured Transactions (Article 9) > General Overview

Commercial Law (UCC) > ... > Definitions & General Concepts > Definitions > Proceeds

Commercial Law (UCC) > ... > Attachment, Effectiveness & Rights > Attachment & Effectiveness > Proceeds From Collateral

Commercial Law (UCC) > ... > Perfection > Methods of Perfection > Proceeds From Collateral

Contracts Law > Types of Commercial Transactions > Secured Transactions > General Overview

HN4[] **Secured Transactions (Article 9), Attachment, Effectiveness & Rights**

Unless the parties otherwise agree, a security agreement gives the secured party the rights to proceeds provided by section 9-306. Ill. Rev. Stat. ch. 26 para. 9-203(3). Thus, the absence of the word proceeds in the security agreement does not preclude the extension of a security agreement to cover proceeds of a secured party's collateral.

Business & Corporate Compliance > ... > Secured Transactions > Attachment of Security Interests > After Acquired Property & Future Advances

Commercial Law (UCC) > ... > Attachment, Effectiveness & Rights > Attachment & Effectiveness > After Acquired Property & Future Advances

Commercial Law (UCC) > ... > Definitions & General Concepts > Definitions > Proceeds

Business & Corporate Compliance > ... > Contracts Law > Standards of Performance > Creditors & Debtors

Contracts Law > Types of Commercial Transactions > Secured Transactions > General Overview

HN5[] **Attachment of Security Interests, After Acquired Property & Future Advances**

Under 11 U.S.C.S. § 552 (a) after-acquired property is not subject to any liens created by a pre-petition security agreement. Thus, the proceeds of that after-acquired property, are not subject to the Bank's security interest. The exception to section 552(a), set forth in subsection (b), refers to proceeds generated by pre-petition collateral, not to proceeds of after-acquired property. Proceeds of collateral may be held to be secured by a pre-petition security interest only if the collateral which produces the proceeds was acquired by the debtor pre-petition.

Counsel: [**1] Nancy West Stoecker, Truemper, Ward, Hollingsworth & Wotjecki, for Debtors.

Douglas J. Lipke, Lord, Bissell & Brook, for First National Bank of Joliet.

Judges: Eisen, Chief Bankruptcy Judge.

Opinion by: EISEN

Opinion

[*734] MEMORANDUM AND ORDER

ROBERT L. EISEN, Chief Bankruptcy Judge

This matter comes to be heard on the motion of First National Bank of Joliet ("Bank") to terminate or modify the automatic stay pursuant to 11 U.S.C. § 362 and to prevent the use of certain cash collateral pursuant to 11 U.S.C. § 363. On January **[*735]** 22, 1985, Anthony Peter Lorenz, Joseph Andrew Lorenz, and Robert Dean Lorenz, a partnership d/b/a Lorenz Brothers Farm ("debtor"), filed its petition for relief under Chapter 11 of the Bankruptcy Code and has continued to operate its business and conduct its affairs as a debtor in possession. Prior thereto, on August 7, 1984, the debtor had executed four agricultural notes with a total principal balance of $795,000. As security therefor, the debtor executed certain security agreements granting the Bank a security interest, inter alia, in the following:

> All crops, growing or to be grown, annual or perennial, including but not limited to corn **[**2]** and soybeans on all farms as described in Exhibit A attached and all products thereof and all accounts arising therefrom.

Presently at issue is whether the Bank has a security interest in the 1985 crop which was harvested post-petition by the debtor in possession and whether the cash received from the sale of the 1985 crop is cash collateral which the Bank can preclude the debtor from using to pay operating and administrative expenses. The proceeds from the 1985 crop are currently being held by the Bank pursuant to an order entered nunc pro tunc October 14, 1985.

The Bank maintains that at least a portion of the proceeds of the 1984 crop were used to buy seed, rent farm land and plant and harvest the post-petition crop. Thus, the Bank contends that the 1985 crop constitutes proceeds of the Bank's collateral to which the Bank's security interest in pre-petition crops extends pursuant to 11 U.S.C. § 552(b). In its response, the debtor initially contends that the security agreement executed by the parties does not by its language extend a security interest in crop proceeds to the Bank nor is the cash currently being held by the Bank a product of the crops or an account arising **[**3]** therefrom as those terms are defined under the Uniform Commercial Code. Further, the debtor states that the schedules filed with its petition indicate that the debtor had no cash, bank accounts, crops, seeds or any other personal property not specifically listed, remaining after the 1984 crop was harvested and the proceeds therefrom paid to various creditors. Rather, the debtor asserts it incurred additional post-petition unsecured debt in leasing land, planting and harvesting the 1985 crop, and transporting crop and grain for sale. In addition, the debtor argues that no identifiable proceeds from the sale of the 1984 crop are in existence to which a security interest would continue to attach pursuant to § 9-306(2) of the Illinois Commercial Code, Ill. Rev. Stat. ch. 26 para. 9-306(2).

The debtor concedes that if the 1985 crop had been in existence on the date of filing, then the Bank would be entitled to assert a lien on the proceeds of the 1985 crop. However, because the 1985 crop was planted and the seed therefore purchased post-petition, the debtor maintains that the Bank has not demonstrated its entitlement to a security interest in the crops harvested in 1985.

DISCUSSION

[4]** HN1[] Section 552 of the Bankruptcy Code provides as follows:

> (a) Except as provided in subsection (b) of this section, property acquired by the estate or by the

debtor after the commencement of the case is not subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

(b) Except as provided in section 363, 506(c), 522, 544, 545, 547 and 548 of this title, if the debtor and an entity entered into a security agreement before the commencement of the case and if the security interest created by such security agreement extends to property of the debtor acquired before the commencement of the case and to proceeds, product, offspring, rents, or profits of such property, then such security interest extends to such proceeds, product, offspring, rents or profits acquired by the estate after the commencement of the case to the extent provided by such security agreement and by applicable nonbankruptcy law, except to any extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.

[*736] 11 U.S.C. § 552. HN2[] Once a bankruptcy petition is filed, section 552 "abrogates the **[**5]** effect of all pre-petition security interests in subsequently acquired property except those security interests in proceeds to the extent recognized by applicable state law." *In re Trans-Texas Petroleum Corp., 33 B.R. 67, 69 (Bankr. N.D. Tex. 1983)*. HN3[] Section 9-306(1) of the Illinois Commercial Code defines "proceeds" to include "whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds." Ill. Rev. Stat. ch. 26, para. 9-306(1). HN4[] Unless the parties otherwise agree, a security agreement gives the secured party the rights to proceeds provided by section 9-306. Ill. Rev. Stat. ch. 26 para. 9-203(3). Thus, the absence of the word "proceeds" in the security agreement does not preclude the extension of a security agreement to cover proceeds of a secured party's collateral, as the debtor contends.

However, the court is not confronted here with the question of who has rights in *proceeds* acquired by a debtor's estate post-petition from the disposition of property acquired pre-petition, a situation addressed by section 552(b). Rather, this is a case of HN5[] after-acquired *property,* i.e., the 1985 crop which section 552(a) expressly provides is **[**6]** not subject to any liens created by a pre-petition security agreement. *See In re Sheehan, 38 B.R. 859, 863 (Bankr. D.S.D. 1984)*. Thus, the proceeds of that after-acquired property, i.e., the cash received from 1985 crop, are not subject to the Bank's security interest. The exception to section 552(a), set forth in subsection (b), refers to proceeds generated by pre-petition collateral, not to proceeds of after-acquired property. *See In re Texas Tri-Collar, Inc., 29 Bankr. 724, 8 CBC 2d 970 (W.D.La. 1983)*. Proceeds of collateral may be held to be secured by a pre-petition security interest only if the collateral which produces the proceeds was acquired by the debtor pre-petition. *Matter of Gross-Feibel Company, Inc., 21 Bankr. 648, 6 CBC 2d 1239, 1241 (Bankr. S.D. Ohio 1982)*. In the case *sub judice,* the debtor has stated that the cash proceeds from the sale of the 1984 crop were no longer in existence as of the date of filing. Inasmuch as the debtor incurred new debt to purchase the seed and lease lands to generate the 1985 crop, the proceeds of that crop were not generated by pre-petition collateral.

The court concludes that this matter is governed by section 552(a). **[**7]** Therefore, the court holds that the Bank's security interest does not encompass cash proceeds generated by the 1985 crop which was planted and harvested after the filing of debtor's chapter 11 petition. Consequently, the proceeds of the 1985 crop are not "cash collateral" as defined in section 363(a) of the Code. [1]

IT IS THEREFORE ORDERED that the Bank turn over the proceeds of the 1985 crop to the debtor for the payment of administrative and operating expenses.

End of Document

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[1] The Bank also argues that because farm equipment in which it has a security interest was used to harvest and plant the 1985 crop, the 1985 crop is a "product" of that collateral. The court finds this argument without merit under the express terms of the security agreement and the provisions of the Illinois Commercial Code. *See, e.g.,* Ill. Rev. Stat. ch. 26 para. 9-109(3).

Gray v. Bank of Early

United States District Court for the Middle District of Georgia, Albany Division

September 20, 2018, Decided; September 20, 2018, Filed

CASE NO.: 1:17-CV-098 (LJA)

Reporter

2018 U.S. Dist. LEXIS 231210 *; 2018 WL 9415069

DAN MARK GRAY, Appellant, v. BANK OF EARLY, Appellee.

Core Terms

Crop, proceeds, collateral, security interest, Corn, bankruptcy court, post-petition, security agreement, expenditures, perfected, prepetition, funds, expended, financing statement, perfected security interest, financing, unsecured creditor, matter of law, debtor in possession, bankrupt estate, balancing, commencement of the case, farming, parties, notice, rights, ACRES, grown, secured party, attaches

Counsel: [*1] For DAN MARK GRAY, Appellant: KENNETH W. REVELL, LEAD ATTORNEY, Albany, GA.

For BANK OF EARLY, Appellee: DAVID ALLEN GARLAND, LEAD ATTORNEY, ALBANY, GA; STEPHAN A RAY, LEAD ATTORNEY, ALBANY, GA.

Judges: LESLIE J. ABRAMS, UNITED STATES DISTRICT JUDGE.

Opinion by: LESLIE J. ABRAMS

Opinion

ORDER

Before the Court is an appeal from an order of the United States Bankruptcy Court for the Middle District of Georgia denying Appellant Debtor Dan Mark Gray's (Gray) motion to receive post-petition proceeds, free from the secured creditor's security interest, from the sale of a certain crop as the debtor in possession. (Doc. 1.) Gray contends that the Bankruptcy Court erred in finding: (1) that the proceeds from the sale of the debtor's 2016 Corn Crop were subject to Appellee Creditor Bank of Early's (BOE) security interest; and (2) that the Bankruptcy Court could not, as a matter of law, apply the "equities of the case" exception pursuant to 11 U.S.C. § 552(b)(1) to limit BOE's rights to said proceeds. (Doc. 10 at 2.) For the reasons set forth below, the Bankruptcy Court's decision is **AFFIRMED in part** and **REVERSED in part** and **REMANDED**.

FACTUAL AND PROCEDURAL BACKGROUND

On May 7, 2016 (Petition Date), Gray filed a Petition for relief under Chapter 12 **[*2]** of the United States Bankruptcy Code. (Doc. 10 at 2.) Prior to the Petition Date, Gray executed two separate promissory notes in favor of BOE. (Doc. 12 at 1.) The first note (Note 4483) was a renewal note for outstanding balances due from Gray's 2014 crop production loan with a principal amount of $236,360.42. (*Id.*) The second note (Note 13209), Gray's 2015 crop production loan, had a principal amount of $900,000.00. (*Id.* at 1-2.) With each note, Gray executed both an Agricultural Loan Agreement and Agricultural Security Agreement. (*Id.* at 2.) While Note 13209 was primarily to cover Gray's 2015 crop production, the Agricultural Security Agreement attached to Note 13209 (Security Agreement 13209) purported to secure both the 2015 crop and beyond. (Doc. 10 at 4; Doc. 12 at 2.)

On May 18, 2015, BOE filed a UCC-1 financing statement (UCC-1) in the real estate records of the Clerk of the Superior Court of Miller County, Georgia, at Deed Book 237, pages 105-108. (Doc. 12 at 2.) The

UCC-1 contained the following collateral description:

> ALL FARM PRODUCTS INCLUDING ALL 2015 CROPS, ANNUAL OR PERENNIAL, AND ALL PRODUCTS OF THE CROPS, ALL FEED, ALL SEED, FERTILIZER, PROCEEDS AND OTHER SUPPLIES USED OR PRODUCED [*3] IN DEBTOR'S FARMING OPERATION, INCLUDING BUT NOT LIMITED TO 403.35 ACRES OF CORN, 83.01 ACRES OF GRAN SOURHUM [sic], 10.89 ACRES OF OATS, 253.83 ACRES OF PEANUTS, 101.63 ACRES OF SOYBEANS AND 164.6 ACRES OF WHEAT GROWING OR TO BE GROWN ON LANDS OWNED, LEASED OR RENTED BY DEBTOR LOCATED IN THOSE LOTS LISTED ON THE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

(Doc. 10 at 6; Doc. 12 at 2.)

In April 2016, about two to three weeks before the Petition Date, Gray planted approximately fifty acres of seed corn on leased land in Miller County, Georgia (2016 Corn Crop). (Doc. 10 at 2; Doc. 12 at 3.) Gray allegedly purchased the seed corn using funds derived from a sublease to a third-party farmer. (Doc. 10 at 2.) Sometime before the Petition Date the 2016 Corn Crop sprouted, but it was not harvested until after the Petition Date. (Doc. 12 at 3.) Gray alleges that he obtained $11,100.40 in post-petition financing from another creditor in the ordinary course of his farming, which he used in bringing the 2016 Corn Crop to maturity and harvest. (Doc. 10 at 3.) These post-petition funds are required to be paid back within one year through bankruptcy estate-generated farm income. (*Id.*) Gray subsequently [*4] sold the harvested 2016 Corn Crop to Flint Hills Resources Grain, LLC (Flint Hills) for $41,729.97 (2016 Corn Crop Proceeds).

On October 10, 2016, Gray filed a Motion for Comfort Order Directing that Postpetition Proceeds be Paid to Debtor in Possession and for Determination that Proceeds are not Subject to Lien. (Doc. 1 at 23.) Therein, Gray sought to have the 2016 Corn Crop Proceeds paid to him as the debtor in possession, arguing that BOE did not have a perfected security interest in the proceeds, and, even if it did, the bankruptcy court should reduce its interest under 11 U.S.C. § 552(b)(1)'s "equities of the case" exception. (*Id.*) Hearings were held on both issues on March 10 and May 12, 2017, respectively. On May 15, 2017, the Bankruptcy Court denied Gray's Motion for Comfort Order. The Bankruptcy Court held that BOE held a perfected security interest in the 2016 Corn Crop Proceeds. (*Id.* at 24.) Additionally, the Bankruptcy Court concluded that § 552(b)(2)'s "equities of the case" exception was inapplicable because Gray did not expend unencumbered post-petition assets of the bankruptcy estate to grow and bring the 2016 Corn Crop to harvest. (*Id.*)

Gray appealed the Bankruptcy Court's Order Denying Debtor's Motion for [*5] Comfort Order on May 30, 2017. (Doc. 1.) On appeal Gray raises the following issues: (1) whether the Bankruptcy Court erred in finding that BOE had a perfected security interest in the 2016 Corn Crop Proceeds; and (2) whether the Bankruptcy Court erred in finding that it was prohibited as a matter of law from applying the "equities of the case" exception in 11 U.S.C. § 552(b)(1) to reduce BOE's security interest in the 2016 Corn Crop Proceeds. Neither party disputes the sufficiency of the underlying security agreement or the accuracy of the language as set forth in UCC-1. Instead, the parties disagree over whether the language in UCC-1 is sufficient to perfect BOE's interest in the 2016 Corn Crop and its proceeds. (Doc. 10 at 4-5; Doc. 12 at 2-3; Doc. 13 at 5.) Moreover, neither party disputes that if the BOE did not have a perfected security interest in the 2016 Corn Crop Proceeds, then the BOE would have no claim to the proceeds. (*See* Doc. 13.)

STANDARD OF REVIEW

Pursuant to 28 U.S.C. § 158(a), the Court has jurisdiction to hear this appeal. In reviewing the decisions of the bankruptcy court, the district court functions as an appellate court. In re JLJ Inc., 988 F.2d 1112, 1116 (11th Cir. 1993). As such, the district court is not authorized to make independent factual findings. [*6] In re Sublett, 895 F.2d 1381, 1384 (11th Cir. 1990). The district court must accept the bankruptcy court's findings of fact, unless the findings are clearly erroneous. In re JLJ Inc., 988 F.2d at 1116. Where the bankruptcy court's factual findings are ambiguous or silent about an outcome determinative factual question, the district court must remand the case to the bankruptcy court to make the necessary factual findings. *Id.* (citing In re Cornelison, 901 F.2d 1073, 1075 (11th Cir. 1990)). The bankruptcy court's legal conclusions, however, are reviewed *de novo*. In re Goerg, 930 F.2d 1563, 1566 (11th Cir. 1991). Here, the parties contest only the legal conclusions drawn by the Bankruptcy Court. Accordingly, this Court must review the Bankruptcy Court's legal determinations *de novo*.

DISCUSSION

Gray contends that, as the debtor in possession in his Chapter 12 bankruptcy case, he is entitled to the proceeds from the sale of the 2016 Corn Crop. Under the "strong arm" powers of 11 U.S.C. § 544(a), the debtor in possession has all "the rights and powers of a hypothetical perfected judgment lien creditor," entitling said debtor to priority over an unperfected secured creditor's interest in collateral. Old W. Annuity & Life Ins. Co. v. Apollo Grp., 605 F.3d 856, 863 (11th Cir. 2010). Thus, Gray raises two issues on appeal: (1) whether BOE's filing of its UCC-1 properly perfected its security interest in Gray's 2016 Corn Crop and its proceeds; and (2) if the UCC-1 did properly **[*7]** perfect BOE's security interest, whether the bankruptcy court was prohibited, as a matter of law, from applying the "equities of the case" exception set forth in 11 U.S.C. § 552(b)(1) to reduce BOE's claim to cash proceeds of the 2016 Corn Crop. (Doc. 10 at 1.) Upon *de novo* review and accepting the Bankruptcy Court's findings of fact, the Court holds that, while BOE had a perfected security interest, the Bankruptcy Court erred in holding that it was prohibited from considering the "equities of the case" exception.

I. BOE's Security Interest in the 2016 Corn Crop and its Proceeds

Gray does not dispute that BOE has a valid security agreement covering the 2016 Corn Crop and its proceeds. Rather, Gray contends that BOE failed to properly perfect that security interest, giving Gray priority to the proceeds under § 544(a). Whether a secured creditor properly perfected its' security interest is governed by state law. *See* Butner v. United States, 440 U.S. 48, 55, 99 S. Ct. 914, 59 L. Ed. 2d 136 (1979). "Property interests are created and defined by state law. Unless some federal interest requires a different result, there is no reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding." *Id.*; *see also* In re Codrington, 691 F.3d 1336, 1339 (11th Cir. 2012), *certified question answered* **[*8]** *sub nom.* Wells Fargo Bank, N.A. v. Gordon, 292 Ga. 474, 749 S.E.2d 368 (Ga. 2013) (looking to state law to determine the rights of a hypothetical bona fide purchaser to set aside a security deed).

Pursuant to Ga. Code Ann. § 11-9-301(1) and § 11-9-302, Georgia's adopted version of Article 9 controls the present inquiry because Gray is located in Georgia and the 2016 Corn Crop was grown in Georgia. Thus, the Court must review Georgia law to determine whether BOE properly perfected its interest in the 2016 Corn Crop and its proceeds.

A. The 2016 Corn Crop

Ga. Code Ann. § 11-9-308(a) provides that "a security interest is perfected if it has *attached* and all of the applicable requirements for perfection . . . have been satisfied. A security interest is *perfected* when it attaches if the applicable requirements are satisfied before the security agreement attaches." (emphasis added). "A financing statement may be filed before a security agreement is made or a security interest otherwise attaches." *Id.* § 11-9-502(d). "A security interest attaches to collateral when it becomes enforceable against the debtor . . . . [A] security interest is enforceable against the debtor . . . only if: (1) Value has been given; (2) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and (3) . . . The **[*9]** debtor has authenticated a security agreement...." *Id.* § 11-9-203(a)-(b); Sw. Georgia Prod. Credit Ass'n v. James, 180 Ga. App. 795, 350 S.E.2d 786, 788 (Ga. Ct. App. 1986) (holding that security interest in the subject pea crop attached at the time the crop was planted). Here, there was a valid security agreement, which contained sufficient language to cover the 2016 Corn Crop. (Doc. 10 at 4-5.) Moreover, value was previously given, and Gray had rights in the crops because they were planted and sprouted prior to the Petition Date. (Doc. 12 at 3.)

In order to perfect a security interest in crops under Georgia law, a secured creditor must also file a financing statement. Ga. Code Ann. § 11-9-310(a) (West 2018). A financing statement, or UCC-1, covering a security interest in growing crops is sufficient only if it is filed with the clerk of any superior court in Georgia. *Id.* § 11-9-501(a). Additionally, it must provide the following: (1) the name of the debtor; (2) the name of the secured party or their representative; (3) a description of the collateral; (4) an indication that it covers growing crops; (5) an indication that it is filed in the real property records; and (6) a description of the real property where the crops are growing. *Id.* § 11-9-502(a)-(b). With regards to BOE's UCC-1, the sole issue argued by Gray is whether the description of the collateral **[*10]** was sufficient.

As the parties agree that the description of the collateral in the security agreement was sufficient to grant BOE a security interest in the 2016 Corn Crop and its proceeds, the question before the Court is whether the UCC-1 was sufficient to put a third party on inquiry notice that the collateral could be covered by a security interest. "A financing statement is designed to notify third parties . . . that there may be an enforceable security interest in the property of the debtor." Kubota Tractor Corp. v. Citizens & S. Nat. Bank, 198 Ga. App. 830, 403 S.E.2d 218, 222 (Ga. Ct. App. 1991) (internal quotations omitted); Goodin v. S. Atl. Prod. Credit Ass'n, 201 Ga. App. 35, 410 S.E.2d 159, 160 (Ga. Ct. App. 1991) (holding that description was sufficient because it would have put a "person of ordinary business prudence" on notice of creditor's lien on collateral). Furthermore, "[a] financing statement need not provide an interested person with all the information he needs to understand a secured transaction but only with the information that such a transaction has taken place and that the particulars thereof may be obtained from the named security party at the address shown." Kubota Tractor Corp., 403 S.E.2d at 223.

Pursuant to Ga. Code Ann. § 11-9-504, a financing statement's description of collateral is sufficient if it "reasonably identifies" the described collateral. Ga. Code Ann. §§ 11-9-504, 11-9-108(a) (West 2018). A description reasonably identifies collateral **[*11]** if it identifies the subject property by specific listing, category, Article 9-defined collateral classifications, or any other method making the collateral "objectively determinable." *Id.* § 11-9-108(b). Thus, unlike a collateral description in a security agreement, "it is not wholly necessary that the physical description appearing of record [in a financing statement] be sufficient in itself to identify the property;" however, "it must raise a warning flag, as it were, providing a key to the identity of the property." Peoples Bank of Bartow Cty. v. Nw. Georgia Bank, 139 Ga. App. 264, 228 S.E.2d 181, 183-84 (Ga. Ct. App. 1976).

The UCC-1 identifies the collateral as "*all farm products* including all 2015 crops, annual or perennial, and all products of the crops, ... proceeds and other supplies used or produced in debtor's farming operation . . . ." (Doc. 10 at 6) (emphasis added.) The UCC-1 description identifies categories of collateral such as "crops" and Article 9 defined collateral classifications such as "farm products." Georgia's version of Article 9 defines "farm products" as goods involved in the debtor's farming operations, including "[c]rops grown, growing, or to be grown . . . ." Ga. Code Ann. § 11-9-102(35)(A) (West 2018). The inclusion of the Article 9 classification is sufficient to put a party of ordinary business prudence **[*12]** on notice that another party might have a security interest in crops grown, growing, or to be grown on the identified plot of land. Such a reasonably prudent business person would then consult the security agreement setting forth a more particularized description of the collateral—in this case, the 2016 Corn Crop. Beyond the use of the statutorily defined term "farm products," the UCC-1 also includes a description of the crops and area of land, and it explicitly states that BOE has an interest in the crops "growing or to be grown" on the lots identified in Exhibit "B." (Doc. 10 at 6; Doc. 12 at 2.)

While Gray would like the Court to construe the phrase "including all 2015 crops" to limit the interest to only 2015 crops, such a construction is not appropriate. Gray cites In re Robert Bogetti & Sons, 162 B.R. 289 (Bankr. E.D. Cal. 1993), to support this argument. (Doc. 10 at 6.) A proper reading of *Bogetti*, however, prohibits the use of the more general description of collateral in the financing statement to modify the more specific description of the collateral found in the security agreement. 162 B.R. at 295-97. The *Bogetti* court explained that it would be inappropriate to allow the financing statement to modify the security agreement because the purpose of the security **[*13]** agreement is to "describ[e] the property in which the debtor has conveyed a security interest to the creditor . . . [that is] to establish whether a security interest in fact exists and its scope or extent," where as the "financing statement is not designed to define or create contractual rights and is merely a notice and perfection tool." Id. at 295. While *Bogetti* construes California law, the underlying principles are present in Georgia law as well. *Pers. Thrift Plan of Perry, Inc. v. Georgia Power Co., 242 Ga. 388, 249 S.E.2d 72, 74 (Ga. 1978)* (noting that a financing statement, unlike a security agreement, is meant to give notice); *see also* Planned Furniture Promotions, Inc. v. Benjamin S. Youngblood, Inc., 374 F. Supp. 2d 1227, 1236 (M.D. Ga. 2005) (interpreting Georgia's Article 9 and noting that "[i]n a financing statement, as opposed to a security agreement, collateral need only be reasonably identified."). Moreover, as the *Bogetti* court noted, jurisdictions have "liberally construed less than clear granting language in a financing statement to create a security interest where there is no formal security agreement between the parties." In re Robert Bogetti & Sons, 162 B.R. at 297. Such is not the case here as both parties acknowledge that there is a valid security agreement that adequately defines the security interest to include the 2016 Corn Crop. Therefore, as the UCC-1's collateral description was sufficient to put a third party of ordinary [*14] business prudence on notice of BOE's security interest, BOE has a perfected security interest in the 2016 Corn Crop.

B. 2016 Corn Crop Proceeds

Having established that BOE has a perfected security interest in the 2016 Corn Crop, the issue remains whether the security interest attached to the proceeds of that corn crop. Under Ga. Code Ann. § 11-9-315(a), "[a] security interest continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien [] and . . . attaches to any identifiable *proceeds* of collateral." (West 2018) (emphasis added) (punctuation omitted). Proceeds include anything acquired from that sale, lease, license, exchange, or other disposition of the collateral. *Id.* § 11-9-102(63)(A). Once attached, a security interest in proceeds is perfected if "the security interest in the original collateral was perfected," and remains perfected if the proceeds are "identifiable cash proceeds." *Id.* § 11-9-315(c)-(d)(2).

Here, the original collateral—the 2016 Corn Crop—was sold to Flint Hills for $41,729.97.[1] (Doc. 12 at 3.) The cash value is clearly identifiable cash proceeds from the sale of the corn crops; and, since [*15] there is no indication that BOE authorized the sale, its security interest would automatically attach to the identifiable cash collateral. As noted above, the 2016 Corn Crop was properly perfected, so the identifiable cash proceeds are as well. Thus, BOE has a perfected security interest in the cash proceeds from the sale of the 2016 Corn Crop.

Gray, nevertheless, contends that "proceeds" are limited to those resulting from "supplies" and "does not create a blanket security interest on all future farm proceeds unrelated" to those supplies. (Doc. 10 at 7.) Under Georgia law, a secured party only needs a perfected security interest in the initial collateral to remain perfected and secured in identifiable cash collateral proceeds. *See* Ga. Code Ann. § 11-9-315 (West 2018). BOE has a perfected security interest in the proceeds of the sale of the 2016 Corn Crop; and it would, therefore, have priority over Gray as debtor in possession to said proceeds.

II. Applicability of the "Equities of the Case" Exception of 11 U.S.C. § 552(b)(1)

Even if BOE has a perfected security interest in the 2016 Corn Crop and its proceeds, Gray argues that the Bankruptcy Court should have applied the "equities of the case" exception in 11 U.S.C. § 552(b)(1) to reduce BOE's [*16] interest. (Doc. 10 at 9.) In general, property acquired by either the debtor or the bankruptcy estate post-petition is not subject to any prepetition lien. 11 U.S.C. § 552(a). The single exception to this rule is provided in § 552(b):

> Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548 of this title, if the debtor and an entity entered into a security agreement before the commencement of the case and if the security interest created by such security agreement extends to property of the debtor acquired before the commencement of the case and to proceeds, products, offspring, or profits of such property, then such security interest extends to such proceeds, products, offspring, or profits acquired by the estate after the commencement of the case to the extent provided by such security agreement and by applicable nonbankruptcy law, *except to any extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.*

11 U.S.C. § 552(b)(1) (emphasis added). The final clause of that provision provides an exception to the exception: Based on the equities of the case, the bankruptcy court may adjust a prepetition security interest in post-petition proceeds. *Id.*

Gray argues that the Bankruptcy Court erred in holding that [*17] the "equities of the case" exception did not apply to reduce a prepetition secured creditor's interest in post-petition proceeds for expenditures made with prepetition assets or post-petition financing. Specifically,

[1] The record is noticeably silent as to whether the 2016 Corn Crop was purchased as growing crops or after being harvested. This might have some effect on the initial identity of the "proceeds" and whether they remained continuously perfected before becoming identifiable cash proceeds. *See* Bank of Dawson v. Worth Gin Co., 295 Ga. App. 256, 671 S.E.2d 279, 281 n.6 (Ga. Ct. App. 2008) (discussing potential effect of whether crop sold while growing or after being harvested would be covered under financing statement). Neither party raised this issue, and both parties have assumed the "proceeds" were the identifiable cash value of the crop's sale. Accordingly, the Court does not address this issue and accepts the parties' representations.

the Bankruptcy Court held: (1) that "any prepetition expenditures by [the debtor]. . . does not . . . allow the Court to utilize the equities . . . exception to set aside . . . the bank's lien," (Doc. 14, May 12, 2017 Hearing Tr. at 86:17-22); and (2) "that the equities of the case exception does not apply" when the debtor expends post-petition, encumbered assets to improve the secured creditor's subject collateral. (Doc. 14, May 12, 2017 Hearing Tr. at 88:24-25.)

At the outset, the Court notes that these issues are a matter of first impression for the Eleventh Circuit. *See In re Diamond Mfg. Co., Inc.*, No. 85-40555, 1995 WL 17004722, at *2 (Bankr. S.D. Ga. Feb. 17, 1995) (noting the lack of Eleventh Circuit precedent). And, while there is generally a scarcity of authority on the issue in our sister circuits, those few circuits who have addressed it have agreed on its limited applicability. In re Endresen, 548 B.R. 258, 274 (B.A.P. 9th Cir. 2016), *appeal dismissed* (July 1, 2016) ("Although 'equities of the case' is not defined in the Code, at least five courts of appeal have assigned a nearly identical meaning to [§ 552(b)(1)]."); *see,* **[*18]** *e.g.*, In re Tower Air, Inc., 397 F.3d 191, 205 (3d Cir. 2005); In re Cross Baking Co., Inc., 818 F.2d 1027, 1033 (1st Cir. 1987); J. Catton Farms, Inc. v. First Nat. Bank of Chicago, 779 F.2d 1242, 1246 (7th Cir. 1985); Matter of Vill. Properties, Ltd., 723 F.2d 441, 444 (5th Cir. 1984); *see also* United Virginia Bank v. Slab Fork Coal Co., 784 F.2d 1188, 1191 (4th Cir. 1986). These courts held that the "equities of the case" exception in § 552(b)(1) typically applies to prevent a secured creditor from receiving a windfall when the value of its collateral is increased by the expenditure of estate funds, which would otherwise be used to pay unsecured creditors. In *Matter of Village Properties, Ltd.*, the Fifth Circuit stated: "[The] legislative history regarding [§ 552(b)(1)] indicates its purpose was to cover cases where an expenditure of the estate's funds increases the value of the collateral." 723 F.2d at 444. Likewise, in *In re Cross Baking Co., Inc.*, the First Circuit explained that § 552(b)(1) was created to address "the situation where raw materials, for example, are converted into inventory, or inventory into accounts, at some expense to the estate, thus depleting the fund available for general unsecured creditors, but is limited to the benefit inuring to the secured party thereby." 818 F.2d at 1033 (internal quotations omitted). Put more succinctly, "The equity exception is meant for the case where the trustee or debtor in possession uses other assets of the bankruptcy estate (assets that would otherwise go to the general creditors) to increase the value of the collateral." J. Catton Farms, Inc., 779 F.2d at 1246. With this **[*19]** foundation, we address Gray's two arguments in turn.

A. Debtor's Prepetition Expenditures

The Bankruptcy Court held that, as a matter of law, prepetition expenditures used to produce proceeds cannot be grounds for utilizing the equities of the case exception. The Bankruptcy Court relied almost exclusively on the Third Circuit's opinion in In re Tower Air, Inc., 397 F.3d 191 (3d Cir. 2005), and the underlying bankruptcy court opinion to reach this decision, In re Tower Air, Inc., 268 B.R. 404 (Bankr. D. Del. 2001), *aff'd*, 2003 U.S. Dist. LEXIS 10108, 2003 WL 21398007 (D. Del. June 16, 2003), *aff'd*, 397 F.3d 191 (3d Cir. 2005). (Doc. 14, May 12, 2017 Hearing Tr. at 85:22-86:22.) Gray argues that, rather than finding that the exception did not apply as a matter of law, the Bankruptcy Court in *In re Tower Air, Inc.* conducted a balancing of the equities but held that the bankruptcy trustee did not make the requisite showing to apply the exception. *See* In re Tower Air, Inc., 268 B.R. at 408 (stating that "[i]n balancing the equities between the parties" the prerequisite showing for the exception was not made). While the Third Circuit affirmed the bankruptcy court's holding, it explained that the equity exception simply did not apply there because the repairs to the original collateral were made prepetition. In re Tower Air, Inc., 397 F.3d at 205. Likewise, the "equities of the case" exception does not apply here to the extent that Gray expended prepetition assets **[*20]** to generate the proceeds.

Under § 552(a), "property acquired by the estate or by the debtor *after the commencement* of the case is not subject to any lien resulting from any security agreement entered into by the debtor *before the commencement* of the case." 11 U.S.C. § 552(a) (emphasis added). Section 552(b)(1) distinguishes between prepetition encumbered collateral and its proceeds "acquired *by the estate after the commencement* of the case." 11 U.S.C. § 552(b)(1) (emphasis added). The commencement of a bankruptcy case begins with the filing of a bankruptcy petition. 11 U.S.C. §§ 541, 1207. Upon filing, the debtor's financial universe is frozen, an automatic stay is imposed, and "all legal or equitable interests of the debtor in property as of the commencement of the case" is gathered into the bankruptcy estate. 11 U.S.C. § 541(a)(1). Section 552(b)(1) only allows the bankruptcy court to exercise its powers to cut off security interests once a bankruptcy case is actually instituted. Security interests outside of bankruptcy do not even come into the purview of the court. *See* 11 U.S.C. § 541(a)(1). Simply put, prepetition expenses of the debtor cannot be the basis for the bankruptcy court to exercise its powers under 552(b)(1) because those actions were taken before the court had jurisdiction over such matters.

A review of the **[*21]** legislative history supports the conclusion that the provision was meant to apply when funds from the bankruptcy estate are expended to generate post-petition proceeds of that collateral. Prior to filing the petition, the bankruptcy estate does not exist. Therefore, any prepetition expenditures, even those purportedly increasing the value of collateral, are not expenditures of the estate but of the debtor alone. 124 Cong. Rec. H 11,097-98 (daily ed. Sept. 28, 1978) ("[Section 552(b)(1)] allows the court to consider the equities in each case. In the course of such consideration the court may evaluate any expenditures by *the estate* relating to proceeds and any related improvement in position of the secured party." (emphasis added)); 124 Cong. Rec. S 17,414 (daily ed. Oct. 6, 1978); H. Rep. No. 95-595, 95th Cong., 1st Sess. 376-77 (1977) ("[The equities of the case exception] is designed to cover the situation where *the estate* expends funds that result in an increase in the value of collateral." (emphasis added)); *see also* Sen. Rep. No. 95-989, 95th Cong., 2d Sess. 91 (1978), U.S. Code Cong. & Admin. News 1978, pp. 5963, 6332-33, 5787, 5877. Moreover, courts interpreting § 552(b)(1) have used language that buttresses **[*22]** this conclusion. Interpreting the exception in the context of post-petition expenditures of the bankruptcy estate, courts have held that: "The equity exception is meant for the case where the trustee or debtor in possession uses other assets of *the bankrupt estate* (assets that would otherwise go to the general creditors) to increase the value of the collateral." J. Catton Farms, Inc., 779 F.2d at 1246 (emphasis added); *see also* In re Cross Baking Co., Inc., 818 F.2d at 1033 ("We can only conclude from our reading of these reports that the 'equities of the case' proviso is a legislative attempt to address those instances where expenditures of *the estate* enhance the value of proceeds . . . ." (emphasis added)); In re Tower Air, Inc., 397 F.3d at 205 ("Section 552(b) is normally relevant . . . to prevent a secured creditor from reaping benefits from collateral that has appreciated in value as a result of the trustee's/debtor-in-possession's use of other assets of *the estate*." (emphasis added) (internal quotation omitted)). Thus, assets of the bankruptcy estate must be expended to trigger the application of § 552(b)(1).

In the case at bar, Gray expended $25,000[2] in personal funds obtained from a prepetition sublease to buy and plant the 2016 Corn Crop seed before filing his bankruptcy petition. (Doc. 10 at 2.) Even though the expense **[*23]** was a mere two to three weeks before the May 7, 2016 petition filing, it was nevertheless a prepetition expenditure. Thus, the funds were not property of the estate, and the exception is not applicable. Gray further argues that had the $25,000 not been used to improve BOE's collateral it would have been property of the estate available for the benefit of the unsecured creditors. (Doc. 10 at 9.) Gray is correct in so far as any pool of unencumbered cash in existence at the petition date becomes property of the estate, yet this fact alone does not trigger the equity exception in § 552(b)(1). Discussed in greater detail below, Gray's expenditure of $25,000 was not used to produce post-petition proceeds; rather, it was used to buy the original collateral. The equity exception is inapplicable to such an expenditure. The fact that the expended funds would have otherwise gone to the unsecured creditors does not change this. Finally, Gray argues that denying his claim to said proceeds would unjustly enrich BOE. Notwithstanding the inapplicability of the exception, the Court notes that BOE is severely undersecured; and the proceeds, thus, would not constitute a windfall. (Doc. 12 at 18.)

Moreover, § 552(b)(1) does **[*24]** not apply where the expenditure did not increase the value of the collateral. The Seventh Circuit illustrated this point in *J. Catton Farms, Inc.*:

> Suppose a creditor had a security interest in raw materials worth $1 million, and the debtor invested $100,000 to turn those raw materials into a finished product which he then sold for $1.5 million. The proceeds of this sale (after deducting wages and other administrative expenses) would be added to the secured creditor's collateral unless the court decided that it would be inequitable to do so—as well it might be, since the general creditors were in effect responsible for much or all of the increase in

[2] BOE spends a significant portion of its brief challenging this figure's accuracy. (Doc. 12 at 19-20.) The Bankruptcy Court made no specific finding of fact as to whether the whole amount or less was expended to purchase and plant the 2016 Corn Crop. Regardless, the Bankruptcy Court did not rely on that fact in its ultimate disposition. Likewise, whether the whole amount or less was used is not controlling on our conclusion, so the Court shall assume without deciding that the whole $25,000 was used for the prepetition purchase and planting of the 2016 Corn Crop seed.

> the value of the proceeds over the original collateral.

779 F.2d at 1247. As the court held, the exception applies when the debtor expends funds to create the proceeds and increase its value beyond what the original collateral was worth. *Id.*

Here, Gray did not expend any funds to increase the value of proceeds. Before filing his Chapter 12 petition, Gray used $25,000, unencumbered cash, to purchase and plant the seeds. (Doc. 10 at 2.) In the hypothetical example above, Gray has simply used his unencumbered cash to purchase the raw materials in which BOE had **[*25]** a secured interest, rather than expending that cash to create a finished product—*i.e.*, proceeds. He has merely procured original collateral subject to BOE's original security interest. The language and intent of § 552(b)(1) do not speak to this factual scenario. Therefore, because Gray used the $25,000 to purchase the crop seeds, not create the proceeds, even if it were applicable, the facts in this case do not support application of the exception.

B. Debtor in Possession's Post-Petition Expenditures

The Bankruptcy Court held that the exception also did not apply to the post-petition financing because there was no direct detriment to the unsecured creditors. (Doc. 10 at 13.) The Bankruptcy Court explained that, "actual expenditures are needed, because the incurring of debt alone does not seem to trigger the prejudice to unsecured creditors that's required . . . [The prejudice must be a] direct detriment, . . . basically, out of the pockets of the unsecured creditors." (Doc. 14 at 87:4-11.) Thus, the Bankruptcy Court held that the exception does not apply absent a direct detriment to the unsecured creditors. *Id.*

While not explicitly defining the scope of the "equities of the case" exception, § 552(b)(1) empowers **[*26]** the court to "not apply a pre-petition security interest to post-petition proceeds," United Virginia Bank, 784 F.2d at 1191. The section, however, "is not a general grant of equitable power" to rearrange security interests. In re Cross Baking Co., Inc., 818 F.2d at 1033. Courts interpreting § 552(b)(1)'s scope have generally relied on the legislative intent. *See, e.g.*, J. Catton Farms, Inc., 779 F.2d at 1246; In re Cross Baking Co., Inc., 818 F.2d at 1033; In re Tower Air, Inc., 397 F.3d at 205. The legislative intent, however, also is vague on this issue. There appears to be no mandatory authority or evidence to suggest that, as a matter of law, expenditure of post-petition financing would render § 552(b)(1) inapplicable. The cases and legislative history only require that funds otherwise going to unsecured creditors be spent in improving the secured creditor's collateral. *See, e.g.*, In re Tower Air, Inc., 397 F.3d at 205; In re Cross Baking Co., Inc., 818 F.2d at 1033; J. Catton Farms, Inc., 779 F.2d at 1246.

Most courts considering this issue conducted a balancing of equities to determine whether a security interest in post-petition proceeds should be reduced. For example, in *In re Photo Promotion Assocs., Inc.*, the Chapter 7 Trustee obtained post-petition financing to complete and collect on the debtor's outstanding photography contract orders. 61 B.R. 936, 938 (Bankr. S.D.N.Y. 1986). The secured creditor in that case had a lien on all accounts receivable. *Id.* Despite the fact that the Trustee expended post-petition financed assets of the estate, the court conducted **[*27]** a balancing of the equities under § 552(b)(1), and it found that it would be inequitable to permit the creditor to retain the entirety of the proceeds of the photo accounts since their incomplete value would have been nominal. Id. at 939; *see also* In re Laurel Hill Paper Co., 393 B.R. 89, 92-93 (Bankr. M.D.N.C. 2008) (noting that "[t]he cases involving section 552(b)(1) appear to place the most weight on whether a debtor expended unencumbered funds of the estate, at the expense of the unsecured creditors, to enhance the value of the collateral," and finding that the equities did not weigh in debtor in possession's favor since post-petition financing was used to increase the proceeds' value); In re Muma Servs., Inc., 322 B.R. 541, 558-59 (Bankr. D. Del. 2005) (holding that, in balancing the equities, a creditor's security interest in proceeds under § 552(b)(1) should not be reduced since post-petition financed assets were used as opposed to assets of the estate).

The Bankruptcy Court erred in finding, as a matter of law, that the exception did not apply to post-petition financing. The Bankruptcy Court should have conducted a balancing of the equities to determine whether to apply the exception and, if applicable, to what extent. As the Fourth Circuit held in *United Virginia Bank*, "In this case, the record does not reflect adequately the various equitable considerations **[*28]** which may bear on this question, and in any event such a determination should more properly be made in the first instance by the Bankruptcy Court." 784 F.2d at 1191. Therefore, the case should be remanded to the Bankruptcy Court to conduct a balancing of the equities as to whether BOE's interest should be reduced in light of Gray's expenditure of post-petition financing. *See In re JLJ Inc., 988 F.2d at 1116*. ("If the bankruptcy court is silent or ambiguous as to an outcome determinative factual question, the case must be remanded to the bankruptcy court for the necessary factual findings.").

CONCLUSION

For the foregoing reasons, the Court hereby **AFFIRMS in part** and **REVERSES in part** and **REMANDS** the Bankruptcy Court's order. More specifically, the Bankruptcy Court's Order finding that BOE had a perfected security interest in the 2016 Corn Crop and its proceeds and finding that the "equities of the case" exception in *§ 552(b)(1)* does not, as a matter of law, apply to a debtor's use of prepetition funds to improve collateral is **AFFIRMED**. The Bankruptcy Court's finding that, as a matter of law, the "equities of the case" exception of *§ 552(b)(1)* does not apply to debtor expending post-petition financing estate funds, however, is **REVERSED and REMANDED** for further **[*29]** proceedings consistent with this Order.

SO ORDERED, this 20th day of September, 2018.

/s/ Leslie J. Abrams

LESLIE J. ABRAMS, JUDGE

UNITED STATES DISTRICT COURT

JUDGMENT

Pursuant to this Court's Order dated September 20, 2018, and for the reasons stated therein, the Bankruptcy court's decision is AFFIRMED in part and REVERSED in part and REMANDED.

JUDGMENT is hereby entered in favor of Appellant.

This 20th day of September, 2018.

End of Document

What Is the Farm Bill?

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Updated September 26, 2019

Congressional Research Service
7-....
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RS22131

Summary

The farm bill is an omnibus, multiyear law that governs an array of agricultural and food programs. Titles in the most recent farm bill encompassed farm commodity revenue supports, agricultural conservation, trade and foreign food assistance, farm credit, research, rural development, forestry, bioenergy, horticulture, and domestic nutrition assistance. Typically renewed about every five or six years, the farm bill provides a predictable opportunity for policymakers to comprehensively and periodically address agricultural and food issues.

The most recent farm bill—the Agriculture Improvement Act of 2018, P.L. 115-334—was enacted into law in December 2018 and expires in 2023. It succeeded the Agricultural Act of 2014 (P.L. 113-79). Provisions in the 2018 farm bill modified the structure of farm commodity support, expanded crop insurance coverage, amended conservation programs, reauthorized and revised nutrition assistance, and extended authority to appropriate funds for many U.S. Department of Agriculture (USDA) discretionary programs through FY2023.

At enactment in December 2018, the Congressional Budget Office (CBO) estimated that the total cost of the mandatory programs in the farm bill would be $428 billion over its five-year duration, FY2019-FY2023, about $1.8 billion more than if the 2014 farm bill were extended. On a 10-year basis, the expected cost was $867 billion over FY2019-FY2028, which was budget neutral compared to extending the 2014 farm bill.

Four titles account for 99% of anticipated farm bill mandatory outlays: Nutrition, Crop Insurance, Farm Commodity Support, and Conservation. The Nutrition title comprises 76% of mandatory outlays, mostly for the Supplemental Nutrition Assistance Program (SNAP). The remaining 24% of outlays covers mostly risk management and commodity support (16%) and conservation (7%). Programs in all other farm bill titles account for about 1% of mandatory outlays. Many programs are authorized to receive discretionary (appropriated) funds.

The distribution of spending across titles in the farm bill over time is not a zero-sum game. Legislative changes enacted in each farm bill account for only a fraction of the observed change between farm bills. Every year, CBO re-estimates the baseline to determine expected costs. Baseline projections can rise and fall over time based on changes in economic conditions, even without any action by Congress. For example, SNAP outlays, which comprise most of the Nutrition title, increased markedly through the recession that ended in 2009. Crop insurance outlays have increased steadily from policy changes, while the farm commodity programs have risen and fallen counter-cyclically with market prices. Conservation program outlays increased steadily since the 1990s but have leveled off in recent years.

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What Is the Farm Bill?

The farm bill is an omnibus, multiyear law that governs an array of agricultural and food programs. Although agricultural policies are sometimes created and changed by freestanding legislation or as part of other major laws, the farm bill provides a predictable opportunity for policymakers to comprehensively and periodically address agricultural and food issues. The farm bill is typically renewed about every five or six years.[1]

Historically, farm bills focused on farm commodity program support for a handful of staple commodities—corn, soybeans, wheat, cotton, rice, peanuts, dairy, and sugar. Farm bills have become increasingly expansive in nature since 1973, when a nutrition title was first included. Other prominent additions since then include conservation, horticulture, and bioenergy.[2]

The omnibus nature of the farm bill can create broad coalitions of support among sometimes conflicting interests for policies that, individually, might have greater difficulty negotiating the legislative process. This can lead to competition for funds provided in a farm bill. In recent years, more stakeholders have become involved in the debate on farm bills, including national farm groups; commodity associations; state organizations; nutrition and public health officials; and advocacy groups representing conservation, recreation, rural development, faith-based interests, local food systems, and certified organic production.

The Agriculture Improvement Act of 2018 (P.L. 115-334, H.Rept. 115-1072), referred to here as the "2018 farm bill," is the most recent omnibus farm bill. It was enacted in December 2018, with most provisions expiring in 2023. It succeeded the Agricultural Act of 2014 (P.L. 113-79; 2014 farm bill). The 2018 farm bill contains 12 titles encompassing commodity revenue supports, farm credit, trade, agricultural conservation, research, rural development, energy, and foreign and domestic food programs, among other programs.[3] (All titles in the 2018 farm bill are described in the **text box** below as well as in the section "Title-by-Title Summaries of the 2018 Farm Bill.") Provisions in the 2018 farm bill modified the structure of farm commodity support, expanded crop insurance coverage, amended conservation programs, reauthorized and revised nutrition assistance, and extended authority to appropriate funds for many U.S. Department of Agriculture (USDA) discretionary programs through FY2023.

Without reauthorization, some farm bill programs would expire, such as the nutrition assistance programs and the farm commodity revenue programs. Procedurally, the potential for expiration and the consequences of expired law may motivate legislative action.[4] Functionally, without reauthorization, support for certain basic farm commodities would revert to long-abandoned—and potentially costly—supply-control and price regimes under permanent law dating back to the 1940s. Some programs would cease to operate unless reauthorized, while others might continue to pay only existing obligations. Nutrition assistance programs that require reauthorization and are funded with mandatory spending can continue to operate via appropriations acts. Many

[1] See CRS Report R45210, *Farm Bills: Major Legislative Actions, 1965-2018*. Since the 1930s, there have been 18 farm bills (2018, 2014, 2008, 2002, 1996, 1990, 1985, 1981, 1977, 1973, 1970, 1965, 1956, 1954, 1949, 1948, 1938, and 1933).

[2] See also CRS In Focus IF11126, *2018 Farm Bill Primer: What Is the Farm Bill?*

[3] See CRS Report R45525, *The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison*.

[4] For example, in 2012 Congress did not complete a new farm bill to replace the 2008 law, requiring a one-year extension for both FY2013 and crop year 2013. In 2013, Congress passed bills that culminated in the 2014 farm bill. Some programs, though, ceased to operate during the 2013 extension because they had no funding. For background, see CRS Report R41433, *Programs Without a Budget Baseline at the End of the 2008 Farm Bill*.

discretionary programs would lose their statutory authority to receive appropriations, though an annual appropriations act could provide funding under an implicit authorization. Other programs amended in the farm bill have permanent authority (e.g., crop insurance).[5]

The 2018 Farm Bill: Functions and Major Issues, by Title

Title I, Commodities: Provides farm payments when crop prices or revenues decline for major commodity crops, including wheat, corn, soybeans, peanuts, and rice. Includes disaster programs to help livestock and tree fruit producers manage production losses due to natural disasters. Other support includes margin coverage program for dairy and marketing quotas, minimum price guarantees, and import barriers for sugar.

Title II, Conservation: Provides assistance to agricultural producers in addressing environmental resource concerns on private land through land retirement, conservation easements, working lands assistance, and partnership opportunities.

Title III, Trade: Supports U.S. agricultural export programs and international food assistance programs. Major programs include those that support agricultural trade promotion and facilitation and international food aid. Other provisions address program changes related to World Trade Organization obligations.

Title IV, Nutrition: Provides nutrition assistance for low-income households through programs including the Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps) and The Emergency Food Assistance Program (TEFAP).

Title V, Credit: Offers direct government loans to farmers/ranchers and guarantees on private lenders' loans. Eligibility rules and policies prioritize and increase assistance for beginning and socially disadvantaged farmers.

Title VI, Rural Development: Supports rural business and community development programs. Establishes planning, feasibility assessments, and coordination with other local, state, and federal programs. Programs include grants and loans for infrastructure, economic development, broadband, and telecommunications.

Title VII, Research, Extension, and Related Matters: Supports a wide range of agricultural research and extension programs that expand academic knowledge about agriculture and food and help farmers and ranchers become more efficient, innovative, and productive.

Title VIII, Forestry: Supports the management of public and private forest land through research, financial and technical assistance, and policy amendments.

Title IX, Energy: Encourages the development of farm and community renewable energy systems through grants, loan guarantees, and feedstock procurement initiatives. Provisions cover the production, marketing, and processing of biofuels and biofuel feedstocks, and research, education, and demonstration programs.

Title X, Horticulture: Supports specialty crops, including fruits, vegetables, tree nuts, and nursery products, through market promotion, plant pest and disease prevention, and research. Provides assistance to support certified organic agricultural production and locally produced foods, and authorizes a regulatory framework for the cultivation of hemp.

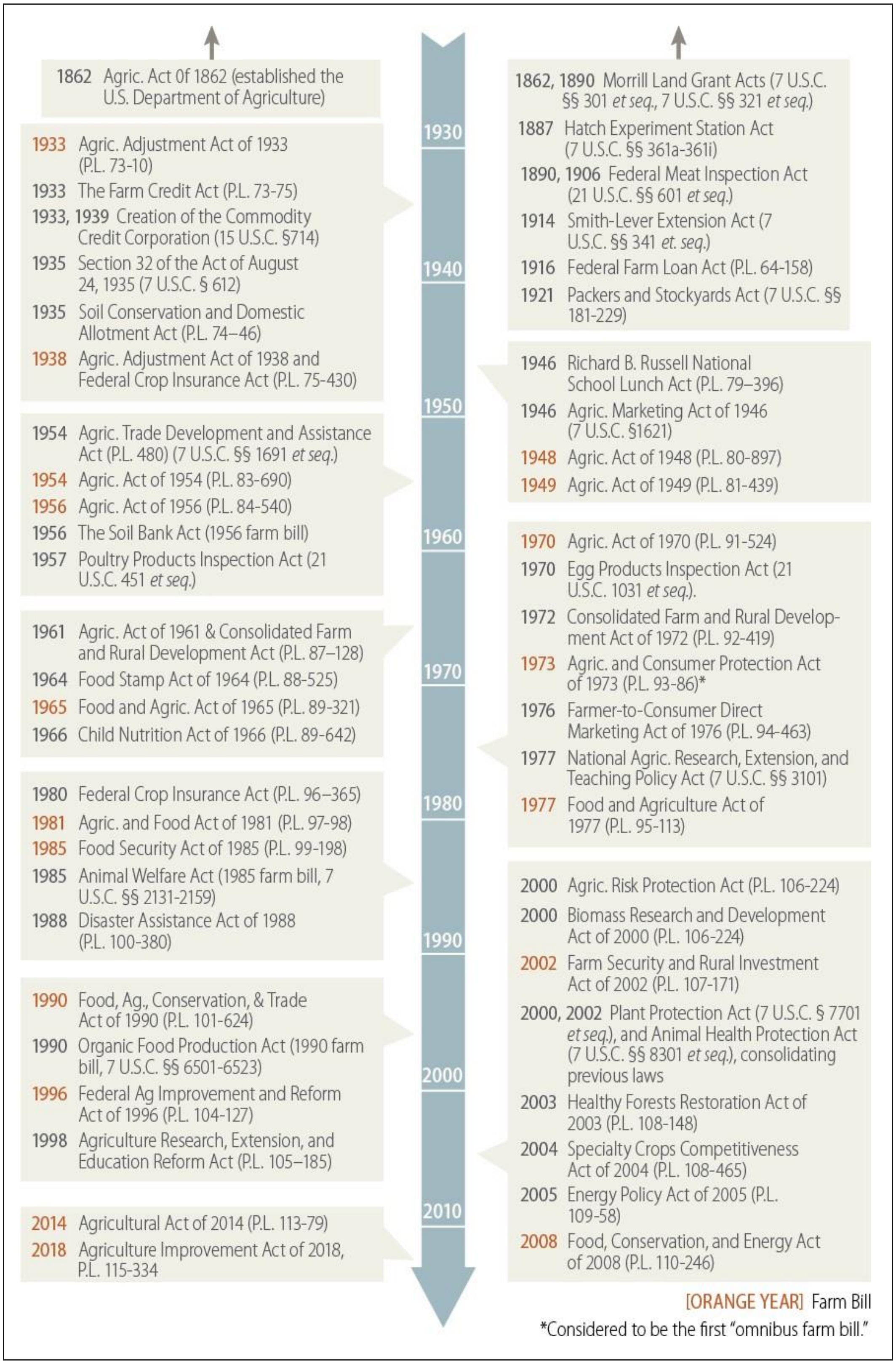
Title XI, Crop Insurance: Amends the permanently authorized federal crop insurance program that offers subsidized policies to farmers to protect against losses in yield, crop revenue, or whole farm revenue.

Title XII, Miscellaneous: Covers other programs and assistance, including livestock and poultry disease preparedness and animal health. Includes programs for beginning farmers and ranchers and limited-resource and socially disadvantaged farmers.

Figure 1 provides a timeline of selected important dates for U.S. farm bill policy and other related laws. In many respects, agricultural policy in the United States began with the creation of USDA, homesteading, and subsequent creation of the land-grant universities in the 1800s. Many stand-alone agricultural laws were passed during the early 1900s to help farmers with credit availability and marketing practices and to protect consumers via meat inspection.

[5] See CRS Report R45341, *Expiration of the 2014 Farm Bill*.

Figure 1. Selected Dates for U.S. Farm Bill Policy and Selected Related Laws



Source: CRS.

The economic depression and dust bowl in the 1930s prompted the first "farm bill" in 1933, with subsidies and production controls to raise farm incomes and encourage conservation. Commodity subsidies evolved through the 1960s, when Great Society reforms drew attention to food assistance. The 1973 farm bill was the first "omnibus" farm bill. It included not only farm supports but also food stamp reauthorization to provide nutrition assistance for needy individuals. Subsequent farm bills expanded in scope, adding titles for formerly stand-alone laws such as trade, credit, and crop insurance. New conservation laws were added in the 1985 farm bill, organic agriculture in the 1990 farm bill, research programs in the 1996 farm bill, bioenergy in the 2002 farm bill, and horticulture and local food systems in the 2008 farm bill.

What Is the Estimated Cost of the Farm Bill?

The farm bill authorizes programs in two spending categories: mandatory and discretionary.

- Mandatory spending programs generally operate as entitlements. Mandatory spending is authorized and paid for when a law is enacted under budget enforcement rules that use multiyear federal budget estimates.[6]
- Discretionary spending programs are authorized for their scope but are not funded in the farm bill. They are subject to annual appropriations and may not receive any funding or may receive less than the farm bill-authorized amount.

How Much Was It Expected to Cost at Enactment in 2018?

At enactment in December 2018, the Congressional Budget Office (CBO) estimated that the total cost of the mandatory programs in the farm bill would be $428 billion over its five-year duration, FY2019-FY2023, about $1.8 billion more than if the 2014 farm bill were extended. On a 10-year basis, the expected cost was $867 billion through FY2028, which was budget neutral (**Table 1**).[7]

Four titles account for 99% of anticipated farm bill mandatory outlays: Nutrition, Crop Insurance, Farm Commodities, and Conservation. The Nutrition title comprises 76% of mandatory outlays, mostly for the Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps). The remaining 24% covers mostly federal crop insurance and commodity support (16%) and conservation (7%; **Figure 2**). Programs in other titles account for about 1% of mandatory outlays. However, many programs are authorized to receive discretionary (appropriated) funds.

How Have Projections Changed Since Enactment?

Since enactment of the 2018 farm bill, CBO has updated its projections of government spending given new information about the economy and program participation.[8] Based on the May 2019 CBO baseline, the projected cost of the four largest titles of the farm bill is $418 billion (FY2019-FY2023; **Table 2**). This is $7 billion less than the $425 billion subtotal for those four titles at enactment (-1.7%). This change is due solely to changing economic conditions. Projected outlays under SNAP were reduced by about 1%. A rise in projected crop insurance outlays partially offsets a reduction in the farm commodity and disaster programs. Within Title I, dairy and disaster programs have higher projected outlays, and crop revenue programs have decreased.

[6] See CRS Report R45425, *Budget Issues That Shaped the 2018 Farm Bill*.

[7] CBO cost estimate of H.R. 2, the Agriculture Improvement Act of 2018, December 11, 2018.

[8] CBO, *Budget and Economic Outlook*, "10-Year Budget Projections," May 2019; and programmatic details available in "Details About Baseline Projections for Selected Programs," May 2019.

Table 1. Budget for the 2018 Farm Bill

(millions of dollars, five- and 10-year totals, mandatory spending)

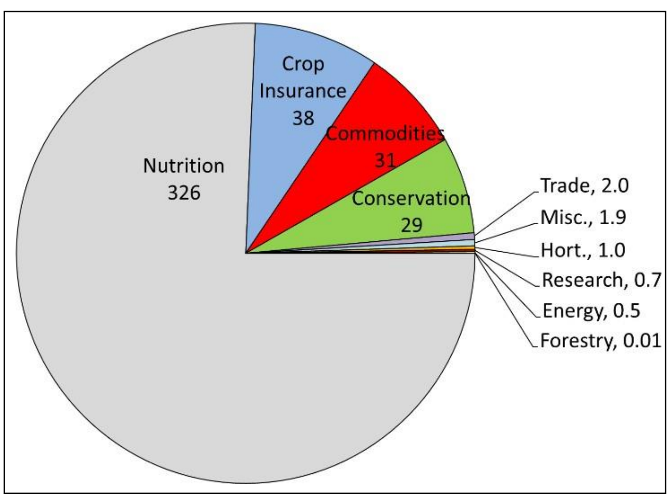
	Five years (FY2019-FY2023)			10 years (FY2019-FY2028)		
Farm bill titles	**CBO baseline April 2018**	**Score of 2018 farm bill**	**Projected outlays at enactment**	**CBO baseline April 2018**	**Score of 2018 farm bill**	**Projected outlays at enactment**
Commodities	31,340	+101	**31,440**	61,151	+263	**61,414**
Conservation	28,715	+555	**29,270**	59,754	-6	**59,748**
Trade	1,809	+235	**2,044**	3,624	+470	**4,094**
Nutrition	325,922	+98	**326,020**	663,828	+0	**663,828**
Credit	-2,205	+0	**-2,205**	-4,558	+0	**-4,558**
Rural Development	98	-530	**-432**	168	-2,530	**-2,362**
Research	329	+365	**694**	604	+615	**1,219**
Forestry	5	+0	**5**	10	+0	**10**
Energy	362	+109	**471**	612	+125	**737**
Horticulture	772	+250	**1,022**	1,547	+500	**2,047**
Crop Insurance	38,057	-47	**38,010**	78,037	-104	**77,933**
Miscellaneous	1,259	+685	**1,944**	2,423	+738	**3,161**
Subtotal	426,462	+1,820	**428,282**	867,200	+70	**867,270**
- Increase revenue	-	+35	35	-	+70	70
Total	426,462	+1,785	**428,247**	867,200	+0	**867,200**

Sources: CRS. Compiled from the CBO Baseline by Title (unpublished; April 2018); and CBO cost estimate of the conference agreement for H.R. 2, December 11, 2018.

Notes: Baseline for the Credit title is negative because of receipts to the Farm Credit System Insurance Fund. Baseline for the Rural Development "cushion of credit" is accounted for outside of the farm bill.

Figure 2. Projected Outlays of the 2018 Farm Bill at Enactment

(Mandatory outlays, billions of dollars, FY2019-FY2023)



Sources: CRS. Compiled from the CBO Baseline by Title (unpublished, April 2018); and CBO cost estimate of the conference agreement for H.R. 2, December 11, 2018.

Table 2. Projected Outlays of the 2018 Farm Bill Since Enactment

(millions of dollars, five-year totals, mandatory spending)

	At enactment, December 2018		Most recently, May 2019	
Selected farm bill titles	**Projection for FY2019-FY2023**	**Share**	**Projection for FY2019-FY2023**	**Change since enactment**
Nutrition	326,020	76.1%	321,405	-4,615
Crop Insurance	38,010	8.9%	40,882	+2,872
Commodities and Disaster	31,440	7.3%	26,763	-4,677
Conservation	29,270	6.8%	28,477	-793
Subtotal, four largest titles	**424,740**	**99.2%**	**417,527**	**-7,213**
Total, 12 titles (see Table 1)	428,282	100.0%	na	na

Source: CRS, using CBO data. See Table 1, and based on CBO data in "Details About Baseline Projections for Selected Programs," May 2019.

Notes: "na" indicates that sufficient detail is not available to compile data for all titles in non-farm-bill years.

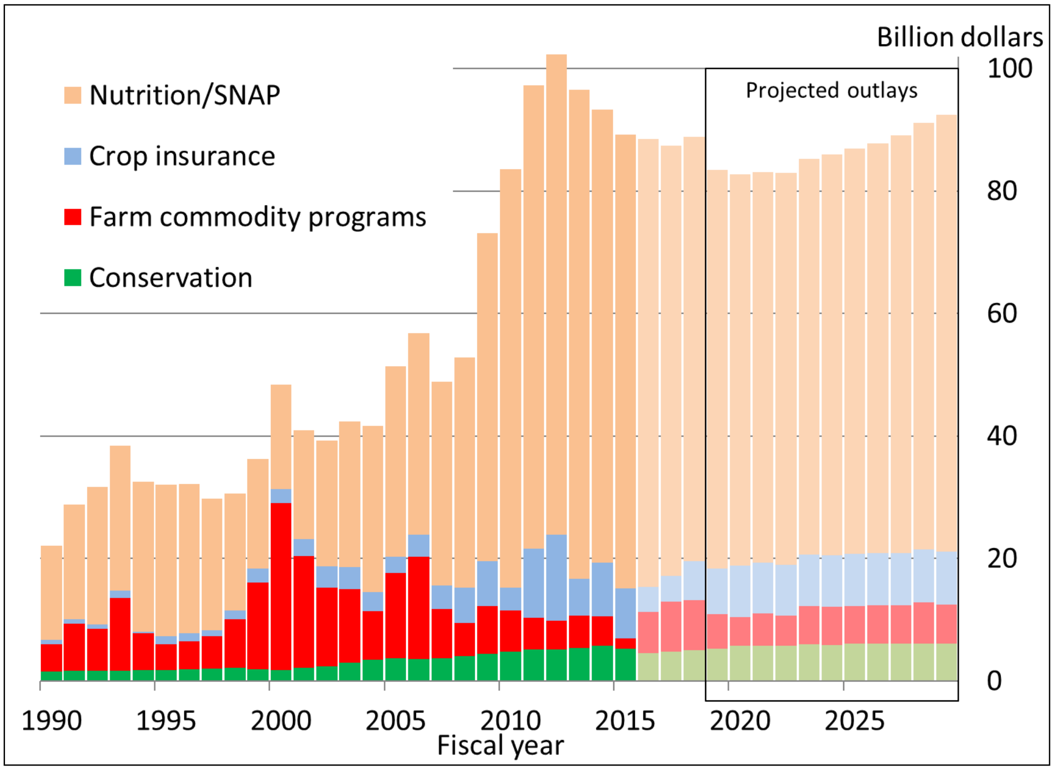
How Have the Allocations Changed over Time?

Figure 3 shows trends in nominal farm bill mandatory spending for 1990-2018 and projections through 2029. SNAP outlays, which comprise most of the Nutrition title, increased markedly through the recession that ended in 2009 and have been gradually decreasing since 2012. The distribution among farm safety net programs reflects the growing importance of crop insurance relative to the traditional farm commodity programs. This is a combination of both policy changes and an often-offsetting budget effect when market prices change. (Higher market prices imply less counter-cyclical support but higher insurance costs.) Conservation program outlays increased steadily since the 1990s but have leveled off in recent years.

The distribution of spending across titles in the farm bill over time is not a zero-sum game. Legislative changes enacted in each farm bill account for only a fraction of the observed change between farm bills. Every year, CBO re-estimates the baseline to determine expected costs. Baseline projections can rise and fall over time based on changes in economic conditions, and an increase in one title does not imply a reduction in another title. Moreover, budget issues for the whole federal government and for each farm bill may affect policy decisions for how farm bill spending is allocated. All of these factors are reflected in the trends seen in **Figure 3**.

For example, an often-discussed issue is the size of the Nutrition title. When the 2008 farm bill was enacted, the Nutrition title was 67% of the five-year total budget. When the 2014 farm bill was enacted, the nutrition share had risen to 80% of the farm bill total, largely because the Nutrition title baseline had increased as a result of an economic recession. By the 2018 farm bill, the amount and share in the Nutrition title had moderated to about 76% (**Table 3**). These changes in the size and proportion, however, do not mean that the title grew at the expense of agricultural programs. The total for the entire farm bill rose and fell with the Nutrition title's baseline. The overall amounts for agriculture programs (non-nutrition) also rose, even though their share of the total declined relative to the comparatively larger changes in the Nutrition title. Since the 2008 farm bill, Conservation title projections have grown slightly, while Energy title programs have generally remained flat until a recent decline in the 2018 farm bill. Conversely, the Horticulture title shows steady growth in its amount and share, especially relative to other titles—even though its base amount is relatively small.

Figure 3. Actual and Projected Spending by Major Farm Bill Mandatory Programs



Source: CRS using USDA and CBO data (through the May 2019 CBO baseline).

Notes: Darker shades of each color are actual outlays based on available USDA data; lighter shades are CBO data and projections. Excludes the Trade Aid Program announced in 2018-2019 and supplemental appropriations.

Table 3. Distribution of Farm Bill Titles in 2008, 2014, and 2018

(billions of nominal dollars, five-year projection at enactment, mandatory spending)

	2008 farm bill		2014 farm bill		2018 farm bill	
Farm bill titles	**Amount**	**Share**	**Amount**	**Share**	**Amount**	**Share**
Overall						
Nutrition (Title IV)	189	67%	391	80%	326	76%
Rest of the farm bill	95	33%	98	20%	102	24%
Total, entire farm bill	**284**	**100%**	**489**	100%	428	100%
Selected agricultural titles						
Farm commodities (Title I)	42	15%	24	5%	31	7%
Crop insurance	22	8%	41	8%	38	9%
Subtotal, farm safety net	**63**	**22%**	**65**	**13%**	**69**	**16%**
Conservation	24	8%	28	6%	29	7%
Research	0.3	0.1%	0.8	0.2%	0.7	0.2%
Energy	0.6	0.2%	0.6	0.1%	0.5	0.1%
Horticulture	0.4	0.1%	0.9	0.2%	1.0	0.2%

Source: CRS using CBO baselines and CRS compilations of cost estimates at enactment.

Title-by-Title Summaries of the 2018 Farm Bill

Following are summaries of the major provisions of each title of the 2018 farm bill. For more detailed information, see CRS Report R45525, *The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison*.

Title I: Commodities[9]

The Commodities title authorizes support programs for dairy, sugar, and covered commodities—including major grain, oilseed, and pulse crops—as well as agricultural disaster assistance. The 2018 farm bill extends authority for most current commodity programs but with some modifications. Major field-crop programs include Price Loss Coverage (PLC), Agricultural Risk Coverage (ARC), and Marketing Assistance Loans (MAL). The new dairy program protects a portion of the margin between milk and feed prices. The sugar program provides a combination of price supports, limits on imports, and processor/refiner marketing allotments. Four disaster assistance programs focus primarily on livestock and tree crops. Title I also includes several administrative provisions that set payment limits, an adjusted gross income (AGI) threshold, and other details for payment attribution and eligibility.

The 2018 farm bill provides producers the flexibility of switching between ARC and PLC coverage under certain conditions. Producers can update their program yields for the PLC, and an escalator provision was added that could potentially raise a covered commodity's effective reference price. For ARC, data from the Risk Management Agency become the primary source for county average yields, which is intended to avoid cross-county disparities in payments. For the marketing assistance loan program, rates are increased for several crops, including barley, corn, grain sorghum, oats, extra-long-staple cotton, rice, soybeans, dry peas, lentils, and small and large chickpeas. Regarding payment limitations, the definition of *family farm* is expanded to include first cousins, nieces, and nephews, thus increasing eligibility.

For dairy, a new Dairy Margin Coverage (DMC) program adds higher levels of margin coverage, provides for lower producer-paid premium rates for 5 million pounds or less of milk production, and allows producers to cover a larger percentage of milk production compared with the 2014 Margin Protection Program. Under DMC, premiums were designed to incentivize higher levels of coverage. Producers may participate in both margin coverage and the Livestock Gross Margin-Dairy insurance program that insures the margin between feed costs and a designated milk price.

For assistance following a disaster, the 2018 farm bill amends payments for livestock and tree losses and removes select payment limitations. It also expands eligibility for the Noninsured Crop Disaster Assistance Program (NAP) and amends payment calculations and service fees.

Title II: Conservation[10]

The Conservation title provides assistance to agricultural producers by addressing environmental resource concerns on private land through land retirement, conservation easements, working lands assistance, and partnership opportunities. The 2018 farm bill reauthorizes and amends many

[9] See CRS In Focus IF11163, *2018 Farm Bill Primer: The Farm Safety Net*; CRS In Focus IF11164, *2018 Farm Bill Primer: Title I Commodity Programs*; and CRS In Focus IF11188, *2018 Farm Bill Primer: Dairy Programs*.

[10] See CRS Report R45698, *Agricultural Conservation in the 2018 Farm Bill*; or CRS In Focus IF11199, *2018 Farm Bill Primer: Title II Conservation Programs*.

of the largest conservation programs and creates a number of new pilot programs, carve-outs, and initiatives.

The two largest working lands programs—Environmental Quality Incentives Program (EQIP) and Conservation Stewardship Program (CSP)—were reauthorized and amended. Enrollment for CSP is reduced and funds are shifted, in part, to EQIP and other farm bill conservation programs. EQIP is expanded to irrigation and drainage entities, and additional funding carve-outs and pilot projects are authorized. The largest land retirement program—the Conservation Reserve Program (CRP)—is reauthorized and expanded by incrementally increasing the enrollment limit from 24 million acres in FY2019 to 27 million acres by FY2023. CRP payments to participants are reduced, and additional subprograms are authorized. The Regional Conservation Partnership Program (RCPP) is redefined as a stand-alone program with separate contracts and an expanded scope of eligible projects. Agricultural land easements in the Agricultural Conservation Easement Program (ACEP) are amended to provide additional flexibility to eligible entities.

Title III: Trade[11]

The Trade title addresses U.S. agricultural export programs and U.S. international food assistance programs. Major programs support agricultural trade promotion and facilitation, such as the Market Access Program, and the primary U.S. international food assistance program, Food for Peace (FFP) Title II.

The 2018 farm bill reauthorizes existing U.S. export promotion programs and consolidates four programs into a new Agricultural Trade Promotion and Facilitation Program (ATPFT) that establishes permanent mandatory funding. It also establishes a Priority Trade Fund within ATPFT. The enacted law also reauthorizes direct credits or export credit guarantees for the promotion of agricultural exports to emerging markets.

The 2018 farm bill reauthorizes all international food assistance programs as well as certain operational details such as prepositioning of agricultural commodities and micronutrient fortification. It also adds a provision requiring that food vouchers, cash transfers, and local and regional procurement of non-U.S. foods avoid market disruption in the recipient country. The 2018 farm bill amends FFP Title II by eliminating the requirement to *monetize*—that is, sell on local markets to fund development projects—at least 15% of FFP Title II commodities. It also increases the minimum level of FFP Title II funds allocated for nonemergency assistance. The 2018 farm bill also reauthorizes and/or amends other international food assistance programs, including the McGovern-Dole program.

Title IV: Nutrition[12]

The Nutrition title provides food assistance for low-income households through programs including SNAP and The Emergency Food Assistance Program (TEFAP). The 2018 farm bill amends various aspects of the programs and reauthorizes them through FY2023. Rules regarding SNAP eligibility and benefit calculation are largely maintained, including general work requirements and the time limit for nondisabled adults without dependents. The law requires some changes to the calculation for homeless households' benefits as well as certain aspects of benefit calculation. Among other program integrity policies, the 2018 farm bill establishes a National Accuracy Clearinghouse to identify concurrent enrollment in multiple states.

[11] See CRS In Focus IF11223, *2018 Farm Bill Primer: Agricultural Trade and Food Assistance*.

[12] See CRS In Focus IF11087, *2018 Farm Bill Primer: SNAP and Nutrition Title Programs*.

For the SNAP Electronic Benefit Transfer (EBT) system, the 2018 farm bill places limits on fees, shortens the time frame for unused benefits, and changes the authorization requirements for some farmers' market operators. It requires nationwide online acceptance of SNAP benefits and authorizes a pilot project about recipients' use of mobile technology to redeem SNAP benefits.

The 2018 farm bill further reauthorizes, renames, and expands the Food Insecurity Nutrition Incentive (FINI, now the Gus Schumacher Nutrition Incentive Program), a grant program for projects that incentivize SNAP and other low-income participants' purchase of fruits and vegetables. The 2018 farm bill also continues funding for the Senior Farmers' Market Nutrition Program and reauthorizes but reduces funding for the Community Food Projects grants.

It also reauthorizes and revises food distribution programs. Supporting emergency feeding organizations, the bill reauthorizes TEFAP and authorizes new projects to facilitate the donation of raw/unprocessed commodities. The Food Distribution Program on Indian Reservations now requires the federal government to pay at least 80% of administrative costs and includes a demonstration project for tribes to purchase their own commodities.

Title V: Credit

The Credit title offers direct government loans to farmers/ranchers and guarantees on private lenders' loans. For the USDA farm loan programs, the enacted law adds criteria that may be used to reduce a three-year farming experience requirement. It raises the maximum loan size for guaranteed loans by about 25%. It further doubles the limit for direct farm ownership loans and increases the direct operating loan limit by one-third. Beginning and socially disadvantaged farmers may benefit from a higher guarantee percentage on loans. For the Federal Agricultural Mortgage Corporation (known as FarmerMac), the 2018 farm bill increases an acreage exception to remain a qualified loan. For the Farm Credit System Insurance Corporation, the farm bill provides greater statutory guidance about its conservatorship and receivership authorities, which are largely modeled after the Federal Deposit Insurance Corporation. It also reauthorizes the State Agricultural Loan Mediation Program and expands the range of eligible issues.

Title VI: Rural Development[13]

The Rural Development title supports rural business and community development. The 2018 farm bill makes changes to existing USDA programs. It temporarily prioritizes public health emergencies and substance use disorder, including in the Distance Learning and Telemedicine Program, the Community Facilities Program, and the Rural Health and Safety Education Program. For rural broadband deployment, the 2018 farm bill authorizes the Rural Broadband Access Program to provide grants in addition to direct and guaranteed loans and increases the minimum acceptable speed levels for broadband service. The farm bill reauthorizes the Rural Energy Savings Program and amends the program to allow off-grid and energy storage systems. It amends the definition of *rural* to exclude individuals incarcerated on a "long-term or regional basis" and excludes the first 1,500 individuals who reside in housing located on military bases. The 2018 farm bill further provides that areas defined as rural between 1990 and 2020 may remain so until the 2030 census. It amends the Cushion of Credit Payments Program for rural utilities to cease new deposits and to modify the interest rate.

[13] See CRS In Focus IF11225, *2018 Farm Bill Primer: Rural Development Programs*.

Title VII: Research, Extension, and Related Matters[14]

The Research title supports agricultural research at the federal level and provides support for cooperative research, extension, and postsecondary agricultural education programs. The 2018 farm bill reauthorizes several existing programs and establishes new programs and initiatives.

The 2018 farm bill also amends and reauthorizes funding for the competitively awarded Agriculture and Food Research Initiative (AFRI), Organic Agriculture Research and Extension Initiative (OREI), and Specialty Crop Research Initiative (SCRI). It reauthorizes the Expanded Food and Nutrition Education Program (EFNEP), which distributes funds to eligible applicants on a formula basis. It enhances mandatory funding and requires a strategic plan for the Foundation for Food and Agriculture Research (FFAR).

Among new programs and initiatives, the 2018 farm bill establishes the Agriculture Advanced Research and Development Authority Pilot, research Centers of Excellence at 1890 Institutions (historically black land-grant colleges and universities), and competitive grants programs to benefit tribal students and those at 1890 Institutions. It also establishes new competitive research and extension grants for hemp research and indoor and urban agriculture.

Title VIII: Forestry[15]

The Forestry title supports forestry management programs run by USDA's Forest Service. The 2018 farm bill continues provisions related to forestry research and provides financial and technical assistance to nonfederal forest landowners. It also includes several provisions addressing management of the National Forest System lands managed by the Forest Service and the public lands managed by the Bureau of Land Management in the Department of the Interior.[16] It reauthorizes the Healthy Forests Reserve Program, Rural Revitalization Technology, National Forest Foundation, and funding for implementing statewide forest resource assessments. It authorizes financial assistance for large restoration projects that cross landownership boundaries. The enacted law also addresses issues related to the accumulation of biomass and the associated risk for uncharacteristic wildfires.

The 2018 farm bill changes how the Forest Service and the Bureau of Land Management comply with the National Environmental Policy Act for management of sage grouse and mule deer habitat. It also changes the Forest Service's authority to designate insect and disease treatment areas and procedures intended to expedite the environmental analysis. It establishes two watershed protection programs on National Forest System lands and authorizes acceptance of cash or in-kind donations for those programs.

Title X: Energy[17]

The Energy title encourages the development of biofuels and farm and community renewable energy systems through grants, loan guarantees, and a feedstock procurement initiative. It also supports increases in energy efficiency as well as the development of biobased products. The 2018 farm bill extends eight programs and one initiative through FY2023, repeals one program and one initiative (the Repowering Assistance Program and the Rural Energy Self-Sufficiency

[14] See CRS In Focus IF11319, *2018 Farm Bill Primer: Agricultural Research and Extension*.

[15] See CRS In Focus IF10681, *Farm Bill Primer: Forestry Title*.

[16] See CRS Report R45696, *Forest Management Provisions Enacted in the 115th Congress*.

[17] See CRS In Focus IF10639, *2018 Farm Bill Primer: Energy Title*.

Initiative), and establishes one new grant program (the Carbon Utilization and Biogas Education Program). It amends the Biomass Crop Assistance Program to include algae. It also modifies the definitions of *biobased product* (to include renewable chemicals), *biorefinery* (to include the conversion of an intermediate ingredient or feedstock), and *renewable energy systems* (to include ancillary infrastructure such as a storage system). Compared to previous farm bills, the 2018 farm bill provides less mandatory funding for existing USDA energy programs.

Title X: Horticulture[18]

The Horticulture title supports *specialty crops*—as defined in statute, covering fruits, vegetables, tree nuts, and nursery products—through a range of initiatives, including market promotion, plant pest and disease prevention, and public research. The title also provides support to certified organic agricultural production and locally produced foods.

The 2018 farm bill reauthorizes many of these provisions, including block grants to states, support for farmers markets, data and information collection, education on food safety and biotechnology, and organic certification. Provisions affecting the specialty crop, certified organic, and local foods sectors are not limited to the Horticulture title (Title X) but are contained within several other titles, including the Research, Nutrition, and Trade titles.

The 2018 farm bill expands and adds funding for farmers markets and local food promotion programs by combining existing programs to create a new Local Agriculture Market Program. Other provisions supporting local and urban agriculture development are housed in the Miscellaneous, Research, Conservation, and Crop Insurance titles.[19] The 2018 farm bill makes changes to USDA's National Organic Program (NOP) and related programs, addressing concerns about organic import integrity by including provisions that strengthen the tracking, data collection, and investigation of organic product imports. It also expands mandatory funding for the National Organic Certification Cost Share Program and expands support for technology upgrades to improve tracking and verification of organic imports.

The 2018 farm bill authorizes establishing a regulatory framework for the cultivation of *hemp* (as defined in statute) and creates a new regulatory program for hemp production under USDA's oversight. Related provisions expand the statutory definition of *hemp* and expand eligibility to produce hemp to a broader set of producers and groups, including tribes and territories. Provisions in other titles further expand support for hemp, including making hemp eligible for federal crop insurance and certain USDA research programs, as well as excluding hemp from the statutory definition of *marijuana* under the Controlled Substances Act.[20]

Title XI: Crop Insurance

The Crop Insurance title modifies the permanently authorized Federal Crop Insurance Act. The federal crop insurance program offers subsidized policies to farmers to protect against losses in yield, crop revenue, or whole farm revenue.

The 2018 farm bill makes several modifications. It expands coverage by authorizing catastrophic policies for forage and grazing crops and grasses. It also allows producers to purchase separate crop insurance policies for crops that can be both grazed and mechanically harvested on the same

[18] See CRS In Focus IF11317, *2018 Farm Bill Primer: Specialty Crops and Organic Agriculture*.

[19] See CRS In Focus IF11252, *2018 Farm Bill Primer: Support for Local Food Systems*; and CRS In Focus IF11210, *2018 Farm Bill Primer: Support for Urban Agriculture*.

[20] See CRS In Focus IF11088, *2018 Farm Bill Primer: Hemp Cultivation and Processing*.

acres and to receive independent indemnities for each intended use. For crop insurance research and development, the farm bill redefines *beginning farmer or rancher* as an individual having actively operated and managed a farm or ranch for less than 10 years. This redefinition makes these individuals eligible for federal subsidy benefits of whole-farm insurance plans.

The law also allows waivers of certain viability and marketability requirements for developing a policy or pilot program for the production of hemp. It further adds *hemp* (as defined in statute) as an eligible crop for federal crop insurance and to the limited list of crops that cover post-harvest losses.

Title XII: Miscellaneous

The Miscellaneous title covers a wide array of issues across six subtitles, including livestock, agriculture and food defense, historically underserved producers, Department of Agriculture Reorganization Act of 1994 Amendments, and other general provisions.

The livestock provisions establish the National Animal Disease Preparedness Response Program and the National Animal Vaccine and Veterinary Countermeasures Bank. Other livestock provisions authorize appropriations for the Sheep Production and Marketing Grant Program; add llamas, alpacas, live fish, and crawfish to the list of covered animals under the Emergency Livestock Feed Assistance Act; and establish regional cattle and carcass grading centers. Other animal-related provisions ban the slaughter of dogs and cats, impose a ban on animal fighting in U.S. territories, and require a report on the importation of dogs.

The Miscellaneous title includes a number of other provisions covering a wide range of policy issues. Among these, it directs USDA to restore certain exemptions for inspection and weighing services that were included in the United States Grain Standards Act but were rescinded by USDA when the act was reauthorized in 2015. It amends the Controlled Substances Act to exclude *hemp* (as defined in statute) from the statutory definition of *marijuana*. The enacted law also establishes the Farming Opportunities Training and Outreach program by combining and expanding existing programs for beginning, limited resource, and socially disadvantaged farmers and ranchers.[21] It further extends outreach and technical assistance programs for socially disadvantaged farmers and ranchers and adds military veteran farmers and ranchers as a qualifying group. It also creates a military veterans agricultural liaison within USDA to advocate for and provide information to veterans and establishes an Office of Tribal Relations to coordinate USDA activities with Native American tribes.[22] The enacted law requires USDA to conduct additional planning and monitoring of plant disease and pest concerns and reauthorizes policies supporting citrus growers and cotton and wool apparel manufacturers.

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[21] See CRS In Focus IF11227, *2018 Farm Bill Primer: Beginning Farmers and Ranchers*.

[22] See CRS In Focus IF11093, *2018 Farm Bill Primer: Veteran Farmers and Ranchers*.