

CULTIVATING FARM, NEIGHBOR, AND COMMUNITY RELATIONS



Farming Alternatives Program
Department of Rural Sociology
Cornell University

**Creative Approaches For
Reducing Farm-Related
Land-Use Conflict**

Community Agriculture Development Series

Cultivating Farm, Neighbor, and Community Relations

Overview

This bulletin was written for farmers and their neighbors, and for communities interested in forging stronger relationships among local residents. It describes the kinds of farm-based land-use conflict which may occur in rural New York, in the Northeast, and in other urbanizing areas; suggests ways of maintaining good farm, neighbor, and community relations; and outlines alternative approaches for dealing with conflict when it arises.

Authors

Duncan Hilchey

Agriculture Development Specialist
Farming Alternatives Program
Department of Rural Sociology, Cornell University

Nathan Leonard

Area Extension Specialist
PRO-DAIRY Program
Cornell Cooperative Extension

Acknowledgments

Funding for this and other Community Agriculture Development bulletins has been made available through the College of Agriculture and Life Sciences Office for Research, Cornell Cooperative Extension, and the Department of Rural Sociology at Cornell University.

Reviewers

The authors wish to express their gratitude to the following reviewers: Nelson Bills, Mark V. Collins, Willard DeGolyer, Gilbert Gillespie, David Petrovick, Lyle Raymond, Judith Saul, and R. David Smith.

A special thanks goes to the following individuals for their suggestions and guidance: Amy Christian, Kim Blot, John Clarke, Marin E. Gibson, Judy Green, Dale Grossman, Yolanda Kime, Thomas Lyson, Robert Milligan, Ruth Moore, David Phillips, Richard Popp, David Weaver, J. Richard Welsh, and Rick Zimmerman.

Cover Photo: Community picnic at Porter Farms, East Elba, NY, 1994 by Eric L. Johnson.

© 1995, Farming Alternatives Program. Reproduction is authorized if credit is given to the authors, the Farming Alternatives Program, and Cornell University. 8/95

The information in this publication is for educational purposes only. Reference to specific commercial organizations, products, or trade names is made with the understanding that no discrimination is intended and no endorsement by the Farming Alternatives Program is implied. Furthermore, this publication addresses legal issues which are continuing to evolve. The information contained in this publication is believed to be accurate as of August 17, 1995. Requests for information on specific rulings or legal interpretations should be directed to the appropriate state or federal agencies or to an attorney.

About the Farming Alternatives Program and the PRO-DAIRY Program at Cornell.

The **Farming Alternatives Program** is dedicated to enhancing the viability of established and beginning farmers in New York State. The program focus is on supporting communities, organizations, and institutions in building the partnerships needed to develop a more sustainable agriculture and food system.

PRO-DAIRY's mission is to enhance the competitive position of the New York State dairy industry through a Cornell Cooperative Extension educational curriculum. Programs are designed to enable managers to realize and strive to fulfill their mission and objectives. PRO-DAIRY is committed to creativity, innovation and excellence.

What is Community Agriculture Development?

Community Agriculture Development (CAD) involves community-based partnerships working to create or improve economic opportunities for farmers, by: (1) sustaining existing farms; (2) providing opportunities for beginning farmers; and (3) strengthening rural communities. There are more than 40 CAD initiatives going on throughout New York State, a growing number of which are supported by county Cooperative Extension associations. The Farming Alternatives Program supports these efforts through research, education, and this series of Community Agriculture Development bulletins.

Cultivating Farm, Neighbor, and Community Relations

1 Introduction

As farms expand in size, agricultural technology changes, and more non-farm people move to the countryside, conflict between farmers and their non-farm neighbors is likely to increase. In view of these trends, farmers cannot afford to ignore the impacts of their operations on others in their communities. Change is inevitable, and rather than resist it, farmers need to make it work to their advantage. But farmers should not be alone in this. Their neighbors and the community at large also share the responsibility for good relations.

Most rural residents, however, have lost personal connections with agriculture. The best approach, then, is one which routinely brings farmers and neighbors together, promotes understanding, tolerance, flexibility, and ultimately minimizes conflict. This strategy is working for a growing number of farmers and communities. The key is in managing negative impacts and taking advantage of the many positive contributions of agriculture to the rural landscape, the economy, and society as a whole.

This publication is designed to aid farmers, their neighbors, and others in their communities in forging stronger relationships that lead to a sustainable agriculture and an improved quality of life throughout rural New York and the Northeast. We begin by examining a recent court case representing the kind of conflict we hope farmers and their neighbors could avoid in the future.

Western New York Case Raises Key Issues

For several years, federal courts have considered a lawsuit brought against Southview Farm, located in Wyoming County, NY. Concerned Area Residents for the Environment (CARE), a local environmental group composed of some of Southview's neighbors, brought the suit challenging the farm's manure management practices.

Although manure odor was the triggering concern, the issues brought to court involved accidental manure spills, manure runoff from fields, and elevated nitrate levels of neighboring wells. CARE

brought suit under the Federal Clean Water Act, along with additional claims dealing with negligence, nuisance, and trespass. The jury found no cause for action with respect to the negligence and nuisance claims, but found that Southview Farms did discharge a pollutant (manure) in violation of provisions of the Clean Water Act. Furthermore, the jury found that the elevated nitrate levels in the neighbors' wells constituted a trespass on their property by Southview.

Many of the issues contested in this case could apply to any farm that spreads manure on crop fields. However, a number of generalizations may be safely drawn for all farms:

- What are commonly accepted agricultural practices may not always prevent pollution or conflict.
- Failure to satisfy neighbors on one issue may create more issues.
- Citizen's enforcement actions may be successful.
- The cost of litigation may exceed a farm's ability to pay.

The Southview case is a dramatic example of what can happen in farm, neighbor, and community relations. The case raises several questions that rural communities might ponder: Are more lawsuits on the horizon? Can similar cases be avoided, or at least kept out of the courts? How can farmers and their neighbors minimize conflict in the future? In the following sections, we address these questions by focusing on:

1. Causes of farm-related land use conflict;
2. Maintaining good farm, neighbor, and community relations; and,
3. Alternative approaches to conflict resolution.

FACT: Disputes *between neighbors* were the leading form of conflict mediated by community dispute resolution centers in New York State during 1993-94, followed by disputes *between acquaintances*, then landlords and tenants.

—NYS Unified Court system 93-94
CDRC Program Annual Report

Causes of Farm-Related Land-Use Conflict

The Southview case highlights the wide range of legal claims that neighbors can bring against a farm, including nuisance, negligence, trespass, and violations of the Federal Clean Water Act. It is important to understand these legal claims and the underlying causes of farm-related land-use conflict. Chart 1 provides examples of the general complaints rural residents might have against neighboring farms. Below, we describe the legal categories of claims these complaints fall into.

Nuisance

A nuisance is an activity which unreasonably and substantially interferes with another person's use and enjoyment of their property. Such activities include odors, noises, pests, etc. A *private* nuisance is usually a dispute between two individuals (e.g., a farmer and a neighbor), and the cost of the lawsuit is borne by both parties. A *public* nuisance, on the other hand, involves one's interference with the rights of a substantial portion of the community—the nuisance threatens the public health and is on a large enough scale to warrant local or state involvement. An example of a public nuisance would be when a farm has been accused of polluting the water supply of a town. In a public nuisance case, the risks and costs of settling the conflict are borne by the government and the farmer. It is, therefore, not uncommon for unhappy neighbors to request that a government body take action on their behalf. (See *Hamilton*, 1991 on p. 15 for more information on nuisance and livestock farming.)

Negligence

A farmer may be found negligent if his or her carelessness leads to the injury of a neighbor or others in the community. Miscalibrating a piece of equipment, inadequate employee supervision, allowing cattle to stray, or failing to inspect a waste lagoon are possible acts of negligence if someone is harmed or the use of their property is affected.

Trespass

Usually, we think of trespassing as walking onto someone else's property without permission. The courts have determined that the movement of wastes, nitrates, chemicals, and eroded soil across property boundaries may also constitute a trespass—if it deprives the neighbor of the use and enjoyment of their property.

Environmental Regulations

Because environmental regulation exists at all levels of government, farmers sometimes feel they are in a compliance nightmare. Despite the complexity, however, making the effort to comply may eliminate the risk of being sued. Here's a sample of federal, state, and local environmental regulations farmers must deal with.

Federal water quality legislation that affects agricultural activities includes the Clean Water Act, the Coastal Zone Management Act, and the Safe Drinking Water Act. Farms using pesticides may be subject to half a dozen or more federal laws protecting human health and safety, wildlife, and the environment. Environmental protection is also encouraged through the Food Security Act as a condition of receiving US Department of Agriculture benefits.

Federal environmental regulation often focuses on either "point source" or "non-point source" pollution. A point source is a single source, such as a pipe, while a non-point source comes from diffuse locations (e.g., water run-off from farmland carrying pollutants). The Coastal Zone Management Act is the first federal legislation to mandate the use of farm management measures (e.g., conservation tillage) to reduce non-point pollution. The Southview case is a landmark case because the court determined that a manure spreader can be a point source of pollution and may require a discharge permit.

Many state laws reflect federal law by adopting federal standards. *State laws* are generally more restrictive than federal, not less. New York environmental laws which affect farmers may be found in Environmental Conservation Law, Public Health Law, Soil and Water Conservation Districts Law, and Agriculture and Markets Law, to name a few.

Making environmental management even more challenging, local municipalities often have *ordinances and zoning* that affect both farm and non-farm residents. These ordinances often reflect the environmental concerns and problems experienced in the community.

Damages and Penalties

Typically the plaintiff (the party making the claim) will ask for an *injunction*, which is a court order to stop a production practice which is alleged to be causing the problem. However, the injured party may ask for more expensive *legal remedies*, including compensation for damages caused, and *punitive damages* (financial punishment to discourage the production practice by other farmers).

Chart 1. Examples of Rural Residents' Complaints Against Farmers

COMPLAINT	Type of Farm at Risk				
	DAIRY	CROP	FRUIT	VEG*	LVSK*
Odor from manure or chemicals	●	●	●	●	●
Spreading manure close to their home or water source	●	○		○	●
Manure spilled or dirt tracked onto the road	●	○		○	●
Use of pesticides and chemicals	●	●	●	●	●
Noise or vibrations (especially at night)	●	●	●	●	●
Dust	●	●	●	●	●
Flies or other insects	●	●			●
Large, slow-moving equipment on the roads	●	●	●	●	●
Spray drift	○	●	●	●	○
Electric fences bordering their property	●	○	○	○	●
Surface water pollution (e.g., discharge of milk house waste, silo effluent, barnyard runoff, pathogens, chemicals, sediment)	●	●	●	●	●
Ground water pollution (chemical, nutrient)	●	●	●	●	●
Unsightly farmstead	●	●	●	●	●
Farm size and activity increasing	●	●	●	●	●
Impolite or inconsiderate behavior of farm personnel	●	●	●	●	●
Animal welfare	●				●
Injury to pets (accidental or deliberate)	●	○	○	○	●
Trash and littering	●	●	●	●	●
Burning trash (e.g., plastics, oil, tires, etc.)	●	●	●	●	●
Farm dumps	●	●	●	●	●
Property line disputes	●	●	●	●	●
Wandering livestock (and pets)	●	○	○	○	●
Loud, disruptive sound devices (e.g., to scare birds)		●	●	●	
Customer traffic			●	●	
Workers in fields (near property line)			●	●	
Disruptive weekend/evening production activities	●	●	●	●	●
*Vegetable farms and livestock operations					

Farmers Have Complaints Too!

The flip side of the coin is that farmers may have complaints about their neighbors or the community at large. In a New Jersey study of 1,320 farmers, Lisansky and Clark (1987) found that most farmers' complaints related to **trespassing, vandalism, and municipal ordinances**. From time to time, for example, farmers may have problems with unwelcome hunters, hikers, or other people looking for recreational opportunities. Theft or destruction of the farmer's property (e.g., buildings, equipment, or livestock) may also be a serious problem for farmers near urban development.

Finally, municipal ordinances may have troubling impacts on agricultural activities (such as those pertaining to livestock, roadside marketing, and other zoning restrictions). In New York, the Department of Agriculture and Markets is authorized to review the complaints from farmers who feel that local land-use restrictions are affecting their property rights. Depending upon their finding (and whether or not the farm in question is in an Ag. District), the department may help negotiate a settlement, constrain a municipality from implementing an ordinance, or perhaps even file a lawsuit. (See p. 15 for contact information.)

Right-to-Farm Laws

Non-farm rural residents generally feel that the inconveniences of living near farms should be minimal. Farmers, however, are very concerned about property use restrictions which affect the efficient and profitable use of their property.

Concern for farmers' vulnerability to nuisance suits has prompted all 50 states to enact legislation designed to help farmers defend themselves. So-called "right-to-farm laws" attempt to ensure that farmers are generally free to use their property as long as:

- these activities do not interfere with the property of other persons; and,
- these activities do not pose hazards to health and safety.

In New York the Public Health Law states that agricultural activities will not be considered a private nuisance if it started before surrounding activities, operates on a fairly constant scale, and is not considered a hazard to life or health.

Right-to-farm law has been strengthened in New York for farmers in Ag. Districts who employ "sound agricultural practices." Agriculture and Markets Law defines sound agricultural practices as "those necessary for the on-farm production, preparation, and marketing of agricultural commodities." They receive protection even if these practices inconvenience their neighbors. If a neighbor questions an agricultural practice, either of the parties may request that the Commissioner of the NY State Department of Agriculture and Markets render an opinion of its soundness. If the Commissioner concludes that the practice is sound, then it will not constitute a private nuisance in a court proceeding. It should be noted, however, that sound agricultural practices are determined on a case-by-case basis. That is, no blanket protection of a practice is offered to all farmers just because a determination is made in favor of one farmer.

Rights Come With Responsibilities

Regardless of any protection afforded by state law, most farmers believe they should have the right to farm without onerous land-use restrictions. This right, however, comes with **responsibilities**. These responsibilities, including protecting public interests such as public health, safety, and natural resources, go to the heart of what is sometimes referred to as *stewardship*. Many people think of stewardship as protecting only the farm's resources. However, there is a growing belief that it also includes the protection of property, watersheds, and wildlife habitat, etc. Many farmers have not made this shift to thinking about a bigger picture—possibly leading to increased potential for conflict.

In the Final Analysis

Ironically, while right-to-farm laws can provide some protection to farmers, they may in the long run have some negative side effects. Uncompromising protection of agricultural practices could maintain or even widen the gulf between farmers and their non-farm neighbors. In the future, neighbors may be inclined to take a farmer to court if they feel a jury or judge might disregard a Commissioner's determination, or would otherwise have a more sympathetic interpretation of what unreasonable and substantial interference is.

Ultimately, the goal is a more open social environment with better communication among farmers, their neighbors, and others in their community.

2 Cultivating Farm, Neighbor, and Community Relations

In the previous section we discussed the types of farm-related land-use conflict. However, knowing the potential sources of conflict is not enough to keep them from happening. Farmers, their neighbors, and the community at large all have a role to play in maintaining good relationships. Communities and many of the benefits of rural life come from people working together to deal with common problems. Below we offer some examples of what each party can contribute to preempt or minimize conflict:

A. WHAT THE FARMER CAN DO

Farmers can employ a number of strategies which will head off potential conflict and build stronger ties with their local communities.

STRATEGY #1. Implement Responsible and Defensible Farm Management Practices

An obvious place to start is in implementing sound farm management practices. Clearly, this is easier said than done. Yet, as we stated earlier, what is commonly accepted in the agricultural community may not protect the health, safety, or rights of a neighbor or others in the community.

Farmers should therefore seek to apply the most up-to-date and effective techniques to abate noises, odors, dust, and water pollution. Cooperative Extension agents and other farm advisors can provide advice based on a growing body of applied literature on nuisance abatement and environmental protection. Appropriate Technology Transfer to Rural Areas (ATTRA) has collected free materials (or can research some new issues) relating to pest control, odor, and other potential nuisances (see *Resources* p. 15 for contact info). Other farmers may also have very sound practical management advice.

STRATEGY #2. Get Involved in the Community

Research shows that because of their social and geographic isolation, rural residents are generally lonelier than most Americans (Braun, 1988). Farmers should make a sincere effort to get to know their immediate neighbors, and get involved in commu-

TABLE ROCK FARM, INC.

Business Address
5554 De Golyer Road
Castile, NY 14427

Tel: 716-493-5770

Business Location
3818 U. Reservation Road
Castile, NY 14427

Fax: 716-493-3371

March 25, 1994

Dear Neighbors:

With the coming of spring, there will be a lot of activity going on in and around Table Rock Farm. We're sending you a letter to update you on what will be happening.

This year we will be completing the final building stages of the plans we put in place in 1988. A new milking center will be built to replace the parlor we have been milking in since 1965. Also, a freestall barn will be built. These buildings will be west and parallel to our present barns.

When the snow is melted and there is little chance of soil compaction or runoff we will be spreading manure. The amount of manure spread will be based on recommendations from the western N.Y. Crop Management Association. These recommendations vary from field to field based on soil test, crop rotation, amount of manure spread last fall, and manure analysis. The smell produced will not be very pleasant. Please bear with us; we will try to complete the job as quickly as possible.

This letter is an attempt to improve communications. Lack of time in everyone's daily life make it difficult to keep in touch about new developments and practices. If you enjoy being informed about what's happening on the farm or have questions, stop in or call me at 493-5770.

Kind regards,

Willard De Golyer

Willard De Golyer is committed to maintaining favorable neighbor relations.

nity projects. Reaching out may help farm families feel better, and show the rest of the community that they are involved in and part of their communities. Sitting on a planning board or taking on other community leadership roles is an empowering experience. Social institutions like churches, civic groups, and charities provide informal opportunities to discuss problems and find solutions. In the final analysis, we believe neighbors are probably less likely to sue someone they know and like personally.

STRATEGY #3. Promote Benefits of the Farm to Neighbors and Community at Large

Most farmers do not have the time or resources to be very generous with their neighbors. However, farmers might consider a number of things to build bridges, and *create a stronger sense of community*. In Chart 2 (pages 8-9) we offer some strategies which build on typical resources available on the farm. Be aware: small favors can lead to requests for larger favors. Furthermore, a number of these activities may necessitate more liability insurance. If there are any questions, an attorney and/or a qualified insurance broker should be consulted.

Strategies Farmers Can Implement...

STRATEGY	PROS and CONS
Community Picnic	There's a commitment of time and money, but nothing builds friendship better than a good gathering and good food. It does nothing for those who don't participate. Supply the barbecue, paperware, and drinks; consider requesting potluck for at least part of the meal. Invite people in person—you especially want to build rapport with the more reluctant folks.
Farm Tours	Done right, farm tours can be an educational experience. People not familiar with farms may be shocked at cows in stanchions or concerned when they see a sprayer. But seeing healthy calves, cute kittens, and nutritious food being produced is a winner. The farm should be clean, neat, and safe. However, you may wish to maintain the farm in its normal operational state to avoid giving false impressions about the nature of farming. Be certain the tour presents an image that would pass any inspection. Take the opportunity to explain why your farm occasionally smells and mention what you do to manage it. Extra insurance may be necessary. Good for neighbors, school groups, and the general public. See References (p. 15) for a how-to publication on <i>Agritourism in New York State</i> .
Sample Farm Products	For some farms it's easy to add a few extra rows of sweet corn to the delight of neighbors. It can also be used at an annual picnic. It may not be popular if there are any commercial sweet corn growers nearby. Once you have given permission it's hard to say no in another year. Establish some ground rules and overlook the occasional person who takes more than their reasonable share. If you sell retail, be moderately generous with neighbors. However, regularly giving away product may build unwanted expectations. Instead of the above, an annual gift basket with your product expresses pride and neighborliness.
Hay Rides	People love hay rides—it's a time of fun and excitement. It's also a time when people have been hurt. Be certain your insurance coverage allows it. Have a wagon with good stairs and sides so it is difficult to fall off. Adult supervision of children is essential, and consider only giving rides during daylight.
Manure	Some people love the product that others hate! It's easy to have a supply, less convenient to figure out how it gets to the neighbor's garden. Manure can carry pathogens, and sometimes people complain about weed seeds. Supply only composted manure; this reduces concern about pathogens. Consider making it available but having users move it themselves.
Mowing Brush and Roadsides	Tractors, mowers, and time have costs. If it isn't inconvenient, occasional mowing of roadsides, the back acre, or some small brush is much appreciated. Damage to equipment can be very expensive. Limit this activity. If you do it, let people know that there is value. If it is a major project, consider asking for a nominal reimbursement to cover some of the cost. However, cutting your hedgerow that's growing in and blocking someone's view will win their favor!
Offer Garden Space	It requires a small amount of land, but needs management to be successful. Set up guidelines and have a neighbor manage it to limit your commitment of time and resources. Allowing others to use your land may increase your liability risk. See an insurance agent.

...to Promote Good Neighbor Relations

STRATEGY	PROS and CONS
Mulch Hay	If a neighbor needs some mulch, maybe you can spare a couple poor quality bales.
Sponsor a Sports Team	Since it can be expensive, this may only be possible for a larger farm, or for a group of smaller farmers. Supporting children's teams builds local and neighborhood goodwill. Supporting adult leagues builds goodwill primarily with the participants. Sponsor the team, not the site, unless full protection against potential liability can be guaranteed. Consider having someone else organize, manage and coach it.
Recreational Access	One of the largest benefits a farm can offer. In New York, landowners generally have no obligation to keep their property safe for recreational use except in cases involving obvious hazards. Receiving fees, gifts, or work in exchange for access increases potential liability. Establish guidelines for use. Eliminate obvious hazards such as open wells and collapsing buildings. Limit recreational activities to those that the NY General Obligations Law limits liability. These include: hunting, fishing, trapping, training dogs, canoeing, hiking, horseback and bicycle riding, recreational use of motorized vehicles, operation of snowmobiles, cross-country skiing, tobogganing, sledding, hang gliding, caving activities, boating, and the cutting and gathering of wood for non-commercial purposes. Posting the property limits unwanted recreational use.
Snowplowing	Snowplowing is often taken for granted and it can be time-consuming and expensive. However, after a big snowstorm, nothing is more appreciated than having the end of the drive cleared. A word of caution: leave routine snowplowing to other neighbors or professionals—a lot of "freebies" may upset commercial plowing services, and the neighbor (if you displace stone or gravel in the driveway).
Towing	Inconvenient at best. Avoid it if you can, but be gracious when you have to.
Use of the Farm Shop	Tools can walk, equipment can break, and you may find yourself fixing their problem. A couple of dollars of parts adds up when it happens the fifth and sixth time. Only for extraordinary circumstances. And only loan tools you can afford to lose.
Set Aside an Acre or Two for Wildlife	Take two acres (or more) of your woods, wetland, or poor pastureland, and let it go fallow. Don't hunt in it, and show it to visitors who want to see a clear example of what you are doing to promote biodiversity. Try planting several acres of corn and leave it for wildlife, or preserve or replace hedgerows.
Communications (Newsletters and Memos)	The more people know about farm operations, the more they will understand any minor inconveniences that living near farming may entail. For this reason, farms that desire good relations with neighbors may wish to send newsletters to neighbors. Tips: letters are only part of a larger plan; show that you understand neighbors' points of view; communicate what you are doing to address their concerns; ask neighbors to inform you of special events; manage farm practices to avoid interfering with events; avoid expressing opinions or taking positions; include names and phone numbers; be careful: letters are also an opportunity to miscommunicate. <i>Delivering the first letter in person will show sincerity.</i>

B. WHAT NON-FARM NEIGHBORS CAN DO

As we have mentioned, farmers have their share of complaints about neighbors and the community at large. Vandalism and trespass (including damage to equipment or crops) are among the most troublesome problems for farms. However, there are many others: littering, asking for favors without reciprocity, refusing to honor historical/customary right-of-ways (though they may not be legally based), unjustly accusing a farmer of polluting, expecting changes in farming practices, restricting and regulating farming practices, disputing property lines, and encroachment. Furthermore, farmers may resent spending money to solve what they perceive is "someone else's" problem and many can ill-afford to do so. The following is a list of things farm neighbors and other community residents can do to build relationships with farmers and reduce conflict:

- Buy direct from the farmer at U-pick operations, farm stands, and farmers' markets.
- Ask to visit a farm for an informal tour at a convenient time.
- Help a farmer organize a community picnic, farm festival, pig roast, etc.
- Recognize that farms are businesses. Be prepared for some inconveniences.
- Wave to farmers in passing.
- Pick up debris from the road and road ditches to prevent equipment damage.
- Look for opportunities to assist during busy periods or help a farm family take a break for a short time.
- Return a favor (e.g., drop off firewood).
- Always ask for permission before hunting or otherwise going on a farmer's property.
- Invite a farm family over to socialize (dinner, birthday parties, holidays, etc.).

Remember: go directly to the farmer to discuss what you see to be a problem. Bear in mind, sometimes the way that farmers are approached makes them more defensive than the issue itself does.

C. WHAT THE COMMUNITY CAN DO

The community wishing to minimize conflict will rely less on lawsuits, right-to-farm laws, zoning ordinances, etc., and work more informally with farmers and other local residents to mitigate or mediate conflict. Here are some examples of strategies or activities communities can employ:

- Sponsor a farmers' market, farm tours, farm trails, farm festivals, ag.-fairs, or monthly *socials* which promote opportunities for community interaction.
- Conduct an annual one-evening public meeting on the future of agriculture in the community. Generally take stock in what farms do for the community, and, with the cooperation of farmers, capitalize on the amenities farms provide (e.g., open space, wildlife habitat, tax revenue, jobs, healthy food, etc.). Start a Community Agriculture Development project (see sidebar on p. 11 about *Cayuga County Interconnections*).
- Recognize that (when compared to non-farm residences) farms generally contribute a disproportionately large share of local property taxes relative to services received. (See below.)
- Support agricultural education for youth (e.g., Ag in the Classroom; Vocational Agricultural Education; Future Farmers of America; 4-H programs).
- Encourage farmers to use practices which protect neighbors' ability to use and enjoy their property.
- New York State municipalities should contact the Commissioner of the Department of Ag & Markets prior to passing any ordinances which might affect farming (see p. 15 for contact info).
- When farm-related land-use concerns arise, encourage problem solving that satisfies the interests of both parties. (See *Community Mediation Example*, p. 13.)

Recognize the economic contribution farms make to the community. Studies show that only 16 to 35 cents is spent for services to farms for every \$1.00 of taxes paid by farms. This offsets the deficits created by residential demands on services.

Building Urban-Rural Bridges

CAYUGA COUNTY INTERCONNECTIONS

Overview: CCI promotes thinking about the county as a whole and encourages the county's residents to articulate a shared vision about its future landscape. The project's goal is to highlight the interrelationships among rural, suburban, and urban people and different land uses. The impetus for these projects came in 1992 when the beach at the north end of Owasco Lake (near Auburn, NY) was closed due to high coliform bacteria counts. An unproductive period of finger pointing followed.

Program Areas: Farmer-community relations, agritourism development, youth agriculture education, public policy, farmland preservation, and economic vitality.

Organizational Structure: Collaboration of Cornell Cooperative Extension of Cayuga County, Farm Bureau, NYSEG, farmers, County Legislature, Aurora Rotary, and lay citizens. Funding comes from NYS 4-H Foundation, Farm Bureau, Aurora Rotary, and Cayuga Savings Bank.

Objectives:

1. Highlight the interconnections between rural and urban issues using an integrated approach to address these issues; foster an understanding of the regional economic system; and encourage visionary thinking for the county;
2. Bridge the gap between farmers and non-farmers by educating the general public about the skills and commitment needed to be successful in farming/agribusiness/land-use stewardship;
3. Foster an appreciation of different types of farms;
4. Promote agricultural preservation and conservation of land, soil, water and wildlife.

Projects:

1. Hosted the conferences on sustainable agriculture and small business enterprises;
2. Developed Farm Trail/Rural Heritage brochure;
3. Promoting Ag in the Classroom curriculum;
4. Supporting rural landowners who are considering an agricultural enterprise;
5. Hosted a multi-town cluster meeting on economic development.

Lessons Learned: Our farm tour for local officials was very successful. We were least successful in developing a farm-city exchange with individual families, most likely due to the time commitment involved. Families were being asked to work out their own schedules, arrangements, and transportation. The public's perception of agriculture's negative impact on the environment is a major challenge.

Contact: Rod Howe, Cornell Cooperative Extension of Cayuga County, 248 Grant Ave., Auburn, NY 13021; (315)255-1187.

3 Conflict Resolution

Section 2 focused on conflict prevention or **mitigation**—which is a process of creating a social environment that builds relationships and minimizes negative conflict. Like rainy weather, however, conflict *is* inevitable and we can't avoid it entirely. Of course, rain is also necessary. Just the right amount of rain is essential for growth, but too much can destroy an entire crop. Conflict, too, can have positive as well as negative effects. A difference between rain and conflict is that we do have some measure of control over conflict—though it might not seem like it on the outset. We are left, in many cases, with managing conflict after it arises.

Typical legal remedies include litigation and arbitration. **Litigation**, which (as we have discussed) includes lawsuits, injunctions, punitive damages, and civil penalties, is not always avoidable—but should be thought of as a last resort. Lawsuits can take a long time, are expensive, may receive bad press, and take enormous financial and emotional tolls. Furthermore, running to an attorney immediately may unnecessarily fan sparks into a full-scale five alarm fire! About 9% of the farmers reporting disputes in the New Jersey study resolved their conflict in court (Lisansky, 1987).

Another very formal form of dispute resolution similar in some respects to litigation is **arbitration**. This is where the parties agree to have an impartial third party (not a judge) review the case and issue findings or make an actual decision. Arbitration does not necessarily result in a legally-binding decision, nor does it always offer a mutually satisfactory decision, and is therefore not a preferred method of dispute resolution. Both litigation and arbitration are likely to result in a win/lose situation. They will *not* lead to more favorable neighbor and community relations.

Alternative Approaches

President Lincoln once wrote to fellow lawyers:

Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, expenses, and waste of time.

—Abraham Lincoln
From: *The Writings and Speeches of Abraham Lincoln*, Philip Van Doren Stern, ed.

Though less costly than legal actions, these methods may be just as challenging, and do not guarantee a satisfactory result. However, they do provide the greatest chance of preserving working relationships among the different parties. Two of these alternative approaches is described below.

Cooperative Conflict Resolution (CCR)*

CCR is a process by which the parties (perhaps with the minimal aid of a third party) creatively work on resolving the conflict by themselves. This approach works best in single-issue, private disputes with low emotions, high trust, and small stakes. Neighbors who know each other well and have a respectful relationship should find this approach reasonably comfortable. CCR asks four basic questions:

1. How do the parties see the problem?

- Take turns sharing views.
- Avoid generalizing.
- Listen carefully.
- Try not to judge what is said.

2. What does each participant *really* need?

- Focus on needs or interests, not personalities, judgements, or positions, etc. (See *Examples*, p. 13).

3. How can the parties work it out?

- List the things that are agreed upon.
- Work on the disagreements.
- List potential solutions, and select the most workable.
- Work out a specific plan, agreeable to both parties, and put the plan in writing.

4. How will the parties know it is working?

- From time to time ask the question “how am I doing in addressing your concerns?”
- Make adjustments to agreements if necessary and implement these quickly.

Tips in Implementing CCR

- Attack the problem, not each other.
- Be sure each party gets something they want.
- Remember: a practice may be legal and accepted in agriculture, but not accepted in a neighborhood.
- Defending farm practices without understanding the concern is likely to escalate the potential for conflict.

[*Adapted from material provided by the Community Dispute Resolution Center of Ithaca, NY.]

- Third parties such as Extension agents, other farmers, mutual friends, or other residents in the community may facilitate this process.
- Get help if needed. *Community Dispute Resolution Centers* have trained facilitators and mediators, and provide free services. (See Resources p. 15).

FIRST CONTACT WHEN USING ALTERNATIVE APPROACHES

- *Stay calm* and don't overreact.
- Acknowledge the complainant's concern.
- Discuss the basics, if you must, but don't necessarily try to work out the problem immediately.
- Agree to resolve the concern.
- Go over the process and agree on procedures.
- Decide when and where to have the discussion.

Community Mediation

If CCR does not seem feasible (e.g., the emotions are running too high, the issues are too complex, too many people are involved), mediation is probably the next step. **Mediation** generally involves a third party, such as a volunteer or professional mediator, who facilitates a process for dealing with a conflict, and helps the parties create a solution which is mutually agreeable. As with CCR, an important goal of mediation is to minimize legal actions—although the threat of a lawsuit may be a major incentive to settle the dispute without litigation. *Parties which come to the table to win at the expense of their opposition should not enter into the mediation process.*

Mediation procedures can be complex and are often tailored to the unique circumstances of each particular case. The following are generally accepted mediation strategies:

1. Involve All Significant Stakeholders

- Representatives must have clear authority to speak for their group.

2. Opening Session

- Established groundrules.
- All sides present a summary of their positions.
- Confrontation is minimized. *Venting* (sharing frustrations) is allowed only under controlled circumstances.

3. Caucuses

- The mediator meets with each party separately.
- Parties *are* allowed to freely vent since the mediator needs to identify what is truly important to them.

4. Focus on Interests, Not Positions (see below)

- Positions are specific actions, which are minimally negotiable and require results in the near term. Interests, on the other hand, are desires, fears, beliefs, values and concerns that parties hope to advance. They may be broad or abstract, and suggest long-term approaches to meeting needs.

5. Focus on Facts

- Facts are essential—if necessary bring in outside expertise.

6. Be Creative

- Invent options for mutual gain—a goal is to leave the relationship intact. Use brainstorming sessions to get each side and their advisors to come up with novel solutions.

POSITIONS vs INTERESTS (Examples)

Example #1 Alleged MANURE ODOR

Positions

NEIGHBOR: "Stop spreading manure!"

FARMER: "You moved next to my farm—now live with it or leave!"

Interests

NEIGHBOR: "I don't want offensive smells—especially when visitors come to my home."

FARMER: "I need to recycle this waste and fertilize my fields."

Example #2 Alleged CHEMICAL POLLUTION

Positions

NEIGHBOR: "Quit poisoning my family!"

FARMER: "There just isn't any proof!"

Interests

NEIGHBOR: "We are concerned about the health and safety of our children."

FARMER: "In order to make a living, and produce food at a reasonable cost to consumers, I need to use chemicals."

Community Mediation Example:

Phillips Family Farm and Upset Neighbors
Town of Brant, Erie County, NY

Situation: Manure-spreading odor from 350-cow dairy causing neighbor concerns including interfering with special summer events. Farm was not notified of concerns.

Steps Taken:

1. Neighbors file complaint with Brant Town Board requesting manure spreading restrictions.
2. Town board meeting, supervisor mediating.
 - Phillips presented farm's case over opposition.
 - Presented farm nutrient management plan, explained they used sound agricultural practices and why they use them.
 - Mutually decided to work out an agreement.
3. Negotiated agreement
 - Farm agreed to limit weekend manure spreading and avoid spreading during special events.
 - Agreed to incorporate manure.
 - Farm agreed to publish an approximate schedule of farm operations. (Now publish a quarterly newsletter.)
 - Neighbors agreed to notify Phillips of special events.
 - Neighbors agreed to discuss concerns directly with Phillips, not the town.

Agreement is working; occasional concerns are handled by Phillips.

Conflict and the "Teachable Moment"

Resolved properly, public conflict can actually be enormously beneficial by turning the dispute into an educational opportunity for the individual and community. Educators sometimes see conflict as "teachable moments." That is, conflict brings a concentrated focus on an issue, and, through a resolution process, the individuals and community can learn from the conflict and avoid similar problems in the future. Furthermore, conflict may open other unresolved issues in the community, and provide the opportunity for their resolution.

Roles of Local Organizations

San Luis Obispo County California Agricultural Commissioner's Office has established procedures for the resolution of disputes as part of its county right-to-farm ordinance. Likewise, New York State's newly re-constituted County Agriculture and Farmland Protection Boards or other local organizations could play a role in establishing procedures for mediating or otherwise dealing with farm-related land-use conflict. As mentioned earlier, each county in New York also has a Community Dispute Resolution Center which can provide support and resources tailored to farm-related conflicts. (See p. 15 for contacts.)

4 Summary

The focus of this bulletin has been on being a good neighbor. As farming operations expand and agriculture and residential land uses mix, the opportunity for conflict rises. Regular communications, social interaction and, when necessary, the use of alternative conflict resolution strategies can lead to stronger neighbor and community relations.

The use of our property should not substantially impair our neighbors' ability to use and enjoy their property. Property rights are important in American society. If farmers wish to keep government intervention to a minimum, it is incumbent upon them to take responsibility for the impacts their production activities may have. While farmers must be sensitive to their non-farm neighbors, these neighbors and the community at large must recognize the challenges and constraints under which farmers work daily. Furthermore, the role farmers, farms, and farmland play in the social and economic fabric of the community can no longer be taken for granted. Agriculture needs more than ever to be more fully integrated into the community. Through mutual understanding and consideration, farmers and their neighbors can help make this possible.

CITATIONS

Braun, Dick. 1988. "Ways to Kick the Grip of Loneliness." *Farm Journal*. Mid-March. Vol. 112. Iss. 6, p 26.

Hamilton, Neil. 1993. "Employing the Sound Agricultural Practices Approach to Providing Right To Farm Nuisance Protection to Agriculture." White Paper 93-2. Draft Report to the NY Department of Ag. and Markets. Drake University Law School.

Lisansky, Judith. Clark, G. 1987. "Farmer-Nonfarmer Conflicts in the Urban Fringe: Will Right-to-Farm Help?" *Sustaining Agriculture Near Cities*. Ed. William Lockeretz. Soil and Water Conservation Society. Iowa.

For Additional Copies

Additional copies of this publication may be purchased for \$4.00 from either of the following: *Cornell Instructional Materials Service*, Dept. of Education, 420 Kennedy Hall, Cornell University, Ithaca, NY 14853; (607) 255-9252. E-mail address: VB17@cornell.edu. OR *Media Services Resource Center*, Cornell Business and Technology Park, Building 7 and 8, Ithaca, NY 14850; (607) 255-2080. E-mail address: distcent @ cce.cornell.edu.

Resource People and Organizations

For more information on farm-related land-use conflict, contact the following resource organizations:

Cornell Cooperative Extension

(See local white pages under county government.)

Farming Alternatives Program

Duncan Hilchey, 423 Warren Hall, Cornell University, Ithaca, NY 14853; (607) 255-9832.

PRO-DAIRY Program

Nathan Leonard, Area Extension Specialist, PRO-DAIRY Program, CCE Cortland County, P.O. Box 5590, Cortland NY 13045-5590; (607) 753-5077.

Dr. Nelson Bills, Professor of Agricultural, Resource and Managerial Economics, Cornell University, Ithaca, NY 14853; (607) 255-7734.

Community Dispute Resolution Centers

For county office listing contact: NYS Unified Court System, AES Bldg., P.O. Box 7039, Albany NY 12225; (518) 473-4160.

Dept. of Agriculture and Markets—for opinions on the soundness of agricultural practices, or regarding municipal ordinances: Commissioner Richard T. McGuire, One Winners Circle, Capital Plaza, Albany, NY 12235; (518) 457-4188.

NY FARMNetwork, Warren Hall, Cornell University, Ithaca, NY 14853; 1-800-547-FARM.

ATTRA, P.O. Box 3657 Fayetteville, AR 72702; 1-800-346-9140.

Additional Readings

Livestock Producer's Legal Guide to: Nuisance, Land-Use Control, and Environmental Law. Neil D. Hamilton. Environmental Law Center, Drake University. Available from: American Farm Bureau, 225 Touhy Ave., Park Ridge, IL 60068; (312) 399-5844.

Community Supported Agriculture: The Producer/Consumer Partnership. Univ. of Massachusetts Cooperative Extension. \$2.00 from Bulletin Center, Cottage A, Thatcher Way, Univ. of MA, Amherst, MA 01003.

Agritourism in New York: Opportunities and Challenges in Farm-Based Recreation and Hospitality. 1992. Farming Alternatives Program. To order see For Additional Copies.

Controlling Agricultural Nonpoint Source Water Pollution in New York State: A Guide to the Selection of Best Management Practices To Improve and Protect Water Quality. Longabucco, Patricia. 1991. NYS Department of Environmental Conservation.