

Farms, Communities, and Collaboration



A Guide to Resolving **Farm-Neighbor** Conflict

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Farms, Communities, and Collaboration:

A Guide to Resolving Farm-Neighbor Conflict

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Preface

This manual is a guide to resolving the kinds of conflicts that arise when farmers and non-farmers live together in rural communities:

conflicts over farming practices, life styles, land use, the environment. We designed the manual to help farmers and neighbors, regulators, local government officials, environmental advocates, and interested citizens become familiar with the process of *collaborative problem solving*. Collaborative problem solving draws on mediation and/or facilitation skills and involves an approach to conflict that engages participants in resolving differences constructively. Equally important, the process helps build socially strong and economically vital communities.

The manual that follows reflects the authors' varied professional expertise as well as our experience working with communities around the state as they grappled with farm-neighbor conflicts. We have divided the manual into four chapters that provide the context and the concepts that can help you reach accord on critical matters. An appendix of contact information with Web addresses (*The Resources*, p. 35) appears at the end. The chapters are:

- *The Issues*, page 4
- *The Rural Landscape*, page 7
- *The Laws and Regulations*, page 14
- *The Process*, page 26

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Finally, the authors acknowledge the contribution of an excellent earlier Cornell publication, *Cultivating Farm Neighbor and Community Relations* (see *The Resources*). The document is a useful companion to ours and offers a particularly helpful list of ways farmers might promote good neighbor relations.

The Issues

Nonfarming neighbors worry about...

- ▶ Odors and air pollution
- ▶ Dust and flies
- ▶ Well and ground water contamination
- ▶ Peace and quiet
- ▶ Property values
- ▶ Quality of life

Throughout the Northeast, suburban life is spilling over into rural communities. City dwellers and suburbanites seeking serenity, open space, and fresh air are moving to the country. Oftentimes they locate right next to a farm or within a farming community. For many, farming is only vaguely familiar:

Picturesque barns *Pleasant landscapes* *Fresh vegetables*

But suddenly, these new neighbors are face to face with the stark realities of farming:

→ manure spreading → pesticide spraying → equipment noise → odors & dust
→ housing for migrant labor → slow-moving tractors on roads

“What are you guys doing over there?”

“I’m protecting my crops against pests and diseases.”

“These are animals. Of course they smell.”

“I’m working my farm.”

“I can’t harvest my fruit without migrant and seasonal workers.”

“My fields need to be fertilized.”

And then farm-neighbor conflicts erupt. Some even grow to the point where the entire community is involved. Polarization may crowd out communication.

Of course, not all farm-neighbor conflicts involve newcomers. Sometimes concerned neighbors are farm families themselves. Sometimes the changing nature and scale of agriculture in a given place leads to conflict.

And when conflict erupts, many of us turn to the law. Laws and regulations are meant to impose order, to balance competing rights and claims. Laws and regulations are supposed to protect all parties. Farmers, for example, have certain legal rights to farm and an interest in preserving their livelihood. Neighbors, meanwhile, have certain legal rights to clean air and water and an interest in preserving their peace and quiet.

But laws and regulations are not always sufficient. Because rights often clash. And because rights don't wash away anger or worries. And angry, worried neighbors find ways to express their displeasure.

The
neighbor
asks:

“Can he get away with that?”

“I'll take him to court.”

“I'll complain to the town supervisor.”

“I'll start a protest movement.”

Offended and exasperated, some farmers feel attacked.

The
farmer
asks:

“Can he get away with that?”

“This is my land and no one can tell me what to do.”

“I'm just trying to make a living.”

“I was here first.”

Farmers

are concerned about...

- ▶ Making a living
- ▶ Keeping good land in production
- ▶ Planting and harvesting on time
- ▶ Growing high quality produce
- ▶ Providing nutrients for crop production
- ▶ Controlling plant diseases and pests
- ▶ Environmental regulations
- ▶ Adequate supply of labor

“I’ll just make his life miserable,” *“I’ll just make his life miserable,”* *“I’ll just make his life miserable,”* *“I’ll just make his life miserable,”* *“I’ll just make his life miserable,”*

Conflicts over interests. Conflicts over concerns. Conflicts over the interpretation of laws and regulations. Each party believes its interests and concerns are paramount. Each party believes its facts are accurate, its take on the situation true and clear. Farmers and neighbors often do not talk to each other about the problem.

- Or...** One party is not satisfied with the response of the other.
- Or...** One party doesn’t understand the other’s point of view or the other’s fears.

And sometimes both sides think about escalating, which in turn raises the specter of reprisal.

But farmers and neighbors have more constructive options besides ignoring each other, shouting, or threatening. They can build understanding and work on reconciling their differences in a way that leads to win-win outcomes. Because doing so...

- saves time
- saves money
- saves aggravation
- avoids hurt feelings
- builds trust
- builds relationships
- builds communities
- generates outcomes more likely to meet everyone’s needs

So, when a conflict threatens to spin out of control, what can you do?

Try a different approach to resolving conflict. Empower yourself and your community. Reach out to people with collaborative problem-solving skills. People like mediators or facilitators who can help parties in conflict move beyond accusations, anger, and frustration to instead focus on issues, mutual interests, and problem-solving strategies.

Collaborative community problem solving

helps farmers and neighbors resolve conflicts in a manner that builds trust and enhances community understanding.

to
learn
more,
read
on...

The Rural Landscape

NEW YORK'S AGRICULTURAL SECTOR

Farming is a big deal in New York: a \$3.5 billion industry that accounts for thousands of jobs on farms, in processing plants, in supplier operations, and in retail stores and restaurants. We have about 37,000 dairy, fruit, vegetable, horticulture, hog, poultry, and other livestock farms, which cover 25% of the state's land mass. Our farms supply us with more than just food: in particular, lush landscapes of rolling green fields, carefully tended orchards, and serenely grazing cows.

Diversity reigns. Dairy farms with 1,000 cows and 20 employees and dairy farms with 40 cows and one part-time employee. Fresh market crops like apples and sweet corn, processed crops like cabbage and beans, and value added products like goat's milk cheese and table wine. Full-time and part-time operators. Farms that have been in the family for generations and farms operated by first generation farmers. Products sold directly to supermarkets, to commodity buyers, and to consumers on the roadside or in farmers' markets. Products for export and products for domestic consumption.

Although New York ranks in the middle range nationally for cash farm receipts, we're near the top in several key categories:

2nd in apples
3rd in milk production
3rd in wine & juice grapes
6th in vegetable harvest

Farmers must be doing really well. Right!?!

Well, not quite.

Farming is a tough and risky business. There are many factors farmers can't control:

Weather
Cost of supplies
Product prices
Global and domestic competition
Trade and foreign policy
Taxes

Other factors add stress to farmers' lives:

- ▶ Environmental concerns
- ▶ Community relations
- ▶ Complex financial arrangements
- ▶ Unstable and sometimes inadequate labor supply
- ▶ Changing technology
- ▶ Pests and disease
- ▶ Uncertainty over federal farm policy
- ▶ Interpersonal dynamics of a family business

Here's the bottom line. Some farmers run profitable operations and enjoy a comfortable standard of living. Others earn more modest returns and count on outside income from a spouse or a second job. Still others may have trouble paying farm expenses. Most farmers will tell you they love their work and way of life, even with the challenges and stresses. But regardless of size, profitability, or product, farming is a 24/7 commitment.

New York farms have become more productive over the years while the total amount of acreage farmed has declined. More than 225,000 farms were spread across an expanse of nearly 23 million acres in this state at the turn of the 20th century. By the end of the century, fewer than 40,000 farms were left covering about seven million acres of land. Most land released from farming has reverted to forest. The rest has been “urbanized.”

What accounts for these trends?

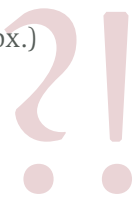
- ▶ Poor financial returns
- ▶ Marginal soils
- ▶ No heirs to take over
- ▶ High price offered for land (e.g., alternative use as housing or commercial development)
- ▶ Physical and mental exhaustion
- ▶ Technological change and globalization of markets

Meanwhile, the number of large farms has increased. Technology tends to favor expansion by letting farmers benefit from economies of scale. Farmers save on labor and time by making greater use of their machinery. Imagine a highly automated milking parlor. With the latest equipment and up-to-date design, one person can milk 120 cows an hour. But a milking parlor can cost close to \$1 million, which means the farmer needs a minimum of several hundred cows to justify the investment. Now consider a more traditional, lower-tech barn. Given the equipment and design limitations, one person may be able to milk 40 to 50 cows an hour. It's hard to keep a large herd with this kind of setup.

Bigger happens to be preferred by many food processors and retailers as well. In the fruit and vegetable sector, priority is often given to producers who can consistently deliver pre-determined quantities of product while meeting quality, size, and packaging specifications.

But guess what? (And this is a neat paradox.)

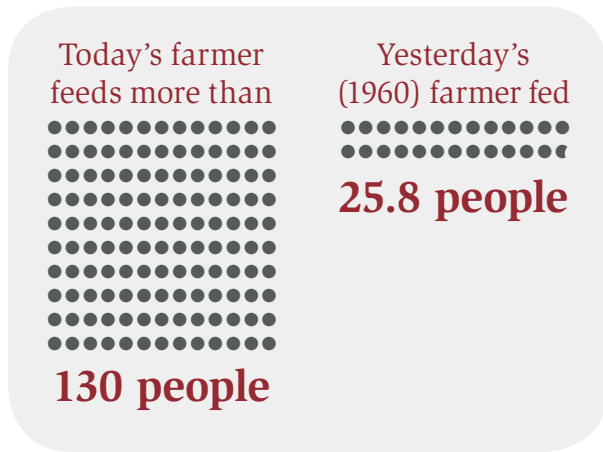
(The number of small farms in New York has also jumped in recent years.)



Think organic lettuce and eggplant, baby carrots and zucchinis, artisanal cheese from Belgian sheep. Small-scale operations, devoted to high value-added and niche products aimed at affluent urban and suburban markets, offer a fresh counterpoint to the standardization that is typical of large-scale enterprises.

FARMERS AND THE ENVIRONMENT

Farmers are part of America's heritage. They opened up vast tracks of land in New York State and on the American frontier. Agriculture was the bedrock of our early state and national economies. Today, American farmers feed a nation of 285 million people and a sizeable portion of the world population, as well.



Most farmers also try to be stewards of the land. As they fertilize and seed and harvest, they help our society preserve and protect the land for current and future generations.

And yet, they sometimes face a dilemma: how to balance concerns about conservation and the environment with concerns about economic viability. To farmers, these often seem like competing interests. Finding the right mix can weigh heavily.

"I need to make a profit off my land. I don't need the government or nosy neighbors telling me what to do."

"My farm abuts a stream and I certainly don't want to pollute my own drinking water."

"I'm mindful of the regulations and my neighbors' concerns. I spend a lot of time trying to follow the regulations without going broke."

"If I don't protect and care for my land, I'll lose my biggest investment."

The pressure is on. Since the mid-1980s, the environment and personal health have been linked in consumers' minds. That means closer attention to the impact of farming practices on the air we breathe, the water we drink, and the food we eat.

"I'm OK with a worm in an occasional ear of corn. But pesticide—no way!"

Most farmers are mindful of these concerns. Even as they use chemicals to help protect their crops, many also follow environmentally sound "best management practices" such as:

- strip cropping
 - grass buffers near streams
 - integrated pest management
 - secure manure handling systems

They work with Cornell Cooperative Extension educators, and with consultants, government agency representatives, farm suppliers, and bankers to find and implement cost effective methods that pass environmental muster.

"I follow a strict nutrient management plan that tells me the best time to spread manure on my fields. It's cheaper than buying fertilizer. It's also more natural."

But problems can arise because technology is not foolproof.

“Yuck. The odor from your fields is awful. And that lagoon really stinks even if you just installed the latest storage and handling equipment.”

Technology also keeps changing.

“How do I know the best time to invest in some new machine or process? Every time I turn around, there’s a newer and better idea.”

Moreover, new technology is expensive. Farmers in environmentally sensitive areas, such as watersheds that contain fish spawning streams or reservoirs filled with drinking water, may qualify for government assistance through matching funds or grants when they install new equipment or update their practices. But farmers outside these priority areas may be less likely to receive cost-share funds. Without some financial support, farmers may not have the resources to invest.

“If I have to buy that new sprayer, you know, the one with ‘eyes’ that see the trees and let me cut down on excess chemical use, I might as well chop down the whole orchard.”

Farmers, like the rest of us when faced with too much uncertainty and too many choices, may opt out for a while, watching and waiting until the technology is proven by others and becomes more affordable.

NEIGHBORS AND FARM LABOR

Another sort of environmental conflict sometimes arises in rural areas. That is, conflict over a changing community environment.

“What is happening to this town? Who are all these people?”

*“Apples don’t ripen at my convenience. They need to be picked *now*. Those workers help me harvest the crop.”*

“We just added another 200 head. These folks have a job to do; they milk and feed our cows.”

Foreign workers are increasingly common on New York farms. In some communities, conflict arises over their presence. Neighbors may resent the flood of new arrivals who come for jobs that last from several weeks to several months and others who settle in for what seems to be the long haul. They may have concerns about whether farmworkers are paid fair wages and provided adequate housing. Neighbors also worry about how these workers fit (or don’t) into the community.

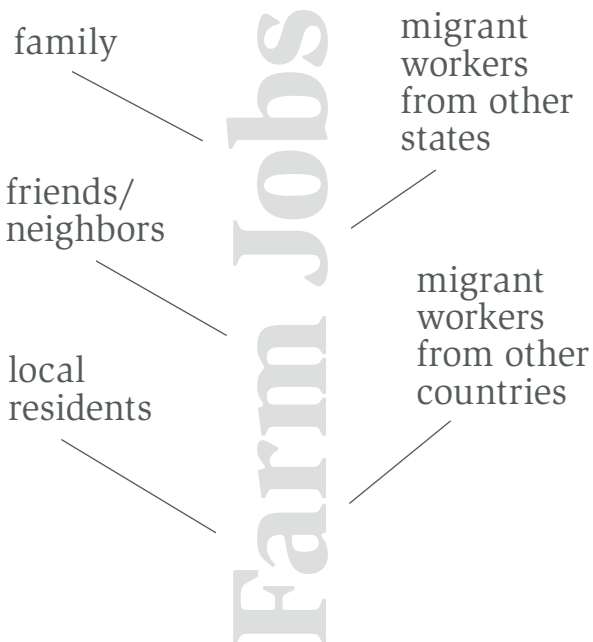
It used to be that farm families supplied almost all the labor needed on the farm. As farms grew larger, farm operators began hiring labor from the local community. During peak season, farmers turned to friends and neighbors for help. By the mid-20th century, some farmers in New York State were recruiting African-American workers who migrated from southern states to work the harvest.

But times have changed. Local residents aren't as eager to take farm jobs as they once were, and southern workers have found work back home. Still, farms are getting larger and farmers' demand for labor keeps growing.

"My dairy farm employs two full-time milkers. When I was a kid, my dad managed with my mom, my sister and me."

"Since we bought that vegetable farm down the road, we can't handle the work load ourselves. Every summer I have to bring in crews from out-of-state."

Mexican-Americans, Mexicans, Guatemalans, and others from Central America now supply an increasing amount of the labor to New York



farms. And they are changing the social environment in many rural communities. These immigrants, legal and illegal alike, work and usually live on local farms. They shop in town and send their children to local schools. Some stay in the state year round and others come for the harvest season only. They bring their language, their customs, and their own group cohesion.

Both new and long-time residents may have trouble adjusting. For some, the look and feel of the community are no longer familiar. They may be suspicious of "foreigners." They may worry about the impact on property values, on educational quality, on crime rates, on the demand for social services.

"All these Hispanics in the stores and wandering around town. They don't speak English; they look scruffy; their camps are an eyesore."

"Who's going to pay for that new migrant health clinic? I sure can't afford higher taxes."

Likewise, farmworkers may not feel welcome in local communities. They, too, may have trouble adjusting. The culture, the language, the laws, the surroundings. All new, all different.

"I just want to buy some food. Why is everyone staring at me?"

"I work hard for my money. And I save a lot, too. My family in Mexico depends on me."

New York agriculture needs workers to keep production going. And with local labor in short supply, farmers will continue to look beyond the state's borders for help.

THE RURAL-URBAN INTERFACE

The face of rural New York is changing. Here, as elsewhere in the U.S., the siren song of country living calls loudly to city dwellers and suburbanites. They come seeking open spaces, quiet, and a slower-paced lifestyle. This demographic shift is most noticeable in the Hudson Valley, the lower Catskills, and the greater Rochester area.

But when these newcomers arrive, they find themselves smack in the midst of rural reality that is not always trouble free.

Many are shocked. Many get angry. Many are unfamiliar with the customs of the community. They have no long-standing relationship with long-term residents. They lack knowledge of commonly accepted farming practices and relevant laws and regulations. What they do know is that their expectations about life in the country are being violated. So the neighbors voice their concerns. Loudly. They call the town board. They call state and county regulators. They call the Soil and Water Conservation District. They call Cornell Cooperative Extension. They write letters to the local newspaper. They circulate petitions. And sometimes they call a lawyer.

But are protests, court proceedings, and harassment the best way to resolve the problem? Probably not. All too often, the farmers get defensive. The neighbors feel frustrated. Communication stops. Community relations fray.

“Their cow broke my fence and wandered into my yard.”

“Do you believe it? The farmer next door was running some giant piece of equipment at full throttle—and the flood lights were shining right in my window—at one in the morning!”

“I can’t drive down the road without running into some tractor or running over some cow dung.”

“The guy across the way is actually dropping weed killer from an airplane. It’s not safe to breathe around here.”

“That manure is polluting my well. I’m going to file a lawsuit.”

“I can’t even go outside. We’re being assaulted by flies. That farmer is looking for trouble.”

“I moved here for my kids. But all that’s happened is we traded city traffic for noisy equipment. Now we worry about pesticide drift instead of exhaust fumes and wandering livestock instead of lost pets. And don’t get me started on the illegal immigrants. This has got to stop!”



So what's the alternative?

Here are a few suggestions for productive farmer-neighbor interactions:

- ① Farmers provide neighbors with information about the farm (hold an open house; send newsletters) and how to contact the farm owner with questions and concerns.
- ② Neighbors contact the farmer immediately and directly when problems arise and treat the farmer with respect when sharing concerns or asking questions.
- ③ Farmers and neighbors openly and calmly discuss what constitutes normal and acceptable farming practices.
- ④ Farmers are mindful of neighbors' concerns and anxieties.
- ⑤ Neighbors understand the financial and technical constraints that may affect the farmer's ability to address their concerns.
- ⑥ Neighbors respect the economic and social context of farming.
- ⑦ All parties seek to compromise on a practice or intended outcome and allow for a reasonable transition period.
- ⑧ Farmers and neighbors call upon social and economic supports, including individuals and organizations, that can assist them through a potentially difficult conflict management process. This may involve facilitation and conflict resolution programs and resources that can assist farmers and neighbors in finding a mutually acceptable resolution of the problem.

This model can be turned into reality.

And you can make most of it happen on your own. The last two suggestions, which often require outside assistance, are discussed in Chapter 4, *The Process*. But first, we'll explore one other preliminary topic: the laws governing agriculture. The next chapter contains an introduction to the legal and regulatory framework within which so many conflicts unfold.

The Laws and Regulations

Note to readers of this manual: *The following is not a legal document. It provides brief summaries of several relevant laws and some hypothetical situations that are intended only as examples to liven up the text. If you have any questions or concerns about farming practices or neighbors' actions, please contact any of the resources noted on pages 35-36 or call an attorney.*

Farming is an art and a science. Ask any farmer how he or she decides which fields to work first, when a hay crop is ready to bale, or whether an animal needs some TLC. The farmer is likely to shrug and say something about soil drainage and which fields face south, the velocity of wind and intensity of sun, and the look in the eye and sound of the moo of a favorite cow. But the very same farmer is sure going to use exacting instrumentation to test the sweetness and crispness of the fall apple crop, to measure proportions for a pesticide application, to count bacteria in the milk tank.

Farming is also humanity's oldest economic activity. Like other human pursuits, farming generates its share of byproducts, some of great value and some we'd like to be rid of. The desirable offshoots include the food we eat and the country landscapes we enjoy. The undesirable but occasional side effects can range from noise, odor, and dust to polluted streams from manure and drift from pesticides whose chemical components many of us can't pronounce.

It is these unwanted effects that most often lead to complaints by neighbors and demand for regulatory controls.

"We shouldn't have to worry about noxious fumes in the air and unclean drinking water."

"The farmers think they own the roads around

here. They drive their equipment from field to field at five miles an hour and you can't get past them."

"These farmers just ignore us. It's time for the town to do something about these problems."

Not surprisingly, a host of laws and regulations governing agriculture have been adopted over the years. Most try to balance the art and the science of farming without undermining its economic viability. In other words, the laws recognize variance in conditions and practices within this diverse profession while respecting the precision that modern technology makes possible. In doing so, they also seek to balance the competing interests of farmers, neighbors, and society as a whole.

"This is my farm and you can't stop me from building a new barn."

"I want to enjoy my weekends and you're taking away my peace and quiet."

"I don't want to find blemishes on the apples or bugs in the lettuce."

The primary objective of state and federal laws governing farming is to protect the environment and the health and safety of communities. Other state laws, as well as local laws, mean to preserve farming as a preferred use of land resources and a viable sector for rural economies.

This second set of laws are commonly known as “right-to-farm” laws, and in New York State, at least, they limit most efforts on the part of local residents to “unreasonably restrict sound farming” activities in identified farming zones.

CATEGORIES OF LEGAL CLAIMS

Still, neighbors have their share of complaints. And sometimes their concerns and worries about farming practices turn into legal claims. These legal challenges generally fall into four categories:

- ▶ Negligence
- ▶ Trespass
- ▶ Violation of environmental laws
- ▶ Nuisance

NEGLIGENCE

“**Haste makes waste**” as the old adage goes, and it can certainly get a farmer into trouble. Neighbors affected by what they perceive to be lax farming practices may decide to file a claim of negligence in court. Negligence is a cause of action against a farm that can arise from careless actions or failures to act that result in injury to a person or damage to property.

“That farmer is so lazy. He didn’t bother to rebuild the broken fence in the pasture so the whole herd broke free and trampled my raspberry bushes. And that crop was coming in real good; it would have brought me hundreds of dollars down at the farmers’ market.”

If a court finds the farmer guilty of negligence, the judge will require financial payment to the injured neighbor for damages (losses sustained) and may levy an additional fine to punish and deter similar behavior in the future. Examples of negligence are inadequate supervision of employees, allowing cattle to stray, and failure to maintain equipment or facilities.

Betsy and her family own an apple orchard a few miles out of town. It’s harvest time and she tells Sergio to hitch a tractor to a wagon packed with full apple crates. This is Sergio’s first season with the farm and he has little experience hauling heavy loads. As he drives along the edge of the orchard, the wagon tips over and spills the crates and apples into the road. At that very moment, Steve drives by and swerves to avoid the obstruction. The car ends up in a ditch with damage to its front end, and Steve is transported by ambulance to the emergency room. The police cite Sergio for traffic violations and predict that Steve will file charges of negligence against Betsy for inadequately supervising her employee.

Every fall, Rick lowers the manure level in the storage facility on his dairy farm as he prepares for the coming winter. He applies several loads of manure to a harvested corn silage field upslope from his neighbor's property. But one day, the tractor and manure spreader get stuck in a wet spot. He unloads the spreader into what becomes a soupy pile in order to lighten the load and get the tractor moving again. He leaves the pile, intending to distribute it with a bucket loader the next day. But heavy rains hit the area that night and wash the manure pile across the fence and onto Joe's and Linda's property. A few days later, they talk to a lawyer about filing a trespassing charge against Rick.

TRESPASSING

The meaning of trespassing seems fairly straightforward: walking onto someone's property without his or her permission. This kind of trespass in farm country is most often a complaint by farmers about nonfarmers.

“Hey! Didn't you see the sign on that gate? It means 'keep out.' Now get out before I call the sheriff.”

But trespassing in an agricultural setting can mean something more. Recent court rulings have declared that the movement of chemicals, soil, or animal waste across property lines also constitutes a trespass. Such a determination is almost certain if the incident deprives a person of the use or enjoyment of his or her property.

“The spring thaw hit pretty fast this year. Mud from Bill's field over there washed into my yard, killed my grass and went right into my pool.”

Farmers beware. Herbicide drift, sedimentation from an eroding field, and liquefied manure washing across the property boundary can constitute a trespass. If a court finds the farmer guilty, the judge can award monetary damages, require actions to prevent future trespasses, impose a punitive fine, or even order jail time.

VIOLATION OF ENVIRONMENTAL LAWS

Concern about the environment has been a hot political, social, and economic issue for several decades. In response, federal, state, and local governments have enacted many kinds of environmental laws with a variety of environmental goals. The laws' most basic goal is to maintain or improve the quality of air, water, and wildlife habitats by reducing the flow of contaminants into the environment that results from human activity. And yet, cities and towns, real estate developers, residents and consumers, manufacturers, farmers, and naturalists all continue to be embroiled in tussles over the environment.

“The factory up the hill is belching smoke as black as tar. The smell is unbearable and everyone around here is coughing like crazy.”

“The birds don’t come around any longer and the whole ecosystem seems out of whack. I don’t know anything about farming but I’ll bet it’s because of all the herbicide the farmers are using.”

Environmental laws are violated when the damage is noticeable or when the risk of damage to natural resources has increased. Convicted violators are charged for the value of damages sustained and for clean-up costs. They must also pay a penalty for breaking the law and sometimes an additional fine for the legal cost of prosecuting the case.

Farmers have often been the target of environmental suits. Livestock operations generate manure, which can run into a creek if it is not properly stored and applied to cropland. Orchards require pesticides, which may poison wildlife if handled carelessly and instructions on the label are not followed. Note to neighbors and farmers: Even where states and localities pass laws to protect farmers’ general right to farm, environmental scofflaws are made to pay.

NUISANCE—PRIVATE AND PUBLIC

Farming is not always neat and tidy. No matter how careful and particular a farmer may be, acceptable and sound farming practices sometimes generate odors, noise, and dust.

“Irritants, all! What are we going to do?”

Indeed, there is a long-standing relationship between nuisance claims and agriculture. From a legal perspective, a nuisance is an activity that causes unreasonable and substantial interference with another’s quiet use and enjoyment of his or her property. In rural areas, odors are the most common cause of nuisance claims. Noise, flies, and dust may also be problematic.

“I don’t own a clothes dryer and every spring I have to worry about hanging my laundry outside. The dust kicked up by the farmer’s plow always messes up my clean sheets.”

The doctrine of nuisance is a common law concept that evolved over the centuries as judges settled disputes between individuals. It cen-

Winters on George’s dairy farm

require some routine maintenance, including removing snow from his bunker silo and piling it alongside the structure. After the spring thaw, what remains of the snow pile is the corn silage that was scooped up while George cleared the snow. George normally cleans up the silage residue by moving it to his fields when he spreads manure. But this year, things were different. The winter was particularly snowy and he had no choice but to push the snow farther back toward the ditch running behind the bunker. When spring arrived, he left the old silage in place and as the temperatures warmed, the pile started to ferment. After a heavy spring shower, runoff from the silage entered the ditch and traveled to a nearby stream, causing several fish to be killed.

ters around two corresponding property ownership principles:

- property owners have the right to use and enjoy their property free of unreasonable interference by others
- property owners cannot use their property in a manner that may cause injury to others.

Nuisance law makes it possible to sue a neighbor whose actions adversely affect your property. The suit can ask that the neighbor stop

the activity and/or reimburse you for lost value (i.e., damages). Activities that a court finds to be “unreasonable” for the local area and cause “substantial interference” with neighboring land are considered nuisances.

➤ **A private nuisance** generally involves two parties.

“I don’t know what he’s burning down there, but he’s got a fire going every night and I can’t stand the smell.”

Story of William Aldred vs Thomas Benton

One of the first records of a court case involving a conflict between a farmer and a neighbor was heard in England in 1610. William Aldred sued his neighbor, Thomas Benton, for erecting a pigsty near Aldred’s house. The court ruled in favor of Aldred, but Benton appealed. He argued that “the building of the house for hogs was necessary for the sustenance of man and one ought not to have so delicate a nose that he cannot bear the smell of hogs.” The appeals court rejected Benton’s claim and found his pigsty to be a nuisance.

This early English court deemed society should protect four things in a home—habitation by man, the pleasure of the inhabitant, necessary light, and wholesome air. Society’s standards for the comforts of the home have changed little

since. The Aldred-Benton case defined the key issues still considered in farming nuisance disputes: is the use alleged to be a nuisance reasonable for the area and does it substantially interfere with neighboring property?

The problem exemplified by the pigsty story—conflicts between neighboring uses—is the basis for local zoning ordinances. Zoning is built on the idea that incompatible uses ought to be physically separate. Zoning laws adopted by rural local governments typically specify zones permitting agricultural uses. Few if any local zoning ordinances in New York State, however, have created zones exclusively for agricultural purposes. More common are agricultural districts, described on page 20.

› A public nuisance

is interference with the rights of a substantial portion of the community. Oftentimes, the nuisance is believed to threaten the health and/or safety of community residents. The plaintiff in a court action alleging a public nuisance must be a public entity, such as a town board or county or state prosecutor.

“Don’s and Carol’s farm may be the only one left around here, but we’re all up in arms about the workers they bring in every summer. The noise level at night is awful, especially on Saturday. That camp’s a nuisance; the neighbors want it closed down.”

The dilemma is obvious. Farmers trying to do their work and neighbors trying to protect their property and lifestyle. What’s to be done? They could talk it over. They could complain to the town supervisor. They might even take the conflict to court.

“No judge will let you get away with that! Your farm has caused me nothing but aggravation since I moved in here.”

“We’re not doing anything illegal. I have the right to plow my fields, hire workers, and keep animals. Get off my back.”

› In sum...Nuisance suits are often just that: angry and desperate attempts to change something you don’t like, even if it’s legal. But many states and localities have decided that farming is a land use that generates value and is worth protecting. To ward off nuisance suits that would otherwise interfere with farmers’ right to farm, many communities have passed legislation pro-

tecting farms from private nuisance suits so long as the farm’s practices fall within some norm or industry standard. Farmers are not similarly protected from public nuisance claims.

RIGHT-TO-FARM LAWS

Starting in the 1950s, the appeal of life in the urban fast lane began to wane. People moved from the city to the suburbs in large numbers. The suburbs soon filled to overflowing and spread into rural areas. Some people even skipped over the suburbs altogether and headed straight for the country. Others bought weekend and summer retreats in remote villages and towns.

“The scenery is stunning out here. And I just love waking up with the sun.”

“I feel really close to nature now. I can smell the grass, hear the birds, and watch the deer feed in my yard. And the best thing is, it’s safe!”

With more people came demand for more houses. Soon houses were eating up farmland.

› And then, conflicts arose.

“Do we put another strip mall here and housing development there?”

(think how much tax revenue we’ll get)

or

“Do we preserve open space and farmland?”

(and help sustain the viability of the local agricultural economy and the natural beauty of our landscape)

Trying to find the middle ground between these two positions, all 50 states have adopted right-to-farm laws. Right-to-farm laws recognize the unfairness that nuisance law can impose on farms when people unfamiliar with farming practices move into traditionally agricultural areas.

“The animals sure look peaceful, but boy do they smell. I have to hold my breath when I go outside. I’m going to demand the town do something about this.”

“Who does she think she is? My family’s been farming here for 60 years and she just waltzes in and thinks she’s going to impose her city ways on us. She’s got a lot of nerve!”

Right-to-farm laws generally override other laws on farm property usage. Here in New York, right-to-farm laws are very supportive of sound farming practice; more so, in fact, than in some other states. Parts of Iowa’s right-to-farm law, for example, recently were deemed “an unconstitutional taking of property rights.” The Iowa court was concerned about the law’s broad protections of farmers in the absence of clearly defined due process. By contrast, the New York law requires a case-by-case determination of sound agricultural practices. The New York State Supreme Court-Appellate Division ruled in 1998 that the right-to-farm law did not violate procedural due process. (*Pure Air & Water, Inc. v. Davidsen*, 246 A.D.2d 786; 668 N.Y.S.2d 248; 1998 N.Y. App. Div. LEXIS 294; appeal denied 91 N.Y.2d 955; 694 N.E.2d 885; 671 N.Y.S.2d 716; 1998 N.Y. LEXIS 975)

Article XIV of the New York State constitution declares:

“The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural land for the production of food and other agricultural products.”

In other words, the legislature is obligated to provide for the protection of agricultural lands. Even so, farm practices that are unsound, unsafe, unreasonable, or illegal are not protected by right-to-farm laws.

NEW YORK STATE AGRICULTURAL DISTRICTS LAW

The Agricultural Districts Law, Article 25-AA of the Agriculture and Markets Law, is the centerpiece of state and county attempts to preserve, protect, and encourage agriculture. The agricultural districts program is based on a combination of landowner incentives and protections designed to discourage the conversion of farmland to non-agricultural uses. County legislatures can set up agricultural districts and landowners can enroll their farms in these districts. Eligible farmers make their own decisions about participating.

“Here we go again—another layer of government bureaucracy. Count me out.”

“You might want to reconsider. There are good reasons to sign up.”

Indeed there are. One way farmers benefit from the Agricultural Districts Law is through relief from property taxes. The law stipulates that

Good reasons
for enrolling in an
agricultural district:

**tax relief and
protection from
nuisance suits**

real property assessments for enrolled farms must be based on the land's value for agricultural production rather than on its development value. The law even has a special provision allowing farms outside of agricultural districts to apply for this

benefit. The New York State Department of Agriculture and Markets estimates that participating farmers collectively save more than \$70 million a year in tax payments to local governments.

Perhaps the primary motivation for registering a farm is the protection farmers get from nuisance suits. Section 308 of the Agricultural Districts Law is the right-to-farm provision, which states that sound agricultural practices undertaken in an agricultural district shall not constitute a private nuisance. Farms not enrolled in an agricultural district, however, do not qualify for this protection. So before calling a lawyer, neighbors should make sure the farmer is really doing something he or she shouldn't be doing. Otherwise, if the farm is registered in an agricultural district, there is no basis for a "nuisance" legal action. (See *The Resources* at the end of the manual for places to contact about agricultural districts and sound farming practices.)

"Think about all those chemicals floating in the air every time they spray the corn. It must be dangerous. I've told them to cut it out. Now I'm going to file a suit, and then they'll have to stop what they've been doing all these years."

"Not so fast. The farmer has the right to grow that corn, even if it means spraying the fields to keep out the bugs. If this is a nuisance claim, don't waste your time."

Well then, how do neighbors know if their complaints are valid?

For starters, they can talk to the farmer and ask for information. They can contact the local Agricultural Farmland Protection Board (AFPBs advise county government on agricultural issues and develop plans to preserve and protect agriculture) or the local Cornell Cooperative Extension office to learn more about the farming practice in question.

Agricultural
Districts

**New York State
Statistics**

(as of January 29, 2003)

- Number of
Counties with AFPB
52
- Number of
Agricultural Districts
225
- Number of
Farms in Districts
21,425
- Total Acres
in Districts
8,464,791
- Total Acres
Farmed in Districts
6,140,157

If neighbors are still not satisfied, they can send a written request outlining their concerns to the Agriculture and Markets commissioner. With the permission and cooperation of the farmer involved, the commissioner will investigate the situation (and may solicit opinions from agricultural experts) before deciding whether the practice is sound. Each decision is made on a farm-by-farm, case-by-case basis. The commissioner follows four guidelines when making a determination:

- ▶ the practice must be legal
- ▶ the practice must not cause bodily harm or property damage off the farm
- ▶ the practice should achieve the results intended in a reasonable and supportable way
- ▶ the practice should be necessary for continued operation of the farm.

Public nuisance claims are another matter.

The Agricultural Districts Law does not explicitly protect farms from a claim of public nuisance. Farm practices that pose a safety or health hazard to the community may wind up in court if a government entity is willing to bring charges against the farmer. Local politics often affect the course of public nuisance complaints.

“Have you noticed the number of kids who get sick every spring? I’ll bet it has something to do with the farm outside of town.”

“We’ll just pass a law that says farmers can’t raise pigs. If that doesn’t work, we’ll go to the

local prosecutor. She’s usually sensitive to the farmers’ view, but this time we’ll apply a little pressure and maybe she’ll go to bat for us.”

Not so fast. Section 305-a of the Agricultural Districts Law, and Section 283-a of Town Law and Section 7-739 of Village Law, set limits on local government actions. These sections protect farming by prohibiting local governments from enacting and administering comprehensive plans and ordinances that would unreasonably restrict farm operations in an agricultural district. The Agriculture and Markets commissioner would have to make a clear determination that such ordinances would eliminate a threat to the public’s health or safety before any restrictive laws could take effect.

“What gives Albany the authority to tell us what to do?”

In recent years, application of Section 305-a has raised questions about the extent to which farm practices are protected in agricultural districts. “Home rule” is a strong governing principle in New York State. Counties, towns, and villages have broad powers to enact laws governing their own affairs. Home rule is exercised under the Agricultural District Law when a county legislature first votes to participate and then renews its agricultural district every 8, 12, or 20 years. Section 305-a, however, is one example in which state law restricts local government authority. Several times in the past few years, local efforts to address complaints about farms, particularly those concerning size, odor, and manure handling, have been overridden by this section of state law.

water, air, and land

WATER QUALITY LAWS AND REGULATIONS

The federal Clean Water Act is the primary piece of legislation regulating large livestock farms. It specifies livestock farms of certain sizes and meeting certain conditions as “concentrated animal feeding operations” (CAFOs). The act defines CAFOs as “point sources” of water pollution and requires them to operate under a state or federal discharge permit.

“The 250 cows in my herd couldn’t possibly cause enough pollution to concern anyone. I have new storage equipment and plenty of acreage for spreading the manure.”

“You may be doing a good job but what about the poultry farm down the road? He’s got thousands of birds in his flock and chicken manure is really raunchy.”

In New York State, the General Permit GP-99-01 for CAFOs became available in July 1999. The regulation requires all poultry and livestock farms with animals whose combined body-weight equals more than 300,000 pounds to operate under a permit. (Note: The rules will change in 2004.)

Say what? In everyday language, that’s about 200 milk cows, 750 finishing pigs, 15,000 egg layers or 37,500 broilers. Don’t forget horses, cattle, veal calves, heifers, and ducks. The Environmental Protection Agency (EPA) has a headcount equivalent for these animals as well. Any farm meeting these minimums must register with the state’s Department of Environmental Conservation (DEC) and operate under a CAFO permit.

The permit spells out several obligations. Covered farms must:

- maintain an ongoing professional relationship with a state-certified agricultural environmental planner
- develop a comprehensive nutrient management plan that meets specific standards
- maintain records demonstrating the operations are within the plan.

The plan must also address treatment of wastewater and contaminated runoff from the farmstead, erosion control of cropland, and application of manure and fertilizer to cropland. Compliance inspections of CAFOs occur on an ongoing basis.

Water quality is also a state concern. The New York State Environmental Conservation Law prohibits discharge into lakes, rivers, streams, and the like that degrades or damages natural resources. Conservation officers are required to investigate reports of slick, foaming, or discolored lakes, rivers, and streams; fish and wildlife kills; and other obvious signs of pollution. DEC has several enforcement options for dealing with illegal polluters.

“It’s really dark tonight. No one will ever know I dumped this stuff out here.”

“Oh, man. Someone must have emptied barrels of chemical goop into the lake. See the globules floating on the surface? We need DEC to check it out.”

water

Concentrated
Animal Feeding
Operations
(CAFOs)

point sources for



manure
contaminated
runoff

causing



slick, foaming
or discolored
lakes, rivers
and streams
fish kills
polluted wells

PESTICIDE LAWS AND REGULATIONS

The Federal Insecticide, Fungicide and Rodenticide Act establishes procedures for registering pesticides with the U.S. Department of Agriculture. It also requires the EPA to regulate the use and sale of pesticides to protect human health and the environment. In order to use certain restricted pesticides, farmers and professional applicators must be certified; they can earn this certification by attending courses, passing a certification test, and maintaining continuing education credits.

FEDERAL AIR QUALITY LAWS AND REGULATIONS

Many of us take the air we breathe for granted. If you can't see it, smell it, or taste it, it's probably OK. Or so you think. Tiny particles of dirt and toxins can waft through the air undetected by most folks. The Federal Clean Air Act is supposed to insure the outcome suggested by its name.

Farming has historically benefited from a broad exemption from the act. Odors have been the major air quality issue involving agriculture, and odors are not included in air quality standards. More recently, though, concerns about particulate matter have raised questions about the farming exemption. The recent renewal of the act set standards for fine particulate matter emanating from human activity. Common culprits: vehicle exhaust, coal-fired power plants, and municipal waste treatment facilities.

"See that haze? That's a lot of fine particulates floating through the air. Too many little particulates and some folks may have respiratory problems."

Agriculture is a human activity, so ammonia emissions may fall under the new air quality regulations. Ammonia, a compound released from animal (and human) excrement, combines in the atmosphere with sulfur dioxide and nitrous oxide to form fine particulates. Live-stock manure and fertilization of crops are the major sources of emitted ammonia. Recent court rulings in California may force stringent controls on these farm emissions in the future.

air

animal
excrement

emits



ammonia

combines with



atmospheric
sulfur dioxide
and
nitrous oxide

forms



fine particulates

resulting in



smog, haze, and
poor air quality

“Hurrumph. Just one more thing for me to worry about, pay for, and argue about with my neighbors.”

AGRICULTURE AND ENVIRONMENTAL MANAGEMENT PROGRAM

Recall the discussion from the previous chapter. Most farmers try to be stewards of the land. Most try to protect and preserve their land and respect the surrounding environment. But sometimes, economic and other factors interfere with this goal.

“Prices are way down this year but my costs keep rising. How can I afford to focus on the environment when I can barely pay my bills?”

New York State has given farmers at least a partial answer to that question. The Agriculture and Environmental Management (AEM) program, up and running since 2000, is an incentive-based program that helps farmers operate environmentally sound and economically viable businesses. The program coordinates existing agricultural and environmental conservation consultants and public programs for one-stop shopping for services such as cost-sharing or technical advice about conservation practices on the farm.

“Now I can make just one call and get the answers I need.”

“Cost-share funds let us improve our barnyard and make it easier to properly handle our manure and keep runoff out of the creek.”

Farmers work with these professionals to identify and address environmental concerns around their farmsteads and in their fields.

“I know that farmer is trying to do the right thing. He’s been talking to all us neighbors about the consultant’s suggestions and how his new plan will protect the environment.”

The federal EPA has hailed AEM as “an innovative state program that has put NYS in the forefront of the national effort to help farmers identify and address agricultural nonpoint source pollution.” (FYI: Nonpoint source pollution occurs when water moves naturally across the landscape picking up pollutants, and its place and time of origin cannot be determined.)

CONCLUSION

“So this is what farmers must deal with 24/7. All these rules and regulations. I didn’t know. Maybe if we had just talked about this and shared some information, there wouldn’t be so much misunderstanding.”

“Well, the neighbors have their complaints and concerns but I have my rights. There’s got to be some way we can manage this.”

The next chapter will give you some pointers.

The Process

Conflict is no stranger in our personal or business lives or in the life of our communities.

It often has a way of catching us unaware. A series of seemingly harmless comments. A rush of annoying behaviors. A string of offensive actions. Suddenly everything explodes. Anger. Frustration. Resentment. Helplessness. Rage.

“I’m just fit to be tied. First she says the tour guide won’t answer her questions. Then she starts on the accommodations. Now she’s got the whole group riled about the food, the itinerary, you name it. And we’ve got another whole week of this trip.”

“Every night it’s the same thing. Loud, obnoxious, indecent music. If he doesn’t turn that thing down, I’ll throttle him the first chance I get!”

And then the outcome. Alienation. Bad feelings. Hostility. Sometimes even violence. But conflict doesn’t have to end this way. Indeed, there are other ways to handle differences, disagreements, and intense clashes that preserve rather than destroy relationships and strengthen rather than divide communities.

“We don’t have to be enemies. Let’s talk.”

“There must be a solution we can all agree to...”

Information helps. Knowledge. Facts. Data. Real stuff to grapple with instead of raw emotions. That’s why there’s so much information in earlier chapters about farming, the environment, and laws and regulations. Even so, questions, disagreements, and conflicts will occur as farmers and neighbors go about their daily lives.

When problems arise, there is a range of ways to respond. All involve problem solving and the search for win-win outcomes. The simplest is direct communication between two neighbors. The most complex involves planning and participating in a large-scale community problem-solving process. The way to proceed generally depends on the situation at hand. Whichever approach you use, remember that productive interactions and increased trust result from:

- ▶ sharing information
- ▶ building common knowledge
- ▶ strengthening relationships

“Sounds pretty vague to me. Help me understand the benefit of a problem-solving process.”

Think back to the first two chapters, where we briefly talked about building understanding and reconciling differences in a search for mutually beneficial outcomes. The potential pay-offs from doing this include:

- ▶ savings of time, money, aggravation
- ▶ stronger interpersonal relationships and community ties
- ▶ agreement about ways to resolve problems
- ▶ self-sufficiency in dealing with problems
- ▶ more acceptance of, and satisfaction with, outcomes
- ▶ greater knowledge about controversial issues and engagement in civic life

First steps

What can you do when things next door are not as you would like them to be?

“I see him out there on the tractor every day. Just what is he spreading on those fields?”

“That new neighbor knows nothing about farming. And now he’s talking to the others about the noise from our tractor.”

“If they build a new barn, that means still more cows and more stink.”

“The town has no right to prevent me from expanding my farm.”

Begin by talking. This first step may be obvious, but is often ignored. Attempt to get answers to your questions. Provide helpful information directly. Make contact person-to-person.

One reason talking is so useful is that it builds relationships. And relationships make it easier to work through differences. Another reason talking helps is that it can prevent misunderstandings. All too often, people jump to negative conclusions without bothering to check if those conclusions are correct. Sometimes talking can clear up the facts. Sometimes talking can help clarify why other people are doing something you don’t like.

So when things are not as you would like them to be, reach out.

“Thanks for calling. I appreciate the information and reassuring answers.”

Whether you’re a farmer or a neighbor, your attitude and style are critical. Always approach the other person in a way that minimizes the chance of a defensive reaction. Here are some helpful hints:

→ **Don’t attack.** Even if you think you know what’s going on, your interaction is more likely to succeed if you approach your neighbor with respect and questions. **Try:** “I’ve heard that you’re concerned about the spray we’re using. Can I answer any questions or try to explain exactly what we’re doing?”

→ **Use “I messages” as much as possible.** Avoid accusations couched in “you” language. **Avoid:** “You wake me up at 6 am every Saturday morning.” Instead, state the problem in a way that clarifies and specifies the effect it has on you. **Try:** “I have trouble sleeping past 6 am on Saturdays because of the machinery noise.” This may take practice at first, but using this technique furthers productive communication.

→ **Ask questions.** Try to make them open-ended rather than attacks masquerading as questions. **Try:** “I don’t understand why you have to be out so early in the day. Can you please explain?” **Avoid:** “Didn’t you realize all that noise would make me up?”

“I’ll stop by Betty’s house so we can exchange information and explore the issues.”

Sometimes talking, information sharing, respect and reason don’t resolve your concerns. Still more obstacles block the way.

“How do I have a conversation with someone who doesn’t seem to listen?”

“How will we preserve, rather than damage, relationships?”

“How do we get agreement on the facts, rules, and regulations?”

“How will we handle complex, scientific, or technical information?”

“How can we explore the available remedies?”

“How do we agree on next steps?”



So consider other cooperative options. Often this means turning to an “honest broker,” someone trusted who can help you and your neighbor have a more productive conversation. Many times, the person who can offer the most effective help will have some training in mediation skills. It can be useful to involve a trusted third person even if you have some of these skills yourself. When the issue is more complex and involves many people and interests, try a community-based problem-solving process. Both two-party mediation and community-based problem solving are described below.

Second steps

Mediation. Let’s start with the simpler process, mediation by an honest broker. Mediation is a good second step when you and your neighbor are unable or unwilling to talk directly.

Mediation is a voluntary process. It involves a small number of people agreeing to meet and trying to cooperatively resolve their differences. The mediator facilitates the conversation without taking sides, giving advice, or pushing people to agreement. Mediation allows each person to gain clarity about options and resources. It also provides an opportunity for listening and considering someone else’s perspective. Once people are helped to talk without shouting and jabbing and defending, they frequently come up with an agreement that satisfies all those involved. If the mediation fails, the parties can pursue whatever other options exist for dealing with their concerns.

In New York State, the Unified Court System funds a mediation center in every county; the centers offer mediation services at little or no cost. Mediations conducted through these centers are confidential. Some Agricultural Farmland Protection Boards (AFPB) recommend mediation to farmers and neighbors in conflict. (See *The Resources* at the end of this guide for a Web address that lists these centers and information about contacting your local AFPB.)

Why mediate? Because mediation:

- ▶ encourages communication and cooperation
- ▶ fosters relationships
- ▶ allows people to shape their own solutions

- can be scheduled at dates and times convenient to the people involved
- focuses participants' energies on looking for solutions
- is cost effective.

Community Problem Solving. Mediation is a great way to deal with issues between a few people. But sometimes a lot of people want to weigh in on an issue. Sometimes a dispute between two neighbors taps into deeper concerns.

The whole community may start taking sides. Old timers. Newcomers. Farmers. Nonfarmers. Citizens. Advocacy groups. Regulatory agencies. Local government. This is when it may make sense to think about a “collaborative community problem-solving process,” also known as multi-party mediation. Whichever name you prefer, the process varies based on the complexity of the issues and the number of people involved.

A community problem-solving process is usually organized in response to an existing problem or situation. People realize they're stuck. Their

example of mediation

Remember Betsy, whose employee, Sergio, spilled a wagon full of loaded apple crates? And Steve, who swerved and ended up in a ditch? Well, Sergio paid his traffic ticket and Betsy's insurance covered damages to the vehicle and related medical costs. When Steve sued Betsy for negligence, the court recommended mediation. After consulting with their respective attorneys and being told that mediation might help and couldn't hurt, Betsy and Steve agreed to meet with a mediator.

The session began with Steve accusing Betsy of hiring incompetent employees and demanding a large cash settlement for her negligence. Betsy responded defensively, telling Steve that he knew nothing about her orchard or the kinds of people she hired.

The mediator reflected back to Betsy and Steve, in nonjudgmental summary form, what each was saying. In so doing, she let both Betsy and Steve know she had been listening carefully and understood, without endorsing, their points

and concerns. Her nonconfrontational phrasing helped Betsy and Steve hear what each was trying to say.

Gradually the tone of the direct conversation between the two of them moved from anger and defensiveness to a more honest exchange of information. Steve learned that many of Betsy's employees were former migrant farmworkers who were learning useful skills. Betsy acknowledged her mistake in assuming Sergio could manage a full wagon without more training. She apologized for all that had happened to Steve and talked about what would happen to her insurance payments, not to mention the court-imposed fine, if she were found guilty of negligence. It wasn't clear to Betsy that the farm could survive that cost increase. After several hours, they agreed to a smaller cash settlement and five years of free produce from Betsy's farm. Steve and Betsy acknowledged that this resolution was fair and more satisfying than any court judgment would have been.

ability to act is blocked by others with opposing perspectives. Lots of people have opinions. No one can come up with an idea that satisfies enough people.

“We should put the new fire station on Cedar St.”

“What we really need is another fire truck.”

“Hey, we don’t even have enough firefighters.”

“I think the old fire house should be renovated.”

“Who’s paying for this?”

Elected officials or appointed boards are usually the ones who make decisions about public issues. But decisions that affect many in the community are often controversial. Zoning. Property values. Lifestyle. Local culture. All too often, leaders and citizens alike participate in processes that leave them feeling polarized, unsatisfied, and alienated. When this happens, the wrong lesson is learned: all you can do is hunker down, bear through it, and see who gets their way.

But in many cases, public outcry can be more constructively managed and mitigated through open airing of community interests and concerns. In other words, carefully structured approaches to obtaining broad public input in the decision-making process can lead to the holy grail of public policy: better decisions and wider community support.

“How will we ever solicit all the input we need?”

“The farmers are convinced all the newcomers want to put them out of business.”

“If we adopt Plan B, then everyone who supports plans A and C will be furious.”

A collaborative community problem-solving process can help officials and residents get to a satisfactory resolution—especially when people feel stuck.

› **Here’s a tip:** starting even before a crisis arises is a whole lot more efficient.

So the next time your town or village wants to change its comprehensive plan, invite public discussion that is inclusive. When your farmland protection board begins planning an agricultural district, make sure farm and nonfarm community members have a say. Or, when multiple factions have already staked out positions on, say, the utility of extending sewer lines into outlying areas, try a new strategy. Start by toning down the rhetoric. This simple step may be a necessary precondition for preserving community peace. And then consider a collaborative community problem-solving process.

Let’s now look at the key elements of this process and some comments on how to move it forward.

1 Convener

“Tell me, who’s going to lead this effort?”

No matter what the motivating cause, collaborative community problem solving generally begins when someone starts to systematically pull people together. This person is referred to as the convener. The convener needs to be someone (or some representative group) who is respected by, and has access to, people on all sides of the issue. The convener may be a local person, perhaps an elected official, a community elder, a well-known clergy or businessperson. Sometimes the convener is a mediator or

facilitator who will assist throughout the entire problem-solving process. Other times the convener works closely with a neutral third party from the start.

2 Facilitators & Mediators

“We need someone who will pay attention to the process but has no stake in the outcome.”

In most communities, there are people with facilitation skills. They run meetings. They keep the dialogue flowing. They enable a process. Sometimes there are people with mediation skills. They, too, keep the dialogue flowing. But they do so in the context of a conflict. They guide the search for mutually acceptable solutions. Facilitators and mediators can play important roles in community problem solving.

A few words of caution. It may be difficult to get such people involved in every issue. They have jobs. They have families. They have lives. They may be perceived as being close to one side or the other. Even more important than time, facilitators and mediators must have credibility.

In addition, community problem solving requires a major commitment of time, energy, and resources from all who participate. Assess the situation carefully to determine whether such a process makes sense at this moment in your community. If the issue is important, finding an honest broker is usually worthwhile; you may need to search outside the community for a facilitator or mediator. This person is generally compensated for his or her time. Sometimes local governments cover the cost. Other times everyone involved contributes. Local foundations may be willing to support efforts to bring people together to solve tough problems.

3 Decision Makers

“We’ll be putting in a lot of hard work. We want to be sure our efforts aren’t ignored.”

Good point. Solutions that result from collaborative community problem solving are advisory. This is where the convener comes in: he or she usually begins by talking with officials who have the authority to make formal decisions. These decision makers must be willing to seriously consider the input provided by residents during a community problem-solving process. To increase the chances this input will be acceptable, they should set clear parameters for any solution or plan. This assures folks who participate that their time and hard work will have the intended result.

4 Assessment

Assuming the decision makers support the idea, the convener and/or facilitator begin(s) by asking questions:

- ▶ What is the history of the situation and those involved?
- ▶ How do different members of the community view the issue?
- ▶ Who needs to be involved in whatever process is designed (i.e., who are the stakeholders)?
- ▶ What information about the issue(s) is available?

As the convener and facilitator gather answers to these questions, the convener explains the problem-solving process and assesses people’s willingness and ability to participate.

Remember George, the dairy farmer whose silage was washed into a nearby stream after a heavy rain, causing the death of a number of fish? A local fisherman found the dead fish and started talking to his neighbors about run-off from farms polluting local streams. Well contamination and cancer rates suddenly became the main topic of conversation around town. Soon, an environmental group met with the town supervisor and demanded something be done to control pollution caused by farms. Several groups that sprang up “out of nowhere” began insisting that farm chemicals should be banned or severely restricted. Local farmers responded angrily, noting they were farming responsibly and were protected by right-to-farm laws. Almost overnight, George’s mistake set one segment of the town against another. Local officials were caught in the middle.

5 Process design

Now it’s time for the design phase.

“Help me understand what people who design these processes are concerned about.”

There is no one perfect design for a collaborative community problem-solving process. Successful processes typically reflect the individuals, institutions, and issues involved, as well as the local culture. Successful processes also typically include these elements:

- ▶ **Feasibility.** The process must be feasible. Participants need to understand what they’re agreeing to and for how long.
- ▶ **Inclusiveness.** The process needs to be inclusive, with the diversity of perspectives represented.
- ▶ **Participation.** People must have different ways to participate. Only one mode of participation, speaking at a public hearing, for example, is not enough.
- ▶ **Information.** Information must be readily available to the wider public and technical information must be accessible to nonexperts.
- ▶ **Agreements.** Participants agree on rules for collecting information, choosing options, and making recommendations.

Designs differ based on local needs. Most include a carefully conceived, but flexible, sequence of large public meetings open to everyone and smaller group or task force meetings that accomplish specific tasks and report back at large meetings. A core group working with the conveners/facilitators will design the process.

6 Action

Individuals and groups who have signed on as the core organizing group now gather to review where things stand and to implement their design.

“We need to share what we’ve learned during the assessment and then figure out what else we should know.”

Participants may decide they need to do more base building and extend invitations to more stakeholders (people affected by, or with strong interests in, the issue). Or, they may decide to just get the process rolling.

Whenever that time comes, the core group reaches out to the community. These key participants typically set up meetings where neighbors who have not yet been involved can voice their concerns. When all sides have been heard, the facilitator helps the core group begin to develop and explore options for resolving the problem.

“We’ve got lots of potential solutions. Now let’s negotiate some agreements.”

Throughout this stage of the process, the facilitator and core group keep the wider public informed. They hold public meetings. They write articles for the local newspaper. They give interviews on local radio shows. They distribute flyers and do whatever else will help everyone stay informed about recommendations being made.

“I’m sold. When can we get started?”

But wait...community problem-solving processes are not a panacea. They don’t always work.

Conveners, decision makers, and citizens should consider the following variables before plunging ahead:

- ▶ **Time available before a decision must be made.** Emergencies or crises can’t be put on hold while citizens deliberate. However, stopgap measures that involve community problem solving sometimes can remove the pressure, giving citizens time to participate in decision making.

A member of the local Agricultural Farmland Protection Board (AFPB) suggested that people needed a chance to come together and talk about the situation. The town supervisor agreed and arranged a meeting with a facilitator from the nearby mediation center. Together, all three brainstormed a list of folks already involved and the different issues that had surfaced. The facilitator agreed to begin interviews with a representative sample of “stakeholders” and to meet with local officials again in two weeks to report on her findings.

- ▶ **Level of interest.** It's hard to get a process going if there's little or no interest in an issue.
- ▶ **Degree of polarization.** Too many people on different sides of the issue may be unwilling to work together.
- ▶ **Need for legal clarification.** If a decision sets or challenges a legal precedent, people may prefer to have a court decision.
- ▶ **Acceptable options.** Community problem solving works best when citizens can consider a range of options. When legal, financial, or technical realities limit creativity, starting such a process may not be worthwhile and might even increase frustration levels.

community problem solving in action

Let's return now to George and his community. The facilitator reported back to the core group that she had spoken to lots of angry people but also found a lot of underlying good will and concern about preserving the mixed land use pattern that currently existed. The town supervisor appointed a steering committee that included himself, a farmer, a member of the local environmental group, and a representative of the AFPB.

This new group worked with the facilitator and planned a series of public meetings, which were followed by additional information gathering by small groups of residents about issues raised in the meetings. After three months, the groups displayed the information in a setting that allowed community members to walk around, read and ask

Getting started

If you think collaborative community problem solving makes sense, talk to others. Contact an elected official, a town or planning board member, someone in an influential local or state organization, and those working with—or against—you on the issue. Think about the leaders in your community who may be able to get others to participate. Some local mediation centers facilitate community problem solving or know others who do. Cornell Cooperative Extension educators may be another source of information about how to get started.

An annotated list of resources begins on the next page. Call one or two or three. Ask questions. Collect information. Give it a try.

questions about the information, and record their opinions. The small groups used this data to develop recommendations that were forwarded to the AFPB and the town board. What emerged from this process was renewed commitment to protecting local agriculture, a series of educational forums for farmers and nonfarming residents on relevant environmental regulations, and a communication system to keep folks informed about farming practices and community concerns.

Some tensions continued to exist, but most people involved felt that their perspectives on farm-related issues were now more likely to be taken seriously. All were confident that a foundation had been built for dealing with issues and that as future problems arose, they would be unlikely to escalate into a community crisis.

The Resources

■ **The New York State Unified Court System (UCS)** helps to maintain a network of community dispute resolution centers that serve all 62 counties in the state. The UCS Web site provides information about the court system's alternative dispute resolution programs and contact information for local dispute resolution centers. The centers provide trained mediators who can help community members resolve many types of conflicts.

Go to <http://www.courts.state.ny.us/adr/> or check your local telephone directory under "mediation" or "dispute resolution" for the center nearest you.

■ **The New York State Agricultural Mediation Program (NYSAMP)** offers mediation assistance to agricultural producers, their creditors, and other persons who are directly affected by the actions of the United States Department of Agriculture (USDA). NYSAMP mediators are provided by the statewide system of dispute resolution centers (see above).

For more information go to http://www.nysdra.org/adr/adr_nysamp.html or call (518)687-2240, (866)669-7267 (toll free).

Important note: NYSAMP also acts as a clearinghouse for people connected to agriculture who are involved in disputes. In situations where you need other conflict-related services, NYSAMP can help you find them.

■ **New York FarmNet** is an information and referral service for farmers. FarmNet consultants work confidentially with farmers who are expe-

riencing financial or family problems. FarmNet also maintains a resource library; offers workshops on topics such as reducing and managing stress, farm transitions, and rebuilding after a disaster; and helps to match potential farmers with existing farms.

Go to <http://www.nyfarmnet.org> or call 1-800-547-FARM or 607-255-1603 to speak with a FarmNet representative. The Web site is a great resource, providing useful information and links to publications, agriculture and social service agencies, trade associations, and the like.

■ **Cornell Cooperative Extension (CCE)** is a multi-pronged educational system that links experience and research, builds partnerships and coalitions, promotes youth and local leadership development, and provides resources to local community residents. CCE maintains offices throughout New York State and sponsors a wide variety of programs. Many CCE educators are committed to the practice of conflict resolution and community engagement in public issues.

Go to <http://www.cce.cornell.edu/> or check the telephone directory for the nearest office.

■ **New York Farm Bureau** represents the interests of its members (mostly farm families) on economic and public policy matters. Farm Bureau runs promotions and educational programs and sponsors contests and awards.

Go to <http://www.nyfb.org/> or contact Farm Bureau at (518) 436-8495.

continued on next page

The Resources *continued from previous page*

■ **New York State Department of Agriculture and Markets'** mission is to promote a competitive and financially sound agricultural industry, foster environmental stewardship by agricultural producers, and safeguard the food supply of New York residents.

Search the Web site at <http://www.agmkt.state.ny.us/TheDepartment.html> or contact the department at 518-457-3880 or 1-800-554-4501.

■ **Natural Resources Conservation Service**, a division of the U.S. Department of Agriculture, provides technical assistance and information, and sometimes financial incentives, to help farmers, ranchers, and other private landowners conserve their soil, water, and other natural resources. NRCS works with local conservation districts and local governments.

Check the Web site at <http://www.nrcs.usda.gov/> for more information and links to other programs.

■ Each county in the state (but for New York City) has a **Soil and Water Conservation District**, which is overseen by the New York State Soil and Water Conservation Committee. The districts implement soil and water conservation measures and agricultural nonpoint source water quality programs.

Go to the committee's Web site at <http://www.agmkt.state.ny.us/soilwater/home.html>, check the telephone directory for your county district, or call the state office at (518) 457-3738.

■ **The Agricultural and Farmland Protection Program** authorizes counties to create agriculture and farmland protection boards. These boards are responsible for planning and implementing policies that protect local farmland and encourage agricultural expansion. One key part of the program enables local governments to purchase development rights on farms, which permanently protects agricultural acreage from development pressures.

For more information, call your county clerk and ask if there is an AFPB. Also check out http://www.cals.cornell.edu/agfoodcommunity/afs_temp3.cfm?topicID=368, which is loaded with relevant information, resources, and links.

■ For additional reference material, see *Cultivating Farm, Neighbor, and Community Relations*, by Duncan Hilchey, Community Food and Agriculture Program, Cornell University, and Nathan Leonard, Area Extension Specialist PRO-DAIRY Program, Cornell Cooperative Extension.

Go to http://www.cardi.cornell.edu/cd_toolbox_2/tools/farmers_community.cfm for excerpts and an order form.

Let's
turn over
a new
leaf.



I'm all ears!

