LSP *Myth Buster* #2

An ongoing Land Stewardship Project series on ag myths & ways of deflating them.

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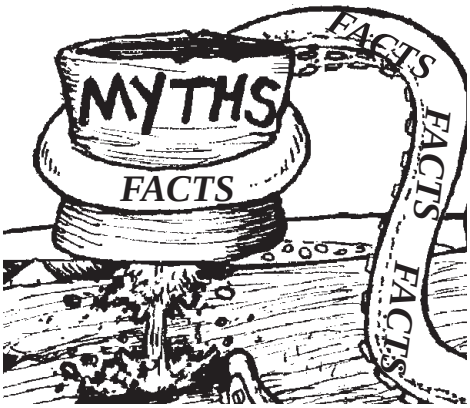
Myth: *Strict "Right to Farm" laws help alleviate land use conflicts in rural and suburban areas.*

Fact:

In their basic form, "Right to Farm" laws serve the critical role of protecting existing farms from nuisance lawsuits filed by new rural residents. But in recent years, owners of large-scale concentrated animal feeding operations (CAFOs) have been successful in "strengthening" the laws to the point where even the most egregious environmental/human health threats posed by these operations are lawsuit-proof.

That's too bad, because the idea behind Right to Farm laws is a good one. By the late 1970s, it became clear that suburban sprawl posed a major threat to America's farms, and not just because subdivisions were gobbling up acres. The people who move into these new developments are unaware of how farming is done, and often object to routine practices like night fieldwork and spreading moderate amounts of manure in open fields..



As a result, between 1978 and 1983, at least 40 states passed Right to Farm laws, with all 50 states eventually passing such laws. The particulars of these laws varied from state-to-state, but in general they protected farmers from nuisance suits as long as the farm was established before surrounding suburban activities were put in place, and as long as the farm's activities did not "jeopardize public health and safety."

In the early 1990s, the explosive growth of CAFOs gave a whole new meaning to the word "nuisance." Odor and water quality problems took on industrial-sized proportions. Proponents of factory farming soon realized that traditional Right to Farm laws may not protect them. As a result, they lobbied successfully for passage of Right to Farm laws that protected industrialized operations from nuisance suits regardless of whether or not they predated suburban development.

As Samuel Krasnow reports in the April 2005 issue of *The Next American City*, there has been a recent backlash against these stricter incarnations of Right to Farm laws, and not just from suburbanites. Family farmers and other long-time rural residents who are quite familiar with the smell of manure are complaining that these new Right to Farm laws represent an "unconstitutional takings" of property and thus violate the 5th Amendment to the Constitution. State courts in Iowa, Michigan, Minnesota, Idaho and Kansas have agreed with these rural residents, invalidating some of the strictest provisions of these laws, according to Krasnow.

But throwing out the baby with the bath water is not the answer. Sprawling development is a bigger threat to agriculture—no matter what its scale—than it ever has been. A new generation of Right to Farm laws that take into account the growth of CAFOs can play a critical role in maintaining viable crop and livestock operations in many parts of the country. Krasnow cites the 2004 rewriting of Vermont's Right to Farm law as one good example of how to deal with this issue. Among other things, it protects established farm activities as long as there is no "substantial adverse effect on health, safety, or welfare." The revised bill was endorsed by the Vermont Farm Bureau, rural residents, small and organic farmers, environmental groups and state officials.

More Information

◆ Samuel Krasnow's article is at www.americancity.org./article.php?id_article=124.

◆ Vermont's new 2004 Right to Farm law is at www.leg.state.vt.us/statutes/sections.cfm?Title=12&Chapter=195.

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This Myth Buster is brought to you by the members and staff of the Land Stewardship Project, a private, nonprofit organization devoted to fostering an ethic of stewardship for farmland and to seeing more successful farmers on the land raising crops and livestock. For more information, call 651-653-0618 or visit www.landstewardshipproject.org.