

Protecting Acres

ACRE strikes a balance between agriculture, community and environment.

Story & photos by Janet Mayer

Driving past one of our large corner fields this past spring, I could not help but wonder if the people in nearby houses might be unhappy with the planting of our oat crop. The noise from the two tractors pulling the grain drill and the cultmulcher was not all that bad, but the huge clouds of dust that rose behind the machinery were blowing directly toward their homes.

From past experiences, I also knew many of our neighbors were not happy when fresh manure was spread or cattle, with accompanying flies, were put in temporary pasture after the corn harvest.

Twenty years ago, these activities would not have been a problem for us or other local farmers because those houses did not exist at that time.

Here in Pennsylvania, as well as in other highly populated parts of the United States, dealing with urban sprawl has been a long-standing problem for most types of agricultural production. Records show that, each year, our country is losing about a million acres of productive agricultural land to urbanization, industrial development and expansion of transportation networks.

In our operation, we make an effort to be considerate of our nonfarm neighbors and have a good relationship with most of them, but many people move to the country with unrealistic expectations of a life that will be tranquil and serene. However, when they locate near a farm, they do not understand, nor can they accept, the normal practices of farming. Disputes often arise concerning machinery, fences, dust, water, chemical applications, roaming livestock and waste disposal.

These complaints can surpass farmers and often reach the attention of township and state officials, sometimes escalating into costly and lengthy court battles.

Expanding evidence

According to information from the Pennsylvania Department of Agriculture (PDA), the expansion of suburban development into farming regions and an ever-increasing amount of complaints by suburbanites has resulted in more than 100 townships in the state passing (or in the process of passing) ordinances restricting farming. In addition, a few of the townships

have specifically passed anti-corporate-farming ordinances they allege will protect family farms and the quality of life from giant agribusiness operations. Several have gone so far as to pass ordinances constricting the corporations' ability and constitutional rights to challenge these laws.

Many of those in different sectors of the farming community say the ordinances are so restrictive they have the potential to cripple agriculture and could significantly affect farming by prohibiting or severely limiting expansion. This comes at a time when farm families need to expand or make changes to their operations in order to keep their operations viable enough to earn a reasonable living. These unexpected ramifications can include job losses, reduction in local economic revenue, demise of agriculture's infrastructure and increasing food costs, which can also affect local infrastructure, including banks, equipment dealers, milk haulers, livestock markets, etc.

In a 2005 report written by Pennsylvania Secretary of Agriculture Dennis Wolff for *Lancaster Farming*, Wolff said the agricultural industry in the state was under siege and needed to be rescued.

"Our state is blessed with rich soils, a close proximity to population centers, a temperate climate and a committed farm community making the agricultural industry the bedrock of Pennsylvania's economy, with farming standing as the core," he wrote. "It generates \$4.3 billion in cash receipts, enabling an overall economic impact of more than \$44 billion annually. In many parts of the state,

however, farming is threatened by township ordinances restricting the ability of farmers to improve or expand their operations, jeopardizing the future success of farming in Pennsylvania and resolving these ordinances' conflicts is a matter of getting out the boxing gloves and checkbooks."

At a 2005 Citizens Advisory Committee meeting addressing the problem, Walt Peechatka, executive vice president of PennAg Industries, an association that represents the agribusiness community supporting the service sector of the state's agriculture, expressed his views over what he felt was the unfair targeting and blaming of large farm operations in the state.

"Although I feel the importance of working with local governments, I am concerned over how much of a voice nonfarming neighbors should have in farmers' rights to expand, even when they comply with all local government ordinances," he said. "While these local

► **Below:** The objective of ACRE is protecting production agriculture's legitimate and lawful business interests.



PHOTO BY SHAUNA ROSE HERMEL

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ordinances were supposed to be designed to help and support, they often violate the state's Right to Farm Act, the Nutrient Management Act, Business Corporations Statutes and many others, including the Constitution."

Improvement by ACRE

In order to fix this problem and secure agriculture's future, Wolff and Kathleen McGinty, secretary for the Department of Environmental Protection (DEP), under the direction of Gov. Edward G. Rendell, began working toward a goal to balance the legitimate business interests of the agricultural industry with the environmental and community concerns of local citizens and elected leaders. With input from the Citizen's Advisory Committee and numerous other sources, they developed ACRE, a plan to protect Agriculture, Community and Rural Environment, which is also known as House Bill 1646.

"ACRE recognizes that the type, style and size of agricultural operations should not be limited," Wolff explains. "It also recognizes that we must find a better balance between agriculture, our neighbors and the environment, and that we can do more to protect, enhance and conserve our environment and natural resources."

Gov. Rendell expressed support for the concept and consistently backed it as a means of improvement to the state's already existing

farm management regulations. ACRE was passed by the state's House and Senate and signed into law by Gov. Rendell July 6, 2005.

"The crafting of this bill brought all parties to the table, and coupled with new DEP and Department of Agriculture regulations, it forms a package that responds to the concerns of both the agricultural and environmental communities," Rendell said after signing the bill. "This comprehensive plan not only addresses nutrient management, but strikes the proper balance between farmers and the communities they call home."

The Pennsylvania Department of Agriculture says the objective of ACRE is protecting production agriculture's legitimate and lawful business interests. ACRE has provisions for administrative review of disputed agriculture ordinances; enhanced environmental compliance; and required odor management best management practices (BMPs) on new or expanding confined animal feeding operations



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(CAFOs). It addresses federal air quality mandates; closes the manure export loophole; ensures minimum setback/buffers; improves agriculturally impaired streams; and monitors the use/effect of antibiotics.

A focus on administrative review, rather than litigation, will also help ease the financial burden on farmers and townships when ordinances are disputed. Under the new law, farmers will have the ability to request the Pennsylvania attorney general to review a local ordinance that they believe illegally restricts their farming practices. The office must respond within 120 days, notifying the farmer of a decision. The attorney general will be given the authority to bring legal actions in the commonwealth to challenge and prevent the enforcement of illegal ordinances.

Pennsylvania's secretary of agriculture and the College of Agricultural Science at Penn State will provide expert consultation regarding the nature of normal farming operations in the commonwealth if requested to do so by the attorney general.

The scope of ordinances subject to review by the attorney general will include any enacted before the bill's effective date, as well as ordinances enacted after that date that would restrict normal agricultural operations or restrict the business structure of the farm operation.

More than 70 organizations and local government entities have voiced their support of the program. The Pennsylvania State Association of Township Supervisors is pleased with the law, and believes it will restore fairness to the review process by moving it to the attorney general's office.

According to a July 2005 press release by Pennsylvania Farm Bureau, farmers are optimistic that they can expect relief from local farm ordinances that go beyond what is allowed by state law.

"Pennsylvania Farm Bureau has worked over the past five years to resolve the huge problems created by illegal local farm ordinances," Bureau President Carl Shaffer says. "The new law should help protect farm families from ordinances that threaten their ability to make changes necessary to sustain their livelihoods, and it will allow them to challenge these ordinances without having to shell out tens of thousands of dollars to win rights they already have under state law.

"Now that a solution is in place, Farm Bureau will work with local governments and the state Attorney General to ensure that the provisions of the legislation are fully implemented." 

