

Frank Kampf
84 McKinstry Rd
Cabot VT 05647

February 13th, 2023

Senate Committee on Agriculture
Vermont State House

RE: Right to Farm Bill

I am writing to the committee to express support and concern regarding the Right to Farm Bill.

Who am I

My wife and I live on a 15 acre farm in Cabot Vermont. Our farm is called a hobby farm, a homestead, or a small farm. It is a multi-use farm where we raise cows for meat (usually 4), layer chickens, meat chickens, vegetables, fruit and berries, along with bees. In Cabot there are countless small farms and homesteads.

Why I support the Bill

As a small farmer and beekeeper I can see the need for protection. I have a neighbor who consistently complains about my bees as a method of harassment, even though I have accommodated his every request and positioned my few hives on the opposite side of my barn, hundreds of feet from his pastures. I can foresee a time he may attempt a frivolous lawsuit against me because a bee stung him in his yard or pastures. I say this as I prepare for a frivolous small claims court case which he has filed against me because our shared spring failed, saying I am to blame for it, while ignoring the fact it was a third farmer which damaged the spring.

Likewise, I understand the issue of new people buying next to an existing farm operation and then filing a nuisance lawsuit, and the need to protect farmers from that kind of action.

Concerns of a Right to Farm Bill

My neighbor is also a small farmer that buys and sells cows, raises various birds, and also breeds dogs. This neighbor engages in harassing us by utilizing the fact one of his pastures lies just about 100 feet from our house. I am very concerned that my neighbor could use the right to farm bill to protect himself from my only recourse, civil action, to stop him from harassing us.

As you know, many farms are small, and not regulated by the state. Even when my neighbor dumped a windrow of manure uphill of, and along the shared property line, a mere 90 feet from my house and less than 30 feet from my well, and immediately adjacent to our vegetable garden. ***The state determined his operation did not fall under the jurisdiction of the RAPs.*** I have attached the letter sent to him from the Agency of Agriculture for reference. Additionally, the state was only concerned about the impact to my well, and not about the fact that the RAPs also have regulations governing the piling of manure near property lines.

I want to stress a mind set that does exist among some farmers. In a small claims court case my neighbor filed against me regarding a shared spring, he brought up the State's investigation of his manure piling along the property line and testified that his land is agricultural and he can do whatever he wants, and we (the neighbors) have to deal with the consequences.

Also when he moved a flock of guinea fowl from the area where he raises birds beside his storage barn (not used for animals) down to within 40' of the shared property line, there were no laws or rules at my disposal to prevent him from purposely creating a nuisance. He even admitted to another neighbor that it was done just to "get at us". If you don't know how loud guinea fowl can be, then imagine a cackle that is as loud as a rooster, but persists for minutes, sometimes multiple 10s of minutes. Then multiply it by the number of guinea fowl, because they all erupt into a cackle at the same time.

I have a great fear that since my only way to regulate my neighbor's actions against us is through civil action, a badly written update to the right to farm bill can basically create a privileged class of residents (i.e. farmers) in Vermont, and take away the only avenue of enforcement available to me. A badly written update could protect farmers of any size who are irresponsible, not very considerate about what they do, or act with malice and intentionally create a nuisance.

A farmer should not be held to creating a nuisance for his cows getting out from within an electrified fenced pasture, as no containment system is perfect. But if the farmer seldom maintains the fence, and allows weeds to grow up and short out the fence, he should not be protected for failing to be a responsible farmer. Or if a farmer intentionally dumps manure in areas to impact his neighbor when he has plenty of other options, he should not be protected.

I want to stress to you, the state legislators, that extreme care must be taken with the wording to prevent unintentional consequences. As a retired verification engineer, I spent most of my career reading specifications and determining what could and could not be done when testing designs. It was all too often that I would find specifications lacking and test for things that the designer never intended to happen.

The terminology “*(A) has been in operation for more than one year and the activity was not a nuisance or trespass at the time the activity was initiated; or*” does cause me concern in that it seems to protect a farmer that may move his operation from one part of the property to another, thus creating a nuisance where one was not before. The term activity could be argued to be different then location, and movement after one year is not a new activity. A case in point mentioned above, where my neighbor moved his guinea fowl down near my property, placing them well within a pasture previously used just for cows. A pasture that now contained a dog kennel full of birds.

I support the addition of “*(B) the activity is conducted in accordance with generally accepted agricultural practices.*” However, given that (A) uses the term “*or*” it does not carry much weight because duration of the activity would take precedence over being generally accepted. I think it would be more appropriate to use the concatenation term of “*and*” and thus require the activity to meet both (A) and (B).

Conclusions

While I support the concept of “Right to Farm”, it must be weighed against the right of neighbors. I can only hope you will work diligently on the wording to ensure that farmers who are bad actors are not protected from creating bad situations for their neighbors.

Please consider that many small farms in Vermont are not large enough to be regulated, and their actions can not be given protection without limitation, be the actions the result of negligence, or purposefully taken.

Thank You,

Frank Kampf



Agency of Agriculture, Food and Markets
Water Quality Division
94 Harvest Lane - Suite 201
Williston, VT 05495
www.agriculture.vermont.gov

Richard Young
PO Box 253
Cabot, VT 05647

Dear Richard Young,

On August 19, 2021, following a complaint received by the Agency of Agriculture, Food and Markets (the Agency) alleging the stacking of agricultural waste near a property line and well, Agency Agricultural Water Quality Specialist David Wardrop and I conducted an investigation of your property located at 34 McKinstry Road, Cabot, Vermont, for compliance with the Required Agricultural Practices (RAP) Rule. A copy of the report summarizing the Agency's findings during that investigation, was sent to you on, or around, September 9, 2021.

While no impacts to water quality were observed during that visit, and because you had fewer than 5 cattle at the time of our investigation, it has been determined that your operation does not fall under the jurisdiction of the RAPs at this time.

However, the Agency advises you to cease the stacking of agricultural wastes in this area and to consult the RAPs (copy enclosed) and follow the setbacks for the stacking of agricultural wastes outlined in Section 6.02(e) of the RAPs. If, at some point in the future, the stacking of agricultural wastes on your property is determined, after the opportunity for a hearing, to be impacting neighboring private water supplies, your operation may be brought under the jurisdiction of the RAPs, and you may be required to take corrective action at that time.

If you have any questions, please contact me at 802-636-7289.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Hughes".

Luke Hughes
Agricultural Water Quality Specialist
Enclosure(s) Vermont Required Agricultural Practices Rule

