



Farm Dumps: Problems and Solutions

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For generations, townfolk have cast trash into the municipal dump while countryfolk have cast trash into the farm dump. Because of increased public awareness of complex environmental issues, the open dumping era is drawing to a close, not only for municipalities, but for farmers as well. The intent of this fact sheet is to help farmers realize the liability they may incur when using or owning a farm dump. It is also written to encourage farmers to manage their farm wastes in a more environmentally sound fashion.

Historical Perspective

Most of today's farmers would rather not have a farm dump, however, many of them have inherited one. Years ago, open and unlined municipal dumps were the norm. Farmers at that time were not doing anything different with their wastes than were their urban neighbors. Production of complex chemicals, plastics and hazardous materials, along with increased consumption patterns in the U.S. after World War II, have generated not only more waste, but more harmful waste. Prior to the 1970s and the Love Canal episode, little was known about the environmental effects of waste mismanagement. The environmental regulations in the late 1970s that ushered in sanitary landfills largely ignored farm dumps.

Accountability Today

Farm dumps continue to exist today and some continue to grow. Without enforcement of regulations to stop dumping, some farmers continue the practice because it is cheap and easy. However, what appears to be an inexpensive solution for waste handling may end up costing much more than the farmer saves in tipping fees. Pollutants leached by rain and runoff percolating through the dumped garbage enter the groundwater table and can travel for miles. The farmer can be held legally responsible for degradation the pollutants cause. Even though the legality of the dump itself may not be challenged, the pollution from the dump may

cost the farmer many thousands of dollars in cleanup costs and may greatly reduce farm worth.



Farm dumps are being viewed as a liability by buyers, bankers, realtors, and insurers to name a few.

Some farmers question why they should worry about what preceding farmers left behind. This may ultimately depend on the fate of the farm. As urban populations sprawl into the surrounding farmland, selling to a developer is a popular choice that provides an attractive retirement income. Sooner or later, most farms get sold. From start to finish during the sale process, the farm is inspected by realtor, buyer, appraiser, mortgagor and insurer. Undergoing such scrutiny by a variety of agencies may be a bit precarious when a farm dump is present, even a very old one.

Environmental Liability Concerns

The increased level of environmental awareness and concern that Love Canal sparked in the 1970s led to passage of environmental legislation to protect human health and the environment from harm. Prior laws had not prohibited land disposal of hazardous waste. In 1976, Congress passed the **Resource Conservation and Recovery Act (RCRA)** to protect groundwater,

surface water, air and land from contamination by solid waste. RCRA started “cradle-to-grave” hazardous waste management, a system to track product handling from creation through disposal. RCRA also established minimum levels of financial responsibility for pollution.

In 1980, Congress passed the **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)** to provide for liability, compensation and cleanup of past industrial and commercial dumping. CERCLA is commonly known as the Superfund law and is now being applied not only to huge industrial sites but to agricultural land as well. Agricultural land is categorized as commercial real estate by CERCLA. For this reason, farmers need to seriously evaluate past and present farm waste management practices and implement up-to-date waste management plans that address environmental and health concerns and guard against costly liability problems.



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Pre-Sale Arrangements

Before a purchaser can obtain a mortgage for farm purchase, banks often require the current farm owner to complete an environmental questionnaire. Questions focus on the farmer’s knowledge of the farm and include:

- ◆ a description of the farm and adjacent properties
- ◆ pesticide storage procedures and presence of storage tanks, both underground and aboveground
- ◆ solid waste disposal practices and whether or not the farm has a dump
- ◆ water supply and septic system details
- ◆ soil conservation and nutrient management plans
- ◆ whether or not the farm is in compliance with all applicable regulations
- ◆ whether or not regulators have ever been on the farm and if so, why
- ◆ whether or not the farm is within one mile of a known Superfund site and whether or not the farm borders a railroad

After the questionnaire is completed, the bank may require an appraisal, which involves a visual inspection of the farm by an appraiser working for the financial institution. The appraisal can help clarify or verify reported answers on the questionnaire. If there are concerns or discrepancies, an **environmental site assessment (ESA)** or inspection may need to be conducted. There are three distinct phases to an ESA. Not all phases are necessarily required.

Phase I: Environmental Site Inspection

More and more, banks and other lenders are requesting Phase I inspections for farms, with an inspection being routinely required for larger farm operations, especially those with on-farm processing capabilities. The procedure requires inspection by an engineer or qualified environmental professional. The American Society for Testing and Materials (ASTM) procedure E-1527-94 outlines standard practices for the Phase I environmental assessment. These include:

- ◆ a background history investigation including interviews to determine current and past uses of the property and surrounding properties
- ◆ records search for local, state and federal violation notices, environmental liens and evidence of past uses that may reveal need for more in-depth investigating
- ◆ site tour to provide visual inspection for possible environmental pollutants such as rusting drums with

chemical stains on surrounding ground or vegetation, sinkholes harboring garbage or manure, and other observable unnatural conditions

- ◆ chain-of-title research
- ◆ description of all buildings, storage tanks or drums, roads, ponds or pits, water supplies and sewage disposal systems on the property
- ◆ a report of whether or not significant environmental liabilities were found and whether or not more evaluation should be conducted

Phase II: Environmental Site Investigation

If the Phase I report identifies potential for significant environmental liability, the next step in evaluating the property is usually a Phase II environmental site investigation, or intrusive study. Sometimes, however, individuals elect to skip the Phase II and instead request a Phase II / III (See section on Phase III below). This process combines the site characterization procedures with site remediation activities and can reduce the overall project cost. On the other hand, some lending institutions, owners, and purchasers decide to halt the project or sale and do nothing with the property once a Phase I identifies a potential problem.

Phase II focuses mainly on determining if there is potential for environmental concern. Phase II involves intrusive testing of the site to see if environmental degradation is already in process. A team of professionals is usually involved with the Phase II audit so that samples of vegetation, soil, surface water and groundwater can be properly collected and tested as dictated by the nature of the problem. Farms with garbage-filled sinkholes or other dumpsites signify potential for environmental liability. If there are signs of lubricants, oils, antifreezes and other containers present in the area, a necessary next step is to test surrounding groundwater for leaching of petroleum products. Such testing may require drilling monitoring wells.

Phase III: Environmental Site Remediation

On farms where Phase II testing reveals ongoing environmental degradation, Phase III remediation planning follows. Many different remediation options often exist depending on the site or the contaminants of interest. Often Phase III involves plans to remove the offending pollutants from the site and dispose of them properly. In addition, remediation plans may include treating the surrounding soil or water for contaminant removal. In some cases, however, capping the dump may be an alternative to excavation and disposal. When materials in the dump are inert, leaving them in place

may be acceptable. In addition, many contaminants can be remediated or bound in place via chemical or biological treatment.

Begin Solving the Problem Now

The prospect of undergoing an environmental assessment intimidates most farmers who own a farm dump. Practices that were glossed over in the past are examined in detail now. Although assessment and cleanup costs can be negotiated between buyer and seller, more often than not, the landowner will bear the burden of payment in order to realize the remaining proceeds from the sale.

The time is here for farmers who have not already done so to work with extension agents and district conservationists. These advisors can provide waste management education covering options currently available for handling farm wastes. Now is the best time to change waste disposal practices that are environmentally questionable and to start cleaning up old dumps. The cleanup process can take some time and will most likely need to be addressed while meeting the everyday demands of farming. Setting up a meeting with the county extension agent is a good first step.



If carefully planned, farm dump cleanups can be relatively inexpensive and manageable.

An organized approach to cleaning up the farm dump works best. Some of the trash in the dump can be recycled through scrap metal dealers and local recycling centers. To find out about recycling outlets for the trash, check the following sources:

- ◆ Yellow page listing under Recycling Centers will have locations for private recycling companies in the area.

- ◆ Locations of scrap metal dealers are also in the yellow pages.
- ◆ Township, borough or county listings in the blue page section of the phone book may provide a number for recycling or refuse. The regional DEP office, listed in the state government blue pages, should have listings of all recycling drop-off and processing locations in your area.

Before moving any garbage from the dump, determine where all the portions will go and how best to remove, load, transport and unload the trash at the destinations. Be sure to cover all of the following:

- ◆ Find out the hours of operation for the landfill or transfer station serving the dump area, and get complete information on tipping requirements and fees. Save all receipts for cleanup recordkeeping.
- ◆ Determine how many helpers are needed to remove the trash, including loading, transporting and unloading, and line up enough help to complete the project.
- ◆ Provide buckets, shovels and gloves for removal of small items such as cans and broken glass.
- ◆ Have a large supply of barrels available for separation of materials.
- ◆ Truck beds fill up quickly with typical farm dump trash such as tires and appliances, so have more trucks available than may be needed, or have a responsive backup hauler.
- ◆ Make sure all participants know what to expect and that all receiving parties know when to expect your loads.
- ◆ Consider enlisting the help of local high school technology communication clubs to film the process.

After the farm dump is cleaned up, assure that the

new waste management practices are followed so the dump does not reappear. Review the waste management program to be instituted with all farm workers and ask for their suggestions. To avoid future problems, be sure to track, document, and get receipts for the purchase, use, storage, and disposal of all types of pesticides, waste oils, antifreeze, hydraulic oils, solvents, and other potential hazards.

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PSU 9/97
 Reviewed 02/04

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