

Selling CRP Land? What You Should Know



USDA Photo by: Anison Eaglin

CRP land that has not been cut.

The Conservation Reserve Program (CRP) has been an integral part of the USDA farm program since the 1985 farm bill. Under CRP provisions, highly erodible land or riparian land along streams and rivers is planted to permanent cover (forages and/or trees) and is not harvested while the contract is in force. In exchange, the landowner receives annual payments for the life of the contract. (Exemptions to the ban on haying and grazing forages have been granted in some disaster situations, usually with a reduction in government payments.)

Recognize that the government has made a large investment in every tract of land that is enrolled in CRP. Each site has required expert technical assistance to determine eligibility under the rules, seeding recommendations, follow-up assistance and monitoring. The largest up-front expense was the cost-share funding to establish the permanent cover. Considering the investment, it is understandable that the government would want the contract to stay in force for the full term. The law stipulates severe penalties for cases when the owner does not comply with the rules or intentionally breaks the contract.

If a participant fails to carry out the terms and conditions of a CRP contract, the Commodity Credit Corporation (CCC) may terminate the CRP contract and the participant would forfeit further payments under the contract, refund all payments previously received, plus interest; and pay liquidated damages as specified in the contract. If the Deputy Administrator determines such failure does not warrant termination of such contract, relief from the provisions may be authorized. Also, CCC may reduce a demand for a refund under this section to the extent CCC determines that such relief would be appropriate and will not deter accomplishment of program goals. (For the exact wording of the law, see the Federal Register online at www.fsa.usda.gov/dafp/cepd/CRP%20Final%20050803.pdf, "24830 Federal Register / Vol. 68, No. 89 /

Thursday, May 8, 2003 / Rules and Regulations"

These issues can become particularly sticky when land currently enrolled in CRP is sold. If the new owner does not become the successor of the contract, who is responsible for the penalties outlined above?

If a participant transfers all or part of the right and interest in land subject to a CRP contract and the new owner or operator does not become a successor to the contract within 60 days, or such other time as the Deputy Administrator determines to be appropriate, the contract shall be terminated and the **original participant**:

- (1) Forfeits all rights to any future payments for that acreage;
- (2) Shall refund all previous payments received under the contract by the participant or prior participants, plus interest, except as otherwise specified by the Deputy Administrator.

Clearly, if the new owner fails to become a successor to the contract within the 60-day limit, the **previous participant** is responsible and may be required to refund **all** previous payments, plus any interest received.

What implications does this have for selling CRP land?

According to Dr. David Aiken, NU extension water and ag law specialist, "If the new buyer does not intend to continue in the CRP contract, the original participant (the seller or their representative) should consider the penalties when setting the price of the land. One way to protect the seller would be to make the sale of the land conditional on the buyer's acceptance by the Farm Service Agency (FSA) for CRP participation. If the buyer isn't accepted by FSA, then the sale does not go through." Greg Chewakin, Lancaster County FSA executive director, agrees that making the sale contingent on acceptance of the new owner into the program is sound advice. He added, "Once the new owner is named the successor of the CRP contract, it is the new owner, not the former owner, who will be liable for future issues of noncompliance of the contract rules." (TD)

Plant Alfalfa in August

Alfalfa can be seeded either in spring or fall in eastern Nebraska. Whether it is best to plant alfalfa in the spring or fall depends on two factors, predominant weed species and soil moisture. If the predominant weed species are summer annuals such as foxtail and pigweed, it may be best to plant alfalfa in the fall — provided the soil profile has adequate moisture for growth. This allows the alfalfa to get established with less weed competition and since it greens up in early spring, it will get a head start on the annual weeds next year that must come from seed when the soil temperature is right for germination.

If the predominant weed species are winter annuals such as pennycress or downy brome, spring planting may be best. The weeds can be killed with tillage or herbicides in early spring and then the alfalfa planted into a clean seed bed. Pennycress, downy brome, and other winter annual weeds are more dominant in former wheat ground since they have the same growth habit as winter wheat.

The best time for fall seeding alfalfa in eastern

Nebraska is during the month of August, *provided adequate soil moisture is available*. Farmers sometimes wait until middle or late September to plant alfalfa. This is too late because the plants do not have a chance to become established before the first killing frost. The latest alfalfa should be seeded in the fall is Sept. 10 in Lancaster County. If planting cannot be completed by that time, it is best to wait for another season.

Alfalfa seed needs to be planted 1/4- to 1/2-inch deep in fine textured soils and 3/4-inch deep in sandy soils for best germination. Regardless of seeding time, it is critical that alfalfa be planted into a firm seed bed. Alfalfa seeds must have close contact with soil particles and soil moisture to insure rapid emergence. A firm seedbed helps prevent seed from being planted too deep. Leave just enough loose soil to cover seed after planting.

If you have attended an extension alfalfa workshop, you have probably seen Dr. Bruce Anderson, extension forage specialist, demonstrate his alfalfa seed bed testing kit. It is a basketball. If you can't bounce a basketball on the seed bed prior

to planting alfalfa, the seed bed is too loose. Don't have a testing kit? Walk across the seed bed with hard soled shoes, if your heel sinks in more than 1/2-inch, it is too loose. A good rain after tillage will firm the seedbed. Harrowing with the spikes set flat or rolling with a packer will firm seedbeds provided there is some moisture in the soil.

Complete tillage (disking) following row crops is okay if the soil is firmed up by either rain, sprinkler irrigation or packer-seeders. If the untilled soil surface is already smooth, no-till planters have also been very successful. In fact, no-till seeding of alfalfa following small grain crops has become the trend among successful alfalfa producers.

Before seeding alfalfa, whether you plant in spring or fall, do a complete soil test. Apply and incorporate lime and phosphorus fertilizer, if needed, and be sure to inoculate the seed. One good extension publication is NebGuide (G93-652) "Seeding and Renovating Alfalfa." It can be picked up at the extension office or accessed online at www.ianr.unl.edu/pubs/Range/g652.htm. (TD)

Nitrate Sampling Strategies

High nitrates are a constant concern when drought-stressed annual crops are used as

forage for cattle, sheep and other grazing animals. How can you sample and test corn and other plants for nitrates to help guide your management and use decisions? One way is to select different parts of the plant to sample.

For example, gather all the leaves and maybe the softer top part of the stalk from several plants. If the nitrate test shows that this material is below the danger level, animals can graze this field quite safely as long as they have plenty of leaves to selectively graze without being forced to eat lower stalks.

Or maybe some fields have areas with extra short plants that might be more attractive to grazing animals than taller plants nearby. A sample of these short plants might indicate they contain extra high levels of nitrates. Then you might fence out this area when grazing.

What about the lower stalk all by itself? Since the bottom three inches usually can't be harvested or grazed, it's not too important. But, separating the three to 12-inch portion of the stalk from the rest of the plant will let you compare their nitrate concentrations. This can aid your decision about how high to cut in order to leave a higher proportion of the nitrates



in the field. Finally, hand chopping and subsampling the large volume of material gathered

when a dozen or more plants are

collected for a sample is difficult. It is probably better to send the whole plants to the lab and let them do the work or use a wood chipper to get uniform chopping and more reliable subsampling.

Source Bruce Anderson, NU Extension Forage Specialist. (TD)

Don't Forget About Prussic Acid

When annual crops such as corn, forage sorghum and sorghum-sudan hybrids are harvested as feed for livestock, most people recognize the potential for high nitrates and potential nitrate poisoning. With all the talk about nitrates in annual forage crops, it's easy to forget about other potential toxins. Prussic acid, also called hydrocyanic acid and cyanide, often is overlooked when nitrate poisoning becomes a danger. Prussic acid is different from nitrates, but just as dangerous in plants under stress. The danger of prussic acid poisoning is limited to just a few plants, most of them related to the sorghum family. Sudangrass produces the least amount of prussic acid and can be managed quite easily to prevent problems. Sorghum-sudan crosses are a bit more hazardous and forage sorghums, cane, grain sorghum and shattercane can be very dangerous. Other summer grasses like millets and corn, as well as small grains, do not produce toxic levels of prussic acid.

The good news about prussic acid is it rarely is a problem in hay or silage. That's because as the plants dry or ferment, much of the prussic acid disappears as a gas. But when you graze these plants, be extra cautious.

New shoots and tillers, and very young leaves, contain the highest poisoning potential. This is bad news since your cattle are likely to prefer these plant parts when grazing. So limit their ability to select just these dangerous plant parts by waiting to graze until plants are tall enough to have enough older leaves to prevent animals from just picking their favorite parts. Wait until plants height is 18-inches for sudangrass and 24-inches for sorghum-sudan hybrids. During drought, don't even think about grazing cane or milo.

Be sure to fill animals with hay or grain before first turning into graze. And with a little care, your animals will be safe.

Source Bruce Anderson, NU Extension Forage Specialist. (TD)