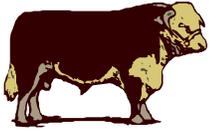




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HERD 'ROUND THE RANGE

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YELLOW STARThISTLE SURVEY

NO SERIOUS EFFORTS HAVE BEEN MADE TO ESTIMATE THE ADVERSE IMPACTS OF INVASIVE WEEDS, SUCH AS, YELLOW STARThISTLE ON CALIFORNIA AGRICULTURE. WITHOUT THIS KNOWLEDGE GOVERNMENT CANNOT JUSTIFY EXPENDITURES TO CONTROL THIS INVASIVE WEED. TO ASSIST IN DEFINING THE SCOPE OF THE IMPACT CONSIDER FILLING OUT A SURVEY. THE SURVEY CAN BE ACCESSED AND FILLED OUT OVER THE INTERNET AT <http://repa.econ.uvic.ca/survey> OR AT THE SUTTER/YUBA OR BUTTE COUNTY EXTENSION OFFICES AND MAILED IN.

ITEMS TO THINK ABOUT BEFORE ENTERING INTO A PASTURE OR GRAZING LEASE

This list is not intended to be legal advice, it is only intended as a checklist to consider for a rental agreement. All legal agreements should be reviewed by legal counsel prior to signature.

Term of the Lease

- The number of years the lease is valid
- The time each year the animals enter and leave the ranch (if it is a seasonal lease)

Payment

Price

- Per animal on a monthly basis (\$16 to 25 per animal unit).

- Flat fee for the grazing of the property for a set time period

Payment schedule

- 50% when the cows come on and 50% before they leave
- Payment at the end of the grazing season

Area to be Grazed

The areas that are will be provided for grazing should be defined by name or by legal description.

Maintenance

Maintenances of the fences, corrals, buildings and all other improvements can be approached in two ways:

- Lessee will maintain them in the same state as the start of the lease
- Lessee will repair any damage caused by livestock that is above the normal wear or deterioration with age or time. The Landowner is responsible for normal wear or depreciation.

Responsibilities of Operation

The lease should describe who will irrigate the pasture and how it is done, who pays for the water costs, who applies and pays for the fertilizer, who provides and checks livestock water, who will provide salt, move cattle from pasture to pasture, receive and ship cattle, check and doctor sick animals. If full care is provided by the landowner, then an acceptable death loss should be described and compensation if that amount is exceeded.

Insurance

The lessee will provide liability insurance naming the landowner as co-insured on the policy.

Liens

Both parties will declare any liens that are held on the property or the cattle.

Other Land Uses

Hunting, fishing, horseback riding, hiking and other uses of the ranch should be defined as to which party holds the rights to that use.

Use of Other Facilities

The allowed use of any barns, houses or other improvements on the ranch should be identified.

Proper Grazing Levels

The pasture grazing management should be defined to describe the acceptable level of grazing. This can be such things as stocking rate, end of season stubble height, or riparian protection.

Some long-term grazing leases are recorded on the ranch deed to protect the lessee if a transfer of the property occurs.

CONSERVATION EASEMENTS

Ranchers have been using conservation easements as a method to raise cash or provide income to maintain their operation or to reduce taxes. Ranchers have a number of private rights that go along with the ownership of property. By granting a conservation easement, ranchers can agree to give up some of those rights in trade for money or tax benefit. A conservation easement is an agreement between a landowner and a qualified land trust, conservation group, or government agency regarding the future uses of private property. The conservation easement is recorded and becomes part of the deed to the property. It is generally designed to be

appropriate to the specific circumstances and concerns of both the landowner and the easement holder. It can also be used to reduce the value of the land for estate planning purposes. Some landowners that need tax deductions can deduct the value of the donation of the easement from their taxes. Most conservation easements involve selling or deeding the development rights either for a specified number of years, under a Long Term Agreement (LTA), or most commonly for perpetuity (forever). The terms of the easement usually involve restriction of housing developments and some set management guidelines for livestock grazing. The amount paid for a

conservation easement is directly related to how much the owner is willing to give up in rights. Most easements require a management plan. Some groups require a plan that addresses the acceptable level of grazing. It is best to consider adaptive or a flexible management guidelines, since the term of the easement in most cases is forever. Given the legal and tax implications of a conservation easements, it is imperative these transactions be completed with the guidance of an attorney and a tax advisor. In addition, any outstanding debt secured by the property must be subordinated to the conservation easement (that is, any lenders must acknowledge that the property is encumbered by a conservation easement). The conformance by the rancher to these terms is monitored for compliance by the easement holder (e.g., the land trust or agency) on an annual or semi annual basis. Most easement holders require an additional cash donation from the landowner to cover the cost of this monitoring in perpetuity. The terms of the easement can vary greatly with the agency or group that may purchase it. Since most easements are forever, much thought should go into any terms or conditions. Ranchers can exclude public access from the conservation easement. The California Rangeland Trust was formed by the California Cattlemen's Association to assist ranchers in construction and maintenance conservation easements. They have an example easement agreement at <http://www.rangelandtrust.org/landconservation.html>

Some of the general steps that are recommended to starting a conservation easement process are:

- Collect baseline inventory of the property to record the agricultural, scenic, historical and wildlife values that the easement seeks to protect.
- Obtain legal and tax advice.

- Make contact with agencies or non-profit organizations that provide funding for or work with securing conservation easements.

- Work with the prospective easement holder to complete an appraisal of the easement value.

- Secure the cooperation of any lenders.

- Create an endowment to ensure that the easement is protected over time.

- The deed of easement will be signed by both parties, notarized, and recorded with the County Clerk and Recorder.

Before considering an easement, cattle producers should take a long time to digest the positive and negative aspects of entering into a conservation easement. Many ranchers are not interested in selling the land use rights, as they are concerned that it limits their heirs, if cattle production is no longer viable sometime in the future. With the urban development in the West, many ranchers feel that the only real profitable enterprise in a cow/calf operation is the land resource. They see this as a large potential asset in the future. Others have a deep ranching heritage that they feel a conservation easement will help to maintain. It is imperative that ranchers realize that perpetuity is a long time. Forever or infinity is hard to contemplate or truly understand.

Some ranchers are legitimately concerned about who will hold the conservation easement. This entity will now be a right holder with the landowner on the property. Since the conservation easement holder has title to certain rights on the property, it is important that the easement holder be a trusted organization that understands ranching. To address this concern, some ranchers have formed their own easement holding organizations. Others have included a condition in the conservation easement that it is nontransferable without the

permission of the landowner. This also addresses the other concern that somewhere out in perpetuity the holder of the easement could sell or transfer it to another party that is less understanding of ranching.

Make sure your vision and the easement holder's are the same before signing the easement contract. Consider all future alternatives or diversification ideas (gravel operations, logging, communication towers, farming, future ranch buildings required, etc.) before signing and make sure that potential future options that could occur in perpetuity are well thought out and are included in the contract.

Finally, the future economic viability of ranching operations on lands that are under conservation easement is an important consideration. Instead of receiving a single, lump-sum cash payment for an easement, some ranchers opt to receive payment over time. Others invest the money in an endowment that provides an annual payment to the owners of the ranch in perpetuity. While a one-time, up front payment may benefit the current owners of a ranch, these alternative payment and investment strategies help the future ranch owners realize income from the sale of the conservation easement.

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