

## Questions to Ask When Developing Winter Cow Care Agreements

### **Aaron Berger**

Beef Systems Educator  
Nebraska Extension

### **Mary Drewnoski**

Beef Systems Specialist  
Nebraska Extension

### **J. David Aiken**

Agricultural Law and Water Specialist  
Nebraska Extension

**Sept. 17, 2021**

Given the current drought conditions in the western and north central United States, there has been increased interest by cattle producers to send cattle to other locations, such as Nebraska, where winter feed resources such as corn residue may be available for grazing. This creates a scenario where many folks are asking questions about what a fair agreement for wintering cows looks like. This article will provide things to consider when developing winter cow care agreements.

It is important that these agreements be in writing and spell out specific responsibilities as well as risk ownership to avoid uncertainties and disagreements. The goal of a good agreement is that there are no surprises and that all parties are clear on expectations and roles. It is easy to forget what was originally agreed to. Having a written agreement makes it easy to refer to as situations arise.

### **A number of questions need to be asked and answered up front.**

1. Expected date of arrival and date out. The number and type of cattle (this can be important when establishing value of cattle as well as expectations for performance). How animals be identified. Are the cattle branded? The location where the cattle will be managed. Who will pay trucking fees to and from home location to care location? Who will pay any local trucking costs, if cattle are to be moved during the care period?
2. Have cattle seen electric fence before? If individual cows do not respect fences, does the provider have the right to send them home? How will these trucking costs be handled?
3. How will death loss and missing cattle be handled? One option is to set initial death loss that would be at the expense of the owner with an agreement that the operator is responsible for the value of cattle above this level. How will price be determined? It may be useful to set this price upfront to avoid issues. How will death be verified? Procedures utilized by insurance companies to verify cow death loss can be adopted and included in agreement. That typically involves a licensed veterinarian with the vet expense normally assigned to the cow owner.

4. How will treatment of sick cattle be handled? How will treatment costs be handled? A common option would be to have the provider notify the owner of any unhealthy or injured animals so that a joint decision can be made to contact a veterinarian when necessary. It is also a good idea for the provider to supply the owner with the name and contact info of the veterinarian so they can communicate with them as needed.
5. What will the cattle be fed or graze? Will supplemental protein or energy be fed when grazing? How will need be determined? If grazing, what are the feeding expectations when ice and snow restrict intake. How will the costs associated with supplemental feed be handled? Will mineral/salt be delivered provided to the cattle. Who is paying for the costs? How will intake be managed? Will body condition monitored and feeding adjusted? What is acceptable condition? Herd body condition score should be assigned to cows when care for them is transferred and a discussion of the expectations for cow condition during the care period should take place. Having body condition assigned before cows leave the providers location is also a good idea. Use of a third party (such as a veterinarian) to assist both parties in the assessment of body condition is recommended.
6. Will cows be comingled with any other herd? What are the vaccination requirements if comingled?
7. Will any additional services need to be provided, such as calving out of cows? What if will happen, if for instance, the cows start calving unexpectedly?
8. Inspection of cattle and facilities? What rights and under what conditions does the owner have the right to inspect the cattle when under control of the care provider?
9. Termination of agreement? What conditions would lead to the owner being able to remove cattle/terminate the agreement with the care provider and the reverse. How much notice must be given?
10. Payment terms. When and how much. It is common for some money to be paid to the provider upfront and then costs to be bill monthly by the provider. Will full payment be required before cattle are returned to owner (see note on cattle lien below).

**Certain Legal Issues also need to be addressed**

1. What are the expectations for liability insurance?
2. Establish whether the cattle owner is responsible for complying with interstate cattle shipment requirements. Typically, this would include CVI certificate of veterinary inspection for disease, vaccinations. Plan on at least 30 days minimum to obtain approval. This is needed both when the cattle enter Nebraska and when the cattle leave Nebraska (unless the cattle are slaughtered in Nebraska). Contract should specify who pays for CVI veterinary services necessary for interstate cattle movement for cattle entering Nebraska and cattle leaving Nebraska.

3. If cattle are loan collateral, the cattle owner is responsible for obtaining permission of owner's lender to remove cattle/loan collateral out of state. Failure to do so could violate security agreement, result in loan acceleration, foreclosure.
4. Establish whether cattle owner or care provider will arrange for brand inspection of owner's cattle out of state cattle upon entering Nebraska and upon leaving Nebraska.
5. Agister (Care Provider) lien: in Nebraska, an agister (care provider) has lien on cattle for unpaid bills. Determine whether care provider will be paid in full before cattle leave care provider's premises. Depending on type of payment, determine whether care provider will notify owner when payment has cleared so owner can arrange for transportation back to owner's premises. Once cattle leave care provider's premises, could be legally complicated to create and enforce care provider's lien outside of Nebraska.

Winter cow care agreements involve a lot of trust by both parties. It is advisable to get references for the other party when working with someone for the first time. Care providers may find it useful to talk with the owner's lender and other individuals that have conducted business with the owner. The owner may find it useful to talk with other owners that the provider has worked with in the past.

This resource is meant to provide a list of questions and issues to consider in drafting an agreement for winter care of cattle. It is intended for educational purposes. The details of any actual agreement are up to the parties involved and obtaining legal advice from a licensed attorney is encouraged in developing the actual agreement.