

10-2012

Rotational Grazing on Leased Land

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Recommended Citation

Cox, Edward, "Rotational Grazing on Leased Land" (2012). *Leopold Center Pubs and Papers*. 96.
http://lib.dr.iastate.edu/leopold_pubspapers/96

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Rotational Grazing on Leased Land

Abstract

The brochure was developed as part of the Sustainable Agricultural Land Tenure Initiative, and discusses what factors should be considered when setting up a lease for land that will be rotationally grazed.

Disciplines

Agriculture | Agriculture Law

rights relating to this fencing and more permanent fencing used around the perimeter.

Lanes. Rotating livestock from one paddock to the next often requires the use of lanes. This is particularly true for dairy operations. Lanes can result in soil compaction and erosion. Landowners and tenants may want provisions in place to ensure the ability to move livestock in a manner that minimizes such damage.

A General Sample Provision: Tenant shall locate, to the extent practicable, cattle lanes on high dry ground or along contours and to manage said lanes to avoid soil erosion, compaction, and water pollution.

Specific Sample Provisions: Tenant shall reinforce lanes with layered rock or a similarly suitable material where dirt tracks are previously established or otherwise unavoidable.

Tenant shall not drive equipment on non-surfaced lanes when wet.

Tenant shall install water diverters on any lane having a continuous gradient for _____ feet or more.

III. IMPORTANT CONTACTS

Your Attorney. Lease contracts can have an impact on a number of issues, including estate planning, taxes, social security, USDA farm programs, and liability. Use the information here to discuss concerns with your attorney and address them in a lease that meets your needs in a comprehensive manner.

Natural Resources Conservation Service. NRCS administers several voluntary conservation programs and can provide technical assistance. Visit the NRCS website at <http://www.nrcs.usda.gov> or call 515-284-4262.

Your Local Extension Office.

IV. ADDITIONAL RESOURCES

Pastures for Profit: A Guide to Rotational Grazing. This University of Wisconsin-Extension publication provides a basic understanding of rotational grazing.

SustainableFarmLease.org provides more information on tenancy and stewardship law as well as developing a sustainable farm lease contract. Visit the website or call 515-271-2205 to order "The Landowner's Guide to Sustainable Farm Leasing."

SUPPORT



LEOPOLD CENTER

This project was funded in part by the Leopold Center for Sustainable Agriculture. Established by the 1987 Iowa Groundwater Protection Act, the Leopold Center supports the development of profitable farming systems that conserve natural resources.



The Drake Agricultural Law Center is internationally recognized for providing opportunities to study how the legal system shapes our food system and influences the ability of the agricultural sector to produce, market and utilize agricultural products.

Cover Photo Courtesy of USDA NRCS.

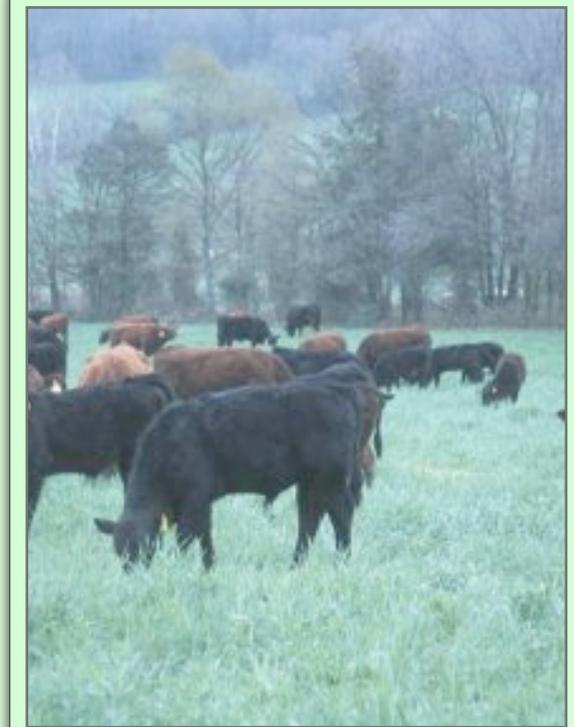
DISCLAIMER

The information provided in this brochure is intended for use as educational material to assist landowners and their advisors. The Guide is not intended, and should not be used, as a substitute for individual legal advice. Landowners and farm operators should consult a licensed attorney prior to entering a lease agreement.

CONTACT INFORMATION

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ROTATIONAL GRAZING ON ON LEASED LAND



LESSON PLAN

- I. Introduction to Management Intensive Grazing
- II. Considerations for a MiG Lease
 - A. Flexible Management
 - B. Rent
 - C. Tenure
 - D. Access to Water
 - E. Improvements
 - F. Lanes
- III. Important Contacts
- IV. Additional Resources

I. INTRODUCTION TO MANAGED GRAZING

Management intensive grazing (MiG) or any type of rotational grazing system divides a field into two or more paddocks, often separated by high tensile electric fencing. Livestock are moved from one paddock to another rather than being turned loose to graze an entire field. This method allows the ground to rest and rejuvenate and provides the operator a chance to control the amount and even the type of forage consumed by livestock.

NOTE: BENEFITS OF MANAGED ROTATIONAL GRAZING

- Decreased inputs, such as fertilizer and pesticides.
- Improved soil health.
- Improved animal health.
- Carbon sequestration.
- Decreased soil erosion and runoff.
- Increased wildlife habitat and biodiversity.
- Participation in environmental services, such as the Conservation Stewardship Program.

More information on the basics of rotational grazing can be found in the resources on the back of this brochure.

II. LEASE CONSIDERATIONS FOR A MiG OPERATION

A lease is a type of contract, and as such, the parties are pretty much free to make their own rules and create responsibilities for each party as they see fit. To ensure everyone understands what those responsibilities are—including, if necessary, a court of law—it is important to put them in writing. The issues addressed here do not provide a complete list of the items necessary for a legally enforceable lease but are provided as an introduction to some unique issues that may arise in MiG leases.

As the name reveals Management Intensive Grazing requires a great deal of knowledge, time, and flexibility on the part of the tenant. Using a pasture lease form designed for a more conventional operation and adding a provision or two that require rotations may not be enough to protect the interests of both parties and ensure a profitable relationship. Below are a few factors to consider.

Ensuring Rotations While Providing Flexibility. Lease agreements must balance the landowner's desire to protect the land with the tenant's need for flexibility in managing the operation. This means if a landowner wants to ensure a rotational system is used, lease provisions need to have

general requirements, such as requiring that paddocks be established and livestock rotated from one paddock to the next, but leave specifics, such as the number of paddocks and timing of rotation, to the discretion of the operator.

Sample Provision: Lessee shall conduct the operation using management intensive rotational grazing practices commonly accepted in locations of similar climate and geography and in compliance with all other terms and conditions of this Lease.

Landowners do sometimes take an increased role in management of pastureland and may have an ownership interest in the stock. In such cases, provisions may be developed that allow for greater landowner input. One way to provide landowner input while maintaining flexibility is through the development of a Plan of Operations that must be approved by a landowner.

Sample Provision: Lessee shall annually submit to Lessor for approval a Plan of Operations. The Plan shall be signed and dated by both parties and shall be attached to and made part of this lease.

If landowners take a larger role, the parties should be careful to avoid the appearance of a partnership. This could make the landowner and operator liable for one another's debts and negligence. Discuss how to avoid the appearance of a partnership with your attorney

Determining Rent. Deciding on the amount of rent to charge a MiG operation requires different considerations than a typical pasture lease. In addition to traditional factors for determining rent, such as the value of the land, the parties should consider a MiG system's alteration of typical inputs, including decreased fertilizer and pesticide usage and increases in the operator's knowledge, time, and effort in managing the system. The parties should also account for the operation's ability to increase the number of animals on the land while improving its long-term production capacity.

Secure Land Tenure.

Improvements in the land's productivity and biodiversity don't happen overnight, or even in a year or two. For this reason, an operator will likely need secure access to the land for several years. This means having a lease of

perhaps 10 years or more. Leases can provide mechanisms that automatically adjust rent or facilitate negotiations on a periodic basis.

Lease documents can be recorded, and in some states, are required by law to be recorded in the county recorder's office. This is particularly important for long-term leases.

Access to Water. Water is critical to a successful rotational operation. Livestock will need to be able to get to water from each paddock. Natural sources of water may be used, but for landowners concerned about soil erosion and water quality, its also important to address limitations to certain water sources.

Sample Provision: Tenant shall restrict livestock access to ponds, ditches, streams, and other bodies of water to locations where access is essential for crossing; where the crossing is perpendicular to the waterway; where the banks consist of a low graded slope; and where layered rocks, or similarly suitable material, are employed to prevent soil erosion.

While limiting direct access to such resources can help protect soil and water quality, the operator needs assurance they can divert water to troughs or other water systems. This may require temporary or permanent improvements.

Improvements. With any lease its important to establish the tenant's right to construct improvements as well as determine which improvements are temporary and which will remain with the land at the end of the lease. As

NOTE: RENT BASED ON STOCKING RATES

Traditional pasture leases often base rent on the number of animal units on the land. This system may present difficulties for a MiG operation. A successful MiG operation will increase the number of animals in the operation by improving the land's productivity—the landowner's most significant asset.

Charging rent based on the stocking rate therefore provides a windfall for a landowner and penalizes a tenant's good stewardship and hard work, decreasing the incentive for a successful MiG operation.

mentioned, it is critical for MiG operators to be able to construct or place watering systems accessible from each paddock. Whether the systems are temporary or permanent will depend on the nature of the system, but the parties should address this in the lease.

Another common improvement addressed in traditional pasture leases is fencing. In conventional operations fences are usually considered

permanent, even if put in place by the tenant. MiG operations often use highly portable electric fences to create paddocks. The parties may wish to distinguish