So You’ve Inherited a Farm, Now What?

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United States Department of Agriculture
National Institute of Food and Agriculture

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Items to be discussed:
- What is your land worth? – A look at Nebraska land values
- How do you appraise your land, and how do you find an appraiser?
- How you own land determines what you can do with it
- Communicating with family and what to do when things don’t go as planned
- What to do if you choose to sell the ground
- What to do if you keep the ground
- Cash rent, trends, and setting a starting rental rate
- How will your farm be managed?
- Written lease provisions you should consider
Disclaimer

- Land values and rental rates shown and discussed in this presentation are excerpts from the UNL Nebraska Farm Real Estate Market Survey.
- Land values and rental rates presented in this presentation are averages from these surveys. Actual land values and rental rates may vary depending upon the quality of the parcel and local market for an area.

Nebraska 2017 Land Market Presentation Overview

- Land Values
  - Average Values and Percent Changes
- Cash Rental Rates
  - Average Values and Quality Ranges
- Agricultural Farmland Leases
  - Lease Arrangement Trends
  - Setting Cash Rental Rates

Nebraska Farm Real Estate Survey

- Annual survey conducted since 1978 of Nebraska agricultural appraisers, professional farm managers, and bankers engaged in the land industry.
  - Preliminary results for land values and rental rates published the second week of March.
  - Full report published the following June.
- Nebraska Farm Real Estate website full access to these resources: [http://agecon.unl.edu/realestate](http://agecon.unl.edu/realestate)
Nebraska Land Values
Land Averages and Annual Percent Changes

Nebraska Agricultural Average
All Land Values – Feb. 1, 2017

Northwest $755/ac -8%
Southwest $1,745/ac -11%
Central $3,385/ac -10%
Northeast $5,505/ac -8%
East $6,395/ac -9%
Southeast $4,880/ac -14%
State $2,820/ac -9%

Historical Nebraska Average Land Value & Corn Price
1978-2017

Dryland Cropland (No Irrigation Potential)
Average Value – Feb. 1, 2017

Northwest $715/ac -4%
Southwest $2,785/ac -14%
Central $2,785/ac -14%
Northeast $5,410/ac -6%
East $5,790/ac -9%
State $3,145/ac -9%
South $3,045/ac -13%
### Dryland Cropland (Irrigation Potential)
Average Value – Feb. 1, 2017

<table>
<thead>
<tr>
<th>Region</th>
<th>Price</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>$2,110/ac</td>
<td>-2%</td>
</tr>
<tr>
<td>Northwest</td>
<td>$1,720/ac</td>
<td>-5%</td>
</tr>
<tr>
<td>Southwest</td>
<td>$3,220/ac</td>
<td>-16%</td>
</tr>
<tr>
<td>Central</td>
<td>$5,390/ac</td>
<td>-15%</td>
</tr>
<tr>
<td>East</td>
<td>$5,865/ac</td>
<td>-16%</td>
</tr>
<tr>
<td>Southeast</td>
<td>$5,390/ac</td>
<td>-16%</td>
</tr>
<tr>
<td>South</td>
<td>$3,750/ac</td>
<td>-13%</td>
</tr>
<tr>
<td>State</td>
<td>$2,150/ac</td>
<td>-11%</td>
</tr>
</tbody>
</table>

### Grazing Land (Tillable)
Average Value – Feb. 1, 2017

<table>
<thead>
<tr>
<th>Region</th>
<th>Price</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>$1,170/ac</td>
<td>-12%</td>
</tr>
<tr>
<td>Northwest</td>
<td>$530/ac</td>
<td>-6%</td>
</tr>
<tr>
<td>Southwest</td>
<td>$975/ac</td>
<td>-9%</td>
</tr>
<tr>
<td>Central</td>
<td>$2,155/ac</td>
<td>-12%</td>
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<tr>
<td>Northeast</td>
<td>$3,665/ac</td>
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<td>East</td>
<td>$3,765/ac</td>
<td>-14%</td>
</tr>
<tr>
<td>Southeast</td>
<td>$2,780/ac</td>
<td>-13%</td>
</tr>
<tr>
<td>South</td>
<td>$2,040/ac</td>
<td>-9%</td>
</tr>
<tr>
<td>State</td>
<td>$1,335/ac</td>
<td>-11%</td>
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</tbody>
</table>

### Grazing Land (Nontillable)
Average Value – Feb. 1, 2017

<table>
<thead>
<tr>
<th>Region</th>
<th>Price</th>
<th>Change</th>
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</thead>
<tbody>
<tr>
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<td>$705/ac</td>
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</tr>
<tr>
<td>Northwest</td>
<td>$465/ac</td>
<td>-3%</td>
</tr>
<tr>
<td>Southwest</td>
<td>$820/ac</td>
<td>-10%</td>
</tr>
<tr>
<td>Central</td>
<td>$1,685/ac</td>
<td>-12%</td>
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<tr>
<td>East</td>
<td>$2,495/ac</td>
<td>-11%</td>
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<tr>
<td>Southeast</td>
<td>$2,005/ac</td>
<td>-9%</td>
</tr>
<tr>
<td>South</td>
<td>$1,500/ac</td>
<td>-11%</td>
</tr>
<tr>
<td>State</td>
<td>$895/ac</td>
<td>-8%</td>
</tr>
</tbody>
</table>

### Hayland
Average Value – Feb. 1, 2017

<table>
<thead>
<tr>
<th>Region</th>
<th>Price</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>$1,370/ac</td>
<td>-3%</td>
</tr>
<tr>
<td>Northwest</td>
<td>$895/ac</td>
<td>-10%</td>
</tr>
<tr>
<td>Southwest</td>
<td>$1,485/ac</td>
<td>-13%</td>
</tr>
<tr>
<td>Central</td>
<td>$2,170/ac</td>
<td>-16%</td>
</tr>
<tr>
<td>East</td>
<td>$1,815/ac</td>
<td>-8%</td>
</tr>
<tr>
<td>Southeast</td>
<td>$2,160/ac</td>
<td>-8%</td>
</tr>
<tr>
<td>South</td>
<td>$1,500/ac</td>
<td>-11%</td>
</tr>
<tr>
<td>State</td>
<td>$1,815/ac</td>
<td>-8%</td>
</tr>
</tbody>
</table>
Gravity Irrigated Cropland
Average Value – Feb. 1, 2017

- North: $3,835/ac, -3%
- Northwest: $2,580/ac, -13%
- Southwest: $4,155/ac, -5%
- South: $3,810/ac, -7%
- Northeast: $6,890/ac, -5%
- Southeast: $6,615/ac, -10%
- East: $7,640/ac, -6%
- State: $6,070/ac, -6%

Center Pivot Irrigated Cropland
Average Value – Feb. 1, 2017

- North: $4,150/ac, -5%
- Northwest: $2,815/ac, -14%
- Southwest: $4,510/ac, -15%
- Central: $6,885/ac, -9%
- Norheast: $7,445/ac, -6%
- Southeast: $7,820/ac, -15%
- East: $8,700/ac, -8%
- South: $6,700/ac, -7%
- State: $6,295/ac, -9%

Rating of Factors Influencing Agricultural Land Values in 2017

- Low Factor: -4.00
- Moderate Factor: -2.00
- High Factor: 0.00
- None: 0.00
- Increase: 1.00
- Decrease: 2.00

Factors:
- High Farmland Appraisal
- Low Farmland Assessment
- Land Value Index
- Increase
- Decrease
- No Impact
- Strength Positive
- Strength Negative
Appraising land

- What is an appraisal?
  - An appraisal is professional appraiser’s opinion of market value on a property such as land, buildings, or a farm.
- Why get an appraisal?
  - To determine the current market value of the inherited farm and understand how local economic and market forces influence real estate in an area.
  - Gain perspective on the type of land and value associated with different improvements.
  - Understand the value associated with improvements such as barns, machine sheds, or irrigation equipment may be physically depreciated or functionally obsolete.

How much does an appraisals cost?

- What factors influence the cost of appraisal?
  - Availability of certified general agricultural appraisers serving a region.
  - Size and geographical location of land.
  - Kind of improvements made to the farm such as buildings or livestock facilities.
- What does an appraisal typically cost?
  - An 80 to 160 acre parcel appraisal may cost between $1,500 to $2,500 or more depending upon number of improvements.
  - Mid-sized ranch appraisals can cost $5,000 or more depending upon the configuration of the ground (grazing paddocks, livestock watering systems, or livestock working facilities).

How to find an appraiser

- Appraisers are licensed to preform appraisals in Nebraska.
- Public listing of appraisers can be found at: [http://www.appraiser.ne.gov/](http://www.appraiser.ne.gov/)
- Select Appraiser Listing on the website and then click Appraiser Listing/Nebraska County Map to display interactive map to locate an appraisal professional.

How to find an appraiser or land professional

- The American Society of Farm Managers and Rural Appraisers (ASFMA) is an association of professionals specializing in farm & ranch management and land appraisals.
  - Members can be found at [http://www.asfmra.org/](http://www.asfmra.org/)
  - Select Find a Land Expert on the website to display a searchable database of members.
Qualities of a professional agricultural appraiser

- To preform an agricultural land appraisal the appraiser needs to be licensed in Nebraska:
  - A certified general appraiser license is required to preform land and farm appraisals.
  - Define out the scope of work (legal description of the property, number of acres, types of improvements) prior to contacting a professional.
  - Visit with several appraisers to get a feel on his or her professional competency in preforming an agricultural appraisal, cost of service, and geographical knowledge.
  - Seek out recommendations from prior clients or industry professionals.

HOW IS YOUR LAND OWNED?

Types of Ownership

- Fee Simple
  - One owner – one name on the title
  - This name can also be a limited liability entity, partnership, corporation, or trust
  - While the LLE might have several members, the entity as an individual owns the land

- Multiple Owners
  - Joint Tenancy
  - Tenancy in Common
Joint Tenancy

- Joint tenancy – separate titling
  - “Rights of Survivorship” Survivor takes it all – interest passes to other owners of property
    - No probate is needed
    - Have immediate access upon death
    - How do you know?
    - Title must say joint tenancy with ROS, otherwise it defaults to TIC
  - Joint tenancy assumes equal ownership
    - For example, joint tenants cannot own 70% and 30% respectively, they each own 50%

What does it Mean - JT?

- You and your sister own a 100-page book; each of you owns 100% of the book…is that possible?

Pitfalls in JT

- If you list a joint tenant and you pass away
  - 100% ownership goes to the JT, but…
  - Only 50% of the property gets a step up in basis because you only had 50% actual ownership
  - Unless you can prove otherwise, 100% of the value of the property is included in the valuation of your estate

- JT w/ ROS has some disadvantages…

Example

- You and a sister purchase land worth $100k
- You and your sister are both listed on the title as joint tenant w/ROS
  - You die…the land has appreciated to $120K
  - Your sister gets 100% ownership of the cabin, and $120K is added to the value of your estate unless your estate can prove that sister paid for 50%
Example

- Your sister decides to sell the land
- She does not pay capital gains on the step-up portion of the half passed by you
- She does pay capital gains on the half she owned at cost or $50K
- The new basis is $60K SU + $50K investment
- When sold: $120K - $110K = $10,000 capital gains

Tenancy in Common

- Tenancy in common – spouses, family members
  - May have issues with creditor claims
  - Upon death, interest passes to owner’s heirs
  - Have distinct and separate interest
  - Right of possession is undivided
  - Absolute right of partition for sale
  - Separate interest means you could have 40% interest, another sister has 30% and a brother has 30%
  - If you pay 50% of the expenses, and the land sells, you could receive 50% of the sale even though you only had 40% interest

Problems with TIC

- You or others can sell your interest in the land to another party which may cause unintended partners
- Your interest or another’s could be garnered by creditors as payment
  - Pretty rare, they don’t want partners in land either
- If you get divorced, your spouse can take 50% of your interest
- If a spouse remarries, their new partner has a claim against the 50% you just lost
Accounts and Gifts

- If you own land worth $150K, and you decide to put your sister’s name on the title…
  - You will have generated a $75K gift…

- If you list another on a bank account…
  - There is no gift made, until the other party tries to withdraw funds
  - As long as it’s under the annual gift exclusion, no problems

Joint or Common Tenancy…which is best?

- Depends on your objectives

- Tenancy in common may exist in any proportion
  - Joint tenancy must have equal shares

- What happens if one party gets into trouble?
  - Creditors can move against ownership

- If one party passes, what happens to the property?
  - You could own interest in property with people you don’t like…

Other Titles

- Life estate and remainder
  - Pass ownership future interest of property to another
  - Hold onto rights to rents and profits, possession, and cost of maintenance.
  - Cannot sell or waste the property
  - No requirement for probate
  - Triggers a gift tax statement
  - Transfers at cost basis with no step-up; tax problems?

Life Estate

- Is the transfer of interest from one party to another…
  - … to A, for life, then to B

- Remainderman – someone that has future interest in property, but not present interest
  - No power to change, sell, gift, or other actions typical of fee simple ownership

- Life tenant can:
  - Use
  - Grow crops
  - Garner profits
  - Even sell…with severe limitations to the buyer…
  - Cannot waste the property
Life Estate

- Waste – any action that would adversely affect the nature or quality of the remainderman’s future interest in the property
  - Destroy fields
  - Fail to maintain structures
  - Fail to pay taxes leading to seizure
- The remainderman can bring suit against the life tenant for specific waste actions, but not general or non-specific diminution of the property

- Can use to bypass generations. Consider…
- Paul and Mary are siblings. Paul decides to give life estate to Mary for his house, and upon Mary’s death, the property goes to Paul’s children
  - Paul’s kids are the remaindermen
  - Mary has life estate
  - Known as pur autre vie

Why is this Important?

- How you own land dictates what you can do with it
  - You inherit land TIC with family and they want to sell their interest, what can you do?
    - Buy their interest
    - Force partition
    - Roll the dice and hope for the best
  - TIC and JT decisions
    - Who decides on what happens to the ground?
    - What if one partner chooses not to pay their portion of taxes?
    - What if one sibling gets into serious legal trouble?
    - What if one sibling is also farming the ground?
  - Recall that when you inherit ground, you also get all liens against it as well
Other Types of Structures

- Land can be “owned” in
  - Trusts
  - Limited liability entities
  - Family limited partnerships
  - Limited partnership
  - General partnership
  - Corporations
  - Any portion of the above
    - 50% to an individual
    - 20% to a Charitable remainder trust
    - 30% to a limited liability farming entity

Wills and Trusts

- The will and or trust may dictate how you get to manage the land
- …or when you even get the land
- …who the trustee is
- …how you or others may dispose of interest
- …who or when you can sell
- …who you can rent to and at what terms
- …being in a trust and managing land can be very complicated

Durable and Health Care Powers of Attorney

- Grant of power to another to look after assets and manage affairs, make health care decisions
- Anticipates possibility of incompetence: avoids need for competency hearing or approval of guardian
- Statute defines powers (plenary – complete, unqualified)
  - Should also include express powers for tax returns, life insurance matters, making gifts, transferring property into trust, accessing safe deposit box, dealing with retirement plans and Social Security
- May be contingent or present
  - Contingent – effective only upon incompetence
  - Present – effective when executed and continues in spite of incompetence

Powers of Appointment

- Useful tool for postponing decision as to ultimate disposition of an asset; allows post-mortem modification of plan
- Circumstances may change
- Unforeseen events occur
- Power of Appointment survives death, unlike power of attorney
- Used in trusts and wills
- Example: Ted gives farm to Kathy, his wife, for her lifetime, with the power to direct in her will how the farm should be divided among their children after her death
  - Ex. They want it to go to the “farming” child, but do not yet know who that is
Powers of Appointment II

- Different kinds of Powers of Appointment
  - General Power – Kathy has power to appoint anyone, including herself
  - Special Power of Appointment - Kathy can appoint one or more of their children
  - Testamentary Power – Kathy can appoint only in her will
  - Collateral Power – Ted gives farm to Kathy for life and power to appoint to their son John

- Taxation of Powers of Appointment can be complicated
  - General powers usually included in taxable estate of recipient of power (Kathy); some exceptions

Thoughts on Power of Attorney

- As the holder of Power of Attorney or Appointment, you have a huge responsibility to manage and maintain the property
- In many cases, wills, trusts, and POA’s don’t provide you with salary, and management can take considerable time and effort
- You may be under the microscope regarding your actions

Communications, family relationships, and having a plan for the land

Choices, Choices, Choices

- Sell!
- Keep in family?
  - Keep and farm it?
  - Keep and rent it?
  - Use land manager?
- The parties involved need to agree on that future
Communication - Important

• When done with the process – are you still going to have a family?
• Most peoples’ goal is to hold the family together(?)
  • Don’t make that assumption – get that commitment
• Best way is to be open and clear with communications
• Who participates in that discussion?
• Put all options on the table

Communication - continued

Consider using some sort of family meeting process

• Schedule meeting – not at major Holiday (if possible)
  • Not at Grandma’s kitchen table (family dinners)
• Will probably take more than one meeting
• Take notes, record the conversation
• Be sure to include off farm family

Communication - continued

Be aware of the sweetheart deals

• Surprises cause problems *(story about Grandma and pivot, or on-farm brother)*
• Get both sides of every story!

Communication - continued

• Listening is the Key!
• (Practice) Make partner repeat what they thought you said – to be sure that they heard you, or that you said what you wanted intended
• Make sure that you understand the other person’s point of view *(seek first to understand, then to be understood)*

• Spend plenty of time establishing the ‘goal’ or vision
  • Suggested up to 80% of the time with the vision – or what this will look like
  • Envision the Future! *(Mark and Nancy story)*
Communication
1. Allow all to have input
   * Know that there will be different expectations based on personality, age and participation
2. Then follow Golden Rule – ‘ye who has the gold makes the rule’

Generational Values
Understanding generations
What are each generation’s defining characteristics?
Based on experiences during their formative years.

Communications, Generations, and Relations
- The living generations:
  - Matures: born 1910-1945
  - Baby boomers: born 1946-1964
  - Generation X: born 1965-1979
  - Generation Z: born 2001-???
    - Not including in today’s discussion
    - Formative years just going to start

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So You’ve Inherited a Farm, Now What?

Where are the values?

Farming Heir

• Is that on-farm sibling being treated fairly?
  • Have they been fairly treated for the sweat equity that they have contributed
  • Honest evaluation of this is key
    • Avoid feelings of entitlement
    • Avoid mistrust
  • Know that perception of input is different
    • For off-farm sibling
    • For on-farm sibling

More on the Situation…..

Fair is not always equal

Typically, older generation thinks that fair means equal
• Not necessarily true
• Appropriate for on-farm heir to receive compensation for sweat equity – (building maintenance, non-crop weed control, volunteer tree control, fence maintenance, terrace maintenance, rock on driveway, etc.)
  • Thus the need to be fair
  • Also means that you may not divide asset equally

Fair vs. Equal

• Over the years, Mom and Dad (generational value) have tended to make the pie slices equal, but is that fair?
  • In some cases – yes
  • Each situation is different – no one solution to this discussion
So You've Inherited a Farm, Now What?

Contribution = Compensation

• Four Children
• One farm
• Instead of dividing equally, @ 25% each consider
  • Dividing by 5 or 20% each
    • Farm sibling receives fifth share for their contribution – actually receives 40%
    • Others receive 20% instead of 25%

Is the family plan in place?

• Do you all agree?
• Is it OK to have a majority vote, or a unanimous vote?
• Remember one of my first statements – do we want the family together when this process is finished?
• When do you get help?
  • What can that help look like

Help with the family plans (when we don’t agree)

• Clergy
• Trusted family friend
• Other ag professional in community– like a banker
• Family Lawyer
• Mediation/Arbitration (see next slide)
• Lawsuit(s) – court will decide

Get help when needed:

Mediation/arbitration, or med/arb, is a process by which the parties try to mediate their dispute with a neutral person, the mediator. If they cannot agree on a resolution, then the mediator becomes an arbitrator.
More on arbitration…

• Is arbitration decision final?
  • In binding arbitration, the arbitrator’s decision is final. It may not be reviewed or overturned by a court except in very limited circumstances, such as when fraud or misuse of power has been involved. In nonbinding arbitration, either party may reject the arbitration award and demand a trial instead.

Get and use help when needed

• Rural response Hotline – for transition/transfer questions-1-800-464-0258
  • Make appointment for local clinic (example: Norfolk/monthly)

Your Rights as a Landowner

• If you are fee simple – you can dispose of the land anyway you wish
• If you are a joint tenant, must have permission of all to dispose of the asset
• If you are tenant in common, you can force partition or sell off your interest
• Remember how you own the land makes a huge difference on what you can do with it

IF YOU SELL THE GROUND
Tax Implications of Gifts and Sales

- If you received the land as a gift…
  - Upon sale, you will be responsible for capital gains tax using the original purchase price
  - If you gift the land to another it is only worth original basis, but will be considered at market for your lifetime exclusion (may require filing an IRS Gift Form)
- If you received through the estate funnel
  - Upon sale, you will be responsible for the capital gains tax on the step-up (or down) value
  - If you gift the land to another it is worth new basis, and will be considered at market for your lifetime exclusion (may require filing an IRS Gift Form)

Your Options Under 1031

- Basically – IRS allows you to sell a property and reinvest the proceeds in a new property all while deferring capital gains tax
  - Generally have 180 days to complete the exchange
  - Must have 100% preservation of the equity for full deferral and must have a like-kind replacement
    - Can’t sell farmland and buy a boat – not similar enough
    - Can sell farmland and buy unimproved property in another state or improved property as an investment
    - See your tax and legal counsel when considering what does and does not qualify for these exchanges

Choosing to Keep the Farm in the Family

Nebraska Cash Rental Rates

Dryland Cropland
Rental Rates
So You've Inherited a Farm, Now What?

Dryland Cropland
Average Rental Rates – 2017 Season
(Nebraska Farm Real Estate Survey)

- North: $55/ac (8%)
- Northwest: $29/ac (9%)
- Southwest: $39/ac (7%)
- Central: $88/ac (8%)
- East: $195/ac (3%)
- Southeast: $155/ac (6%)
- South: $72/ac (10%)

Dryland Cropland
Rental Rate Ranges – 2017 Season
(Nebraska Farm Real Estate Survey)

- North: High: $67/ac, Average: $55/ac, Low: $41/ac
- Northwest: High: $41/ac, Average: $29/ac, Low: $23/ac
- Southwest: High: $56/ac, Average: $39/ac, Low: $28/ac
- Central: High: $120/ac, Average: $88/ac, Low: $68/ac
- Southeast: High: $200/ac, Average: $155/ac, Low: $130/ac

So You've Inherited a Farm, Now What?

Dryland Cropland
Rental Rates – 2017 Season
(USDA-NASS Survey – Sept. 8, 2017)

Nebraska Cash Rental Rates
Irrigated Cropland
Rental Rates
Gravity Irrigated Cropland
Average Rental Rates – 2017 Season
(Nebraska Farm Real Estate Survey)

North
$165/ac
-6%
Northwest
$120/ac
-6%
Southwest
$220/ac
-4%
South
$205/ac
-5%
Central
$305/ac
-12%
East
$260/ac
-9%
Northeast
$255/ac
-7%
East
$260/ac
-9%

Gravity Irrigated Cropland
Rental Rate Ranges – 2017 Season
(Nebraska Farm Real Estate Survey)

North
H: $190/ac
A: $165/ac
L: $140/ac
Northwest
H: $150/ac
A: $120/ac
L: $95/ac
Southwest
H: $235/ac
A: $180/ac
L: $135/ac
Central
H: $255/ac
A: $220/ac
L: $185/ac
Northeast
H: $295/ac
A: $255/ac
L: $210/ac
East
H: $300/ac
A: $260/ac
L: $235/ac
Southeast
H: $275/ac
A: $235/ac
L: $205/ac

Center Pivot Irrigated Cropland
Average Rental Rates – 2017 Season
(Nebraska Farm Real Estate Survey)

North
$205/ac
-7%
Northwest
$155/ac
-9%
Southwest
$200/ac
-4%
South
$225/ac
-9%
Central
$230/ac
-4%
East
$290/ac
-9%
Northeast
$305/ac
-12%
East
$290/ac
-9%

Center Pivot Irrigated Cropland
Rental Rate Ranges – 2017 Season
(Nebraska Farm Real Estate Survey)

North
H: $190/ac
A: $155/ac
L: $125/ac
Northwest
H: $150/ac
A: $120/ac
L: $95/ac
Southwest
H: $235/ac
A: $180/ac
L: $135/ac
Central
H: $245/ac
A: $200/ac
L: $185/ac
Northeast
H: $305/ac
A: $265/ac
L: $235/ac
East
H: $335/ac
A: $290/ac
L: $245/ac
Southeast
H: $315/ac
A: $265/ac
L: $225/ac
So You’ve Inherited a Farm, Now What?

Irrigated Cropland
Rental Rates – 2017 Season
(USDA-NASS Survey – Sept. 8, 2017)

Nebraska Cash Rental Rates
Pasture and Cow-Calf Pairs
Rental Rates

Pasture per Acre
Average Rental Rates – 2017 Season
(Nebraska Farm Real Estate Survey)

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Pasture per Acre
Rental Rates – 2017 Season
(USDA-NASS Survey – Sept. 8, 2017)

Cow-Calf Pairs
Average Rental Rates – 2017 Monthly
(Nebraska Farm Real Estate Survey)

Cow-Calf Pairs
Rental Rate Ranges – 2017 Monthly
(Nebraska Farm Real Estate Survey)

Agricultural Farmland Leases
Setting Cash Rental Rates
Types of Cropland Leases

- **Crop Share**: landowner receives percentage of actual crop yield as payment for leasing the agricultural land to tenant. Landowner may share input and production costs of raising the crop.
- **Cash Lease**: landowner receives an agreed upon cash payment amount for leasing the agricultural land to the tenant.
- **Flex Lease**: landowner and tenant set a base cash rental rate which can flex upon actual crop yields, prices, or a combination of the two.

Setting Cash Rental Rates

- Setting a cash rental rate needs to be viable given the needs of the landlord and tenant.
- Rates may be set according to:
  - Fixed amount per acre for all acres on the farm.
  - Fixed amount per cropland acre.
- Different methods may be used to calculate a rental rate, but all methods must arrive at a viable rate.

Methods for Setting Cash Rental Rates

- Basic methods for estimating a cash rental rate:
  - Adjusting survey data.
  - Cash equivalent from crop share.
  - Return on investment.

Estimating Cash Rental Rates by Adjusting Survey Data

- Land rental rate survey data:
  - Evaluate available cash rental survey data to establish a baseline in the landlord and tenant negotiation process.
- Average yields:

<table>
<thead>
<tr>
<th>County Rental Rate</th>
<th>Value ($/ac.)</th>
<th>Farm Rent/Bushel</th>
<th>Value ($/bu.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>150</td>
<td>$150/acre</td>
<td>1.50</td>
<td></td>
</tr>
<tr>
<td>100</td>
<td>100 bu./ac.</td>
<td>1.15</td>
<td></td>
</tr>
<tr>
<td>1.50</td>
<td>$1.50/bushel</td>
<td>172.50/acre</td>
<td></td>
</tr>
</tbody>
</table>
Cash Equivalent From Crop Share

- Rent paid to landlord by tenant based off owner’s share of net returns per acre.
- Example 50/50 split:

<table>
<thead>
<tr>
<th>Value</th>
<th>Corn</th>
<th>Soybeans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yield (50% share)</td>
<td>80 bu/ac.</td>
<td>25 bu/ac.</td>
</tr>
<tr>
<td>Price/bushel</td>
<td>x $3.60/bu.</td>
<td>x $9.40/bu.</td>
</tr>
<tr>
<td>Income</td>
<td>$288/ac.</td>
<td>$235/ac.</td>
</tr>
<tr>
<td>Owner Expenses</td>
<td>-$145/ac.</td>
<td>-$85/ac.</td>
</tr>
<tr>
<td>Net Return to Owner (Effective Rent)</td>
<td>$143/ac.</td>
<td>$150/ac.</td>
</tr>
</tbody>
</table>

Return on Investment

- Multiply the estimated current market value by the expected rate of return to determine the rental rate per acre.

<table>
<thead>
<tr>
<th>Farm</th>
<th>Dryland Cropland</th>
<th>Irrigated Cropland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Value</td>
<td>$5,000/ac.</td>
<td>$8,500/ac.</td>
</tr>
<tr>
<td>Rate of Return</td>
<td>x 2.7-3.1%</td>
<td>x 2.8-3.2%</td>
</tr>
<tr>
<td>Rental Rate per Acre</td>
<td>$135-$155/ac.</td>
<td>$238-$272/ac.</td>
</tr>
</tbody>
</table>

***Estimated net rates of return by land type are available in Table 5 of the Nebraska Farm Real Estate Market Highlights Report 2016-2017.

Return on Investment (continued)

- Selecting an appropriate market value and rate of return are key to estimating reasonable rental rates.
- Nebraska Farm Real Estate Survey provides estimated annual net rates of return (returns after landownership expenses – i.e. land taxes).
- Summaries provided in the land report estimate net rates of return for irrigated cropland, dryland cropland, and grazing land.

Agricultural Farmland Leases

Lease Arrangement Trends
Cropland Lease Arrangements in Nebraska by District

Factors for Flexing Cropland Lease Provisions in Nebraska

Lease Provisions for Existing Farm Grain Storage as Part of Cropland Rental Arrangements

Expenses Paid by the Landlord to the Tenant in Common Crop Share Leases

Source: UNL Nebraska Farm Real Estate Survey, 2015

Source: UNL Nebraska Farm Real Estate Survey, 2017

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Prevalence of Crop Share Lease Arrangements in Nebraska

Source: UNL Nebraska Farm Real Estate Survey, 2017

Marketer of Landlord’s Portion of Crop Produced Under Share Lease

Source: UNL Nebraska Farm Real Estate Survey, 2017

Fillable PDF Leases – AgLease101.org

How Will The Farm be Managed?
Options for keeping

- Estimate what the potential income might be
  - Either from farming it yourself
  - Does it fit the current operation? (next generation)
  - Having it custom farmed
    - Some are having it custom farmed for a % of the production – to motivate farmer to produce
  - From rental
    - Crop share rent
    - Cash rent
    - Flexible cash rent

Professional Farm Manager

- Consider use if Custom Farming or Renting
- Take care of managing the asset – especially valuable for absentee owners
- Charge between 6-12% of the rental rate as their fee for management (less on straight cash rent, more on crop share rent agreements or custom farming)
  - Depends on what you are asking them to do
  - In some cases, the service is very worth while

Options for keeping - continued

- A bit more about renting
  - Custom Farming – any questions?
  - Crop Share –(if you do not mind the marketing part)
    - Still a very fair way to rent – for both landowner and tenant
    - Some landlords are taking a smaller percent and paying no input expenses

Crop Share - continued

- Landlord and tenant share in the expense and share in the risk associated with producing the crop
- Over history a very fair way to rent
- Crop share has lost popularity
  - Landlords do not like to:
    - pay expenses
    - worry about marketing their crop

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Crop Share - continued

Typical (historic) provisions

- Landlord
  - Pays for % of fertilizer, insecticide, fungicide, and herbicide
  - % of Irrigation fuel or electricity
  - % of crop insurance
  - Irrigation System ownership costs
    • (depreciation, insurance, repairs, taxes, interest)
  - Land taxes and land maintenance

Crop Share - continued

Typically

- Tenant pays for
  - % of fertilizer, insecticide, fungicide, and herbicide
  - % of crop insurance
  - All seed
  - All field operations
  - Transportation of landlord’s share of crop to designated location

Options for keeping - continued

- More about renting
  - Cash leases – two types – straight cash leases and flexible cash leases
    • Straight lease means that you get paid XX dollars per acre for the lease per year
    • Flexible lease means you that the actual lease is flexed by some variable – usually price and/or yield
      • Consider putting lower and upper limits on the ‘flex’

Written Leases and Lease Provisions

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Written Lease – Must Have’s

- Date of entry and expiration
- Names and addresses of parties involved
- Legal description of the property to be leased
  - If multiple rates, have legal description of each partition
- Signatures
- What constitutes a “legal” written lease in Nebraska?

Terms

- Provisions for termination
- Provisions for reimbursement of soil amendments
- Acts of negligence that give rise to default
- Tenant’s rights during transfer or condemnation
- Tenant’s rights during termination or early release

Critical Issues

- Hunting rights
  - Allow or retain – must specify
- Stover
  - Allow harvest or retain
  - If harvest, how often
  - Will the rent increase with use
- Grazing
  - Allow, when, how many, animal/fencing needs
- Easements
  - Do they exist and in what terms

Written Leases – please!!

- No cookie cutter leases, but models do exist
  - aglease101.org
- Get legal help if needed
- Have lease reviewed by an attorney
Summation

- Land ownership is rewarding – if you put in the work
- Know your investment and what you expect the investment to do for you
- Get help when you need it
- Get training – need to know what you don’t know
- Family communications can be challenging, but never ignored

Beginning Farmer and Rancher Resources

Resources Available to You

- Farm Credit Services
  - Young and Beginning Farmer Program
    - 35 year or younger with less than 10 years of experience
    - Loans for land purchase, operations, insurance, and business activity
    - Up to $500/year for educational reimbursements
    - Youth in Ag loans up to $2500/student
    - College scholarship up to $2000

Resources

- Nebraska Investment Finance Authority
  - Beginning Farmer and Rancher Program
  - Land purchase, equipment, machinery, breeding livestock
  - Facilitates loans up to $520,000 to those who do not already own a substantial amount of land with a net worth not to exceed $500,000
Resources - continued
• Nebraska Department of Revenue
  • Provides a refundable tax credit against sales and use taxes or income tax liability for payers engaged in livestock production who invest $50K or more for expansion or modernization
  • Tax credit is for 10% of the investment not to exceed $30K

Resources - continued
• Nebraska Department of Ag
  • Beginning Farmer Tax Credit Program
    • Offers a refundable tax credit to existing farmer/livestock producers who agree to rent to beginning farmers/ranchers
    • Must be a three-year lease
    • Credit is equal to 10% of the cash rent or 15% of share rent (to include livestock)
  • Personal Property Tax Exemption
    • Up to $100K of personal property used in production may be exempt from personal property tax
    • Must apply by Nov. 1 of the year prior to credit sought

Resources - continued
• Nebraska Department of Ag
  • Beginning Farmer Tax Credit Program – tenant
    • Must be a resident of Nebraska
    • Must have farmed for less than 10 of the last 15 years
    • Net worth less than $200K
    • Must participate in an approved financial management program
  • Beginning Farmer Tax Credit Program – owner
    • Must have ownership
    • If a close relative, must attend an approved succession workshop and the asset included in the resultant plan

Resources
• Farm Service Agency
  • Must not have operated a farm for more than 10 years
  • Does not own more than 30% of the average size farm in the county
  • Must substantially participate in the farm
  • Must meet other eligibility requirements
• Loans
  • Direct Farm Ownership - Max $300,000; 40 year term fixed int.
  • Direct Down Payment – 5% down, with the lower of 45% of farm price or $667,000 or 45% of appraised value to $667,000
  • FSA must not finance more than $300,000
    • 20-yr fixed int.
Resources - continued

• Farm Service Agency
  • Loans cont.
    • Microloan – Max $50,000; 1-7-years fixed int.  
      Use for initial start, expenses, family living, equip, livestock, etc. 
      geared for those with less farm management exp.
    • Direct Operating - $300,000 max, 1-7-year term fixed int.  
      Use for typical operating expenses, livestock, equip, water 
      development, closing costs, training, refinance, etc.
    • Direct Emergency – 1-7 year term non real estate, 40-yr real 
      estate, fixed int. Max is lesser of 
      • 100% of actual or physical loss or 
      • $500,000 
      Use for qualifying natural disaster

Resources - continued

• Farm Service Agency
  • Loans
    • Farm Storage Facility – Max $500,000, 7-10 year term  
      • Build/upgrade permanent facility for commodities 
    • Guaranteed Farm Ownership Loan - $1,392,000 max, 40-year term, interest is negotiated  
      • Loan is made and serviced by commercial bank/credit union and guaranteed by FSA 
      • Farm purchase, expansion, and land acquisition costs 
      • 1.5% loan and servicing fee applies
    • Guaranteed Operating – Max $1,392,000, 1-7 year term, interest is negotiated  
      • Typical operating expenses, minor building improvements, land and water development, 
      living, refinance of debt 
      • 1.5% service fee 
    • Guaranteed Conservation – Max $1,392,000, 20 year term, interest negotiated  
    • For conservation practice development on an approved plan

Technical Assistance

• NRCS – water, soil, and wildlife conservation programs with funded 
  assistance on desired activities
• Legal Aid of Nebraska – works to provide guidance for estate and 
  transition plans, business organization, support programs, financial 
  statements, and other legal issues
• Center for Rural Affairs - works to provide guidance for estate and 
  transition plans, business organization, support programs, financial 
  statements, and other legal issues
• Nebraska Sustainable Ag Society – educational training and support to 
  those wanting to evaluate and plan the farm enterprise from a 
  sustainable view
Questions?
<table>
<thead>
<tr>
<th>Purpose</th>
<th>Maximum Loan Amount</th>
<th>Type of Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase a farm or ranch</td>
<td>$300,000</td>
<td>Direct Farm Ownership Payment</td>
</tr>
<tr>
<td>Purchase or enlarge a farm or ranch</td>
<td>$300,000</td>
<td>Direct Farm Ownership Payment</td>
</tr>
<tr>
<td>Closeout costs and pay for soil conservation and protection</td>
<td>$300,000</td>
<td>Direct Farm Ownership Payment</td>
</tr>
</tbody>
</table>

**Direct Loans are made and serviced directly by USDA Farm Service Agency (FSA)**

- **Type of Loan:** Direct Farm Ownership Payment
- **Purpose:** Purchase or enlarge a farm or ranch, closeout costs, and pay for soil conservation and protection
- **Maximum Loan Amount:** $300,000
- **Term and Rates:**
  - FSA portion cannot exceed $300,000
  - To $667,000: 45% of the purchase price or up to $667,000
  - Fixed interest rate: 40 years
  - Term: Up to 20 years
  - Payment: Following the lowest of the following:
    - 45% of the farm or ranch
    - Purchase price up to $667,000
    - 45% of the appraised value up to $667,000
    - FSA portion cannot exceed $300,000
    - Interest rate: fixed

**Loans for Your Farm or Ranch**

- **Type of Loan:** Direct Down Payment
- **Purpose:** Purchase a farm or ranch
- **Maximum Loan Amount:** The lowest of the following:
  - 45% of the farm or ranch
  - Purchase price up to $667,000
  - 45% of the appraised value up to $667,000
  - FSA portion cannot exceed $300,000
- **Term and Rates:**
  - Fixed interest rate: 20 years
  - Term: Up to 20 years
  - Payment: They require a 5% down payment

United States Department of Agriculture
Microloans can be used for all approved operating expenses as authorized by the FSA Operating Loan Program, including but not limited to:

- Initial start-up expenses;
- Annual expenses such as seed, fertilizer, utilities, land rents;
- Marketing and distribution expenses;
- Family living expenses such as food, clothing, and shelter;
- Purchase of livestock, equipment, and other materials essential to farm operations;
- Hoop houses to extend the growing season;
- Irrigation systems;
- Livestock, equipment, and other improvements such as wells, fences, and facilities;
- Refinance farm-related debts; and pay for minor repairs, maintenance, and improvements to real estate, repair land and water sources, and purchase livestock.

Note: Microloans are a simplified, streamlined program requiring less paperwork and less farm management experience than some other lending programs. These loans can help you manage your farm business better.

- Interest rate: Fixed
- Term: 1-7 years,
- Starting amount: $500,000

For more information, please contact your FSA office or visit their website.
Guaranteed loans are made and serviced by commercial lenders like banks or credit unions.

<table>
<thead>
<tr>
<th>Guaranteed Loans</th>
<th>Direct Loans</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Term:</strong> 1 to 7 years</td>
<td><strong>Term:</strong> 1 to 7 years</td>
</tr>
<tr>
<td><strong>Interest:</strong> fixed</td>
<td><strong>Interest:</strong> fixed</td>
</tr>
<tr>
<td><strong>Rate:</strong> 5%</td>
<td><strong>Rate:</strong> 5%</td>
</tr>
<tr>
<td><strong>Loan Amount:</strong> $500,000</td>
<td><strong>Loan Amount:</strong> $500,000</td>
</tr>
</tbody>
</table>

**Direct Loans**

- These loans can help you if you suffered a qualifying loss caused by natural disasters.
- Emergency loan funds may be used to restore or replace essential property and working capital, pay all or part of production costs associated with the disaster, pay essential family living expenses, reorganize the farming operation, and refinance certain debts.

- The lowest of the following:
  - 100% actual or physical losses
  - $500,000

**Emergency Loan Terms**

- 20 years.
- Between the ages of 18 and 74 years.
- Borrowers must have a qualifying loss caused by a disaster.
- Available to producers, agricultural organizations, 4-H clubs, FFA, and similar groups with an existing interest in farming or ranching.
- Loan term: 7 years.
- Interest rate: fixed.
- Loan purpose: To establish and operate the farming operation.
- Loan amount: $500,000.

**Youth Loans**

- To establish and operate income-producing projects of modest size in connection with 4-H and similar organizations.
- Youth loan is available to persons between the ages of 10 and 20 years.
- Loan term: 1 to 7 years.
- Interest rate: fixed.
- Loan amount: $5,000.

**Farm Storage Facility Loan Program**

- To build or upgrade permanent facilities to store commodities to store.
- Loan terms are 7 years, 10 years, or 12 years, depending on the amount of the loan.
- Interest rate: fixed.
- Loan amount: $500,000.

**Guaranteed Loans**

- Guaranteed loans are made and serviced by commercial lenders like banks or credit unions.
- Loan amount: $500,000.
- Term: 1 to 7 years.
- Interest rate: fixed.
- Loan purpose: To establish and operate the farming operation.
- Loan amount: $500,000.

- The lowest of the following:
  - 100% actual or physical losses
  - $500,000

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- Loan amount: $500,000.
- Term: 1 to 7 years.
- Interest rate: fixed.
- Loan purpose: To establish and operate the farming operation.
- Loan amount: $500,000.

- The lowest of the following:
  - 100% actual or physical losses
  - $500,000
**Guaranteed Farm Ownership**

These loans can help you purchase or enlarge a farm or ranch, construct a new or improve an existing farm or ranch, construct a new or improve an existing farm or ranch, pay for soil and water conservation and protection. There is a fee of 1.5% of the loan amount.

The maximum loan amount is currently $1,392,000. Term: Up to 20 years.

**Guaranteed Operating Loans**

Guaranteed Operating Loans (OL) may be used to purchase livestock, farm equipment, feed, seed, fuel, farm chemicals, insurance, and other operating expenses. Operating Loans can also be used to pay for minor improvements to buildings, costs associated with land and water development, family living expenses, and to refinance debts under certain conditions. There is a fee of 1.5% of the loan amount. The maximum loan amount is currently $1,392,000. Term: 1 to 7 years.

**Guaranteed Conservation**

These loans can help you complete a conservation practice in an approved conservation stewardship management plan. The interest rate is annually for inflation and is currently 5%. The maximum loan amount is currently $1,392,000. Term: Up to 20 years.
A written contract is still an essential business practice when leasing farm property. It forces detailed consideration, communication, and understanding by both parties. It serves as a handy reference in case details are forgotten or there is a death of the tenant or landlord.

The contract should encourage the most profitable, long-term operation of the farm and be beneficial for both parties. Are the returns proportional to the contributions both tenant and landlord make to the business? Will the lease prevent or discourage a tenant from operating the farm in the same way a well-financed owner-operator would run it? Are the best farming methods, conservation practices, and/or environmental practices utilized? What is the plan for needed improvements? Every contract or lease agreement will one day terminate; how is termination to be handled? What method(s) will be used to settle the agreement?

The following checklist will assist tenants and landlords to consider components of a well-designed lease agreement. It is advisable to have an attorney for one party prepare the lease, with a review by the attorney for the other party.

### Parties to Lease and Description

- Date the lease is entered into.
- Names and addresses of the landlord and tenant.
- Legal description of the leased property.
- Signatures of the landlord and tenant.
- Territory:
  - The tenant may not sub-lease the property.
  - Consider hunting rights.

### General Terms

- Time period of the lease, including beginning and ending dates.
- Rental amount for cash lease; base rent for flexible cash leases, and respective shares and contributions for a crop-share lease.
- When and how rent will be paid and penalties for late payments.
- Provision for carrying liability insurance on the property.
- When and how rent will be paid and penalties for late payments.
- Statement that the landlord and tenant do not intend to create a partnership by entering into the lease agreement. Neither party will obligate the other for debts/liabilities or damages.
- Conditions under which the tenant may or may not sub-lease the property.
- Provisions of landowner(s) and tenant(s) reporting of crop/land/business operations or include what provisions for carrying liability insurance on the property.
- Time and place of the lease, including beginning and ending dates.
- If rental is given rights to farm improvements (buildings, bins, for example) at what rental rate?
- Specify mineral and water rights.
- If tenant does not own all irrigation equipment, how rent is adjusted to reflect that?
- If tenant is given rights to farm improvements (buildings, bins, for example) at what rental rate?
- If irrigation equipment is not owned, how rent is adjusted to reflect that?
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Operation and Maintenance

___Desired or prohibited farming practices, including types of chemicals that may not be used on the property.

___Process of measuring and maintaining soil fertility and pH levels. (Include minimum required amounts of fertility and remedial actions)

___Which party is responsible for controlling noxious weeds?

___Which party is responsible for maintaining fences?

___Whether the tenant has the right to make improvements and be compensated for improvements.

___Is tenant responsible for non-crop acres (for example for mowing)? How is this work to be conducted?

___Will the tenant be required to carry insurance to cover costs of mitigating his activity – like an accidental chemical spill?

___Whether the tenant has the right to utilize improvements made by the landlord.

___Provisions for soil-conservation practices.

___Statement regarding the existing environmental status of the property and responsibility to minimize activities that may cause contamination.

___Use of non-cropland, garden plots, trees, buildings, grain bins, pasture or other areas not rented for cropland.

___ Provision identifying who is responsible for maintenance on irrigation equipment or other farm use assets identified in the lease.

___Any provisions for the compensation of the tenant(s) for conducting improvement(s) or maintenance on the property or associated use assets.

___What records are to be kept by whom and how will this information be shared?

___Compliance with terms of the lease. (Example: if tenant paid for and applied lime).

Crop-Share Provisions

___Provision that any amendments must be in writing and signed by both parties.

Arbitration of Difference

___Provision for resolving disputes, including the applicable state statutes.

Landlord Rights and Government Payment

___Landlord's right to enter the property for specific purposes.

___Landlord's right to a security interest in the crops or other provisions for ensuring payment.

___Statement of which party will participate in federal farm programs, including responsibility for eligibility and receipt of payments.

___Nature of landlord participation in management. This may relate to issues regarding income and self-employment, taxes, social security payments, and estate planning.

Landlord’s right to enter the property for specific purposes. This may relate to issues regarding income and self-employment, taxes, social security payments, and estate planning.

The property or associated use assets.

Any provision for the compensation of the tenant(s) for conducting improvement(s) or maintenance on the property or associated use assets identified in the lease.

Problem of measuring and maintaining soil fertility and pH levels. (Include minimum required amounts of fertilizers.)

Desired or prohibited farming practices, including types of chemicals that may not be used on the property.
2017 Nebraska Irrigated Cropland Cash Rent Paid Per Acre

Source: USDA National Agricultural Statistics Service - Sept 8, 2017

Website: https://www.nass.usda.gov/Statistics_by_State/Nebraska/Publications/County_Estimates/
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