

Good fences make good neighbors



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As the grass starts to grow each spring, it makes me think of turning cows with baby calves out to pasture for the first time.

After a long winter of being in cornstalks, cows are happy to be back on green grass. Baby calves show their excitement by jumping and frolicking in their new environment.

Spring is also an appropriate time to make sure you have good fences to keep your cows in your pasture.

It seems inevitable that at some point the cows will find a

place to test the fence and eventually wind up on the wrong side. Once that happens, usually another one will follow.

Every once and a while, a gate gets left open by mistake, and the cows wind up out. We know what would happen if we had no fences when producers turned the cows out to pasture in the spring. It wouldn't take long, and they would all be gone.

This seems to be a good analogy of what can happen for farm families dealing with issues in distributing an estate without guidance or direction.

Judging from the number of responses from last month's column, readers related to the concept of ruling from the grave but feel resigned that sometimes it may be better to simply give guidance your children can change if they disagree.

Like the baby calf turned out to pasture for the very first time, heirs may find themselves frolicking with the possibility of cashing highly appreciated inherited land tax-free because of an estate's basis step-up.

Many clients have commented that they would prefer to give guidance to their heirs with an option for any who wish to sell their interest in inherited property back to the other family members. Just as many commented they don't think it's fair for one owner to force all the owners of inherited property to sell when some may not want to sell their interest.

Interesting questions

With a specific line of questioning regarding heirs' intent when inheriting illiquid farmland, you may be able to achieve an understanding of what could happen for your family.

This can help mom and dad decide how to distribute their estate

and ultimately “build their own fence” around their farm continuation plan.

We have asked both parents and children many times, “What would you do if you inherited \$1 million of equity in farmland?”

Maybe they would turn it into cash to pay off their home or buy a second home. They might buy an automobile or recreational vehicle.

They could pay for their children’s education or maybe cleanup old debts. Perhaps they would invest for their retirement.

The natural follow-up question is, “What would you do if you inherited \$1 million of liquid cash?” HOW MANY of your children would buy land with inherited cash?

These are questions that can help form and complete an effective farm continuation plan for your family.

There are various reasons why some, if not all, your children do not currently own farmland. Odds are it will likely remain that way after they inherit land from your estate.

It only takes an auction to turn the illiquid equity in inherited farmland into liquid cash.

But it takes much more initiative to turn \$1 million of liquid cash inheritance into illiquid equity in farmland.

Why so serious?

Parents are interested in discussing various options to give their children an opportunity to own the land they have accumulated in their estate.

Frequently, non-farming children with a “what’s the big deal”

attitude will wonder why their parents are so serious about providing an opportunity or future continued ownership of the land.

The farm heirs, however, quickly understand the struggle of land acquisition. Most of a farm family's lifetime is spent in strife.

Each new growing season brings new challenges in weather, marketing, technology, interest rates or cash flow.

They recognize how difficult it is to build a farm estate by buying land that won't pay for itself on its own merits the first time – let alone paying for it twice.

To survive, most everything has to be plowed back into the farm over the long term with the hope that one day the land will be paid for.

It's not difficult to feel for a family who gets their land debt paid off just in time to come to the realization the next generation will have to start paying for the same land all over again from their estate.

Borrowing money to buy and not only needs to be able to cash flow, but any new debt also should add production to the operation.

IT CAN be a recipe for disaster in today's farm economy for your farm to incur additional debt to buy out siblings but not add any more acres to your operation.

Most families have spread the struggles of purchasing land out over various time periods throughout their lifetime.

Imagine if you had to buy the land that you have accumulated all at one time, with current high land values, and all within 12

months of a typical estate proceeding.

Good fences

The continuation plan that best guarantees land stays in the family will get the land transitioned to those who will farm it (continue to own it) and get cash to those who will not.

This can be a difficult proposition that could require multiple strategies that may have to be unconventional to make the plan work.

In situations where conventional buyouts will not cash flow, it may become necessary for multiple children to become owners of the land.

This can be a viable option, but not without a solid set of rules for farm continuation.

Forcing your children to become “neighbors” by owning farmland together can work, but not without “good fences.”

Some families have built their estate planning “fences” with five-strand high-tinsel fence with three hot wires.

These families have either sold the land on contract to the next generation or at a minimum clearly outlined the process and terms of future rent and ownership of the land in their wills, trusts and powers of attorney.

There are families who will temporarily patch their estate plan “fences” with rusty woven wire and spliced barbed wire, hoping the cows don’t find the holes.

Lastly, there are families who have the attitude that since they will be dead anyway, they don’t need to bother to make a fence. We know what will happen in those cases.

My hope is that you will adequately assess your current plan and that you will find the time and resources to build or upgrade your farm continuation “fence” to guide your children through your farm transition plans when the time comes.