Writing Contracts to Buy or Sell Corn Silage

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Contract silage production allows crop and dairy producers to specialize in what they do best. However, contracts can be a complicated issue. This article highlights a few things to consider and provides additional resources.

Contractual arrangements must allow both parties to profit over time in order to endure. Contracts are generally written with an expected yield and a normal market price. Disputes can arise when low yields make it difficult for the crop producer to deliver the contracted amount, or if prices drop giving the dairy producer a case of "buyer's remorse." The crop producer can minimize yield risk by carrying crop insurance and being conservative with amounts contracted. Moisture and other quality measures are potential problems and should be specified in the contract.

A way to approach the question of "right" price is to calculate a maximum price the buyer can afford to pay vs. alternative feeds, and a minimum price the seller can afford to accept vs. harvesting it for grain. Worksheets to make these calculations can be found in a Michigan State paper by Roy Black and others, "Pricing and Use of Drought-Stressed and Immature Corn as Silage for Dairy Cattle" (http://agecon.lib.umn.edu/cgi-bin/pdf_view.pl?paperid=105&ftype=.pdf). Other publications that discuss pricing and other contracting issues are "Pricing Corn Silage for Sale," by Joe Lauer and Dan Undersander (http://corn.agronomy.wisc.edu/Extension/WFC/2004a.htm), and "Contracting Corn Silage Acres," by Mike Rankin (http://cdp.wisc.edu/jenny/crop/contract.pdf). Pricing will likely be different depending on whether silage is delivered at harvest or later as fed. If as fed, it is reasonable to adjust the price for storage losses and opportunity cost of money tied up in the stored crop.

How far ahead of harvest should the price be agreed upon? Price can be established at contract signing or later via a contracted formula based on corn grain price at an agreed upon time (i.e. harvest, when delivered and fed).

How will silage volume be measured? A common method is to weigh some wagons, determine moisture content and count loads. With this method, an issue might be who does the counting.

When and what form of payment is due? Specify if payment is due upon completion, 30 days after, etc. Some custom harvesters are taking monthly payments for a year.

A more extensive list of things to consider and some sample contract language can be found in the "Contract Feed Production Arrangements" fact sheet by Joe Stellato (http://www.uwex.edu/ces/crops/uwforage/contracts.pdf). As he says, "…the first rule of developing a good contract is to do business with another party that you know or trust. Any contract is only as good as the integrity of the parties who sign it!" Perhaps the greatest benefitof a written contract is that it forces both parties to discuss and write down decisions about major items that could become points of contention. The discussion is important, and the writing-down is critical to assure that two different memories of the discussion do not exist.

A contract to buy/sell corn silage is like any other contract, it must meet certain requirements to be legally enforceable. Stellato points out that in Wisconsin sales contracts of $500 or more cannot be enforced by the courts unless in writing. Two additional references on written contract and promissory note language include "Contracts, Notes and Guaranties" by Phillip Kunkel and Scott Larison (Hall & Byers, P.A. of St. Cloud, MN), and "Agricultural Production Contracts" available on the University of Minnesota Extension Service website (http://www.extension.umn.edu/distribution/businessmanagement/DF2590.html).