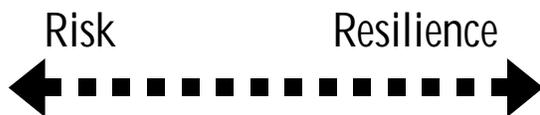


Risk and Resilience in Agriculture

From Risk to Resilience in Agriculture: The Legal Resource

By: Chris Bastian and Alan Schroeder
University of Wyoming

1. Do you know your rights and duties under contract law?



Risky – Not knowing your rights and duties

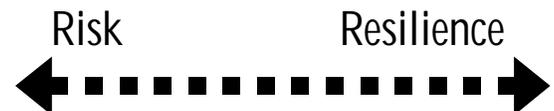
Knowing your rights and duties – **Resilient**

Courts generally examine the following five questions when examining contracts:

- 1) Was it made by legally competent parties?
- 2) Did it involve a lawful subject matter?
- 3) Is there mutual agreement among the parties as to its terms?
- 4) Did each party receive some consideration in exchange for their promise to perform their responsibilities under the contract?
- 5) Must this contract be in writing to be enforceable?

The days of a handshake agreement are virtually gone from production agriculture. Knowing your rights and duties under basic contract law can reduce your exposure to potential losses from contract failure.

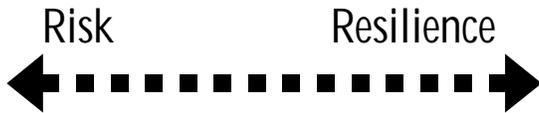
2. Is the contract written or oral?



Risky – Using an oral contract.

Using a written contract–**Resilient**

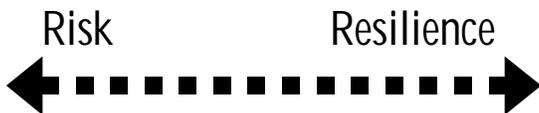
3. Are all terms spelled out for each party including who, what, when, where, purpose, payment terms, and conflict resolution or special provisions?



Risky –General contract.

Specifics spelled out in contract. – Resilient

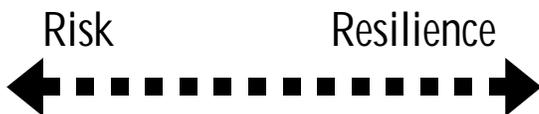
4. Has attorney looked at contract or consulted with you regarding the contract?



Risky-Not consulting with attorney.

Attorney has been consulted. - Resilient

5. Have you attended any programs or spoken with credible authorities about environmental regulations that affect agriculture in your state?



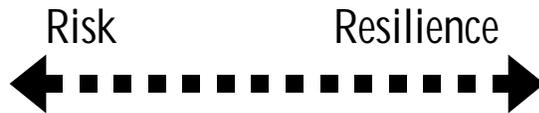
Risky-No.

Yes. – Resilient

Production agriculture no longer enjoys immunity from environmental regulations that it once did. Knowing and taking action to reduce your potential exposure to legal liabilities under these laws can remove the risk

of large fines or imprisonment and potential loss of your business.

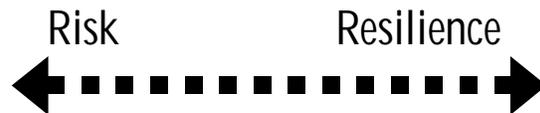
6. Have you done an environmental audit to determine whether any of your activities may be in conflict with federal or state environmental laws?



Risky- No.

Yes. - Resilient

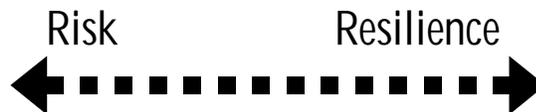
7. Have you developed a plan to reduce any possible environmental hazards in your operation?



Risky- No.

Yes. – Resilient

8. Have you developed a plan to take advantage of any safe harbors offered by environmental laws?



Risky –No.

Yes. – Resilient

9. Have you worked to develop an estate plan?



Risky-Not having an estate plan.

Having an estate plan developed. – **Resilient**

The large investment in your operation’s assets are at risk of never being transferred to the next generation, or being eaten up in probate court or taxes, if you don’t have a plan. Current statistics indicate that only one out of three operations are successfully transferred to the next generation.

10. Have you developed your goals for transferring the operation?



Risky-No.

Yes. – **Resilient**

11. Have you discussed these goals with your family?



Risky- No.

Yes. - **Resilient**

12. Do you have a will?



Risky- No.

Yes. – **Resilient**

13. Have you discussed your estate plan and your will with an attorney or other estate specialists?



Risky- No.

Yes. – **Resilient**

Risks associated with not knowing your rights and responsibilities under contract law or regarding environmental laws which may affect agriculture in your state are extremely high. Potential income losses associated with contract failure and/or the high cost of legal fees if you are in a battle regarding contract failure or environmental laws can quickly eat up the financial reserves of your farm or ranch business. Not having an agreed upon estate transfer plan and will puts your operation at risk of never being passed on to the next generation. Most of these risks can be reduced or eliminated with knowledge, forward planning and some consultations with a few specialists and your attorney.