



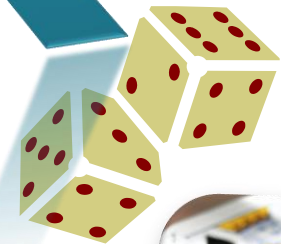
# **Risk Management Introduction**

**Agritourism Intensive 2015 - 2016**

# Farmers Face Many Challenges!

- ◆ Markets
- ◆ Competition
- ◆ Transportation
- ◆ Labor Issues
- ◆ Others?

# RISK



Slides courtesy of Ramiro Lobo,  
UC Cooperative Extension, San Diego, CA

# What is Risk?

**danger**

**possibility**

**Endanger**

**Chance**

**peril**

**hazard**

**exposure**

**jeopardy**

**consequence**

**hazard**

**threat**

**menace**

**RISK**

# What is Risk?

- In general, risk is defined as...”the possibility of loss or injury.” (<http://www.merriam-webster.com>)
- Risk is...*the possibility of adversity or loss, and refers to “uncertainty that matters.”*

*USDA/ERS Managing Risk in Farming: Concepts, Research and Analysis (1999)*

# What is Agricultural Risk?

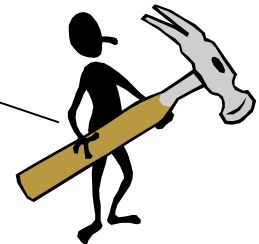
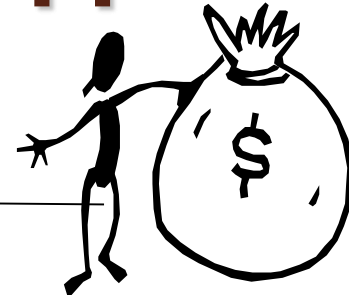
- Agricultural Risk is “the probability that an unpredictable event occurs which will negatively affect your farm business.”
  - Reduce productivity and annual income
  - Impact your financial situation & repayment capacity
  - Affect your personal or family satisfaction and wellbeing

# What is Risk Management?

- Risk management is the process of choosing among alternatives to reduce the financial effects of risk or uncertainties
- A **conscious** effort of planning, organizing, directing, and controlling resources and activities.
- Requires the evaluation of tradeoffs between changes in risk, expected returns, entrepreneurial freedom and other variables

# Risk management Approaches

- **Assume the risk**
- **Avoid the risk**
- **Reduce the risk**
- **Transfer the risk**





# Premises Liability

- Premises liability is based on the notion of negligence
  - The failure to exercise the care that a ***reasonably prudent person*** would exercise in like circumstances

**DUTY**  
**BREACH**  
**CAUSATION**  
+  
**DAMAGES**  

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**NEGLIGENCE**



# Negligence

- There are 4 parts to a cause of action for negligence (if they lack any one of these then you are safe!):
  - **Duty of Care**
    - Your responsibilities as a land owner; different in each situation
    - Typically the “reasonable person” standard
    - Duty of Care changes with the person
  - **Breach of Duty**
    - A failure on your part regarding your responsibilities
  - **Causation**
    - Your failure caused the “injury”
  - **Damages**
    - There must be an actual harm that can be redressed

# Liability Issues

- So now there are people on your land...
  - How did they get there?
    - Did you invite them or charge them to come onto your land?
    - Did they ask your permission? Are you allowing them to enter for free?
    - Are they trespassing? Are you aware of their presence?

# Liability Issues

- 3 Categories of People on Your Premises
  - Trespasser (2 types)
    - Lowest duty of care
  - Licensee
    - Higher duty of care than trespasser, but less than invitee
  - Invitee
    - Highest duty of care

# Liability Issues: Trespasser

- **Trespassers**

- Entered upon land without permission or invitation
- Knowledge of trespasser
  - No knowledge - no duty, no liability
  - Knowledge - duty not to affirmatively harm
    - A course of action which shows a deliberate intention to harm or utter indifference to, or conscious disregard of, the safety of others
- Example: Teenagers going out to your pond and fishing without your permission
  - Do you know about them? What can't you do about them?

# TRESPASSERS - CRAIGSLIST

[fayetteville, AR craigslist](#) > [for sale / wanted](#) > [farm & garden](#)

**Avoid scams and fraud by dealing locally!** Beware any deal involving Western Union, Moneygram, wire transfer, cashier check, money order, shipping protection/certification/guarantee. [More info](#)

## I need a mean bull (Siloam springs)

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Date: 2012-03-07, 6:04PM CST

Reply to: see below [\[Errors when replying to ads?\]](#)

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I am hoping to find an aggressive bull that is protective of his field . I am wanting a very aggressive one that will chase people off.

Call me or text im not particular on the breed

479- [REDACTED]

# Liability Issues: Licensee

- Licensee
  - Present for a non-commercial, non-business purpose with the consent of the possessor of the property, such as a social **guest** at someone's residence

# Liability Issues: Licensee

- Your Duty:
  - Refrain from injuring the person through willful or wanton conduct
    - i.e., deliberate behavior such as setting booby traps
  - Warn of hidden dangers where the person does not know or is unlikely to know of the conditions or risks
- Example:
  - Someone asks for permission to hunt, walk, use land without a fee
    - Need to warn of the bull on the back 40 that isn't fenced in or of a huge snake population that you know of.
    - What about a pond that is located on the back 40?
      - It is not hidden so there is no general duty to warn them



# Liability Issues: Invitee

- Invitee
  - Person who is invited upon the premises in order to conduct business with the possessor
  - Came on the land for *your* benefit
    - Customers in store or shopping center
    - **Employees**
    - Students
    - Business visitor

# Liability Issues: Invitee

## Your duty:

- Highest duty of care
- A general duty to use ordinary care to keep the premises reasonably safe for the benefit of the invitee.
- Typically you show these people the most concern anyways (i.e. “the customer is always right”)
- But what about employees?
  - What kind of concern are they typically shown? What kind of jobs do they typically perform?
  - This means making sure your employees have safe equipment, facilities, proper training, etc.

# Status of Entrant

- The status of a person on your land can change fluidly.
  - For example -
    - If you allow someone to fish in your pond, but they explore other parts of your land, they may change from a licensee to a trespasser, but if you catch them and accept money for their access to the other parts of the land they become an invitee.
- It is important to define the area that visitors have permission to use.

# Review: Liability Issues

- 3 Categories of Entrants on the Premises
  - Trespasser
    - Duty not to affirmatively harm (i.e. no booby traps)
  - Licensee
    - Warn of hidden dangers where the person does not know or is unlikely to know of the conditions or risks and duty not to affirmatively harm
  - Invitee
    - A general duty to use ordinary care to keep the premises reasonably safe for the benefit of the invitee.

# Agritourism Planning

- Planning resources:
  - <http://nationalaglawcenter.org/readingrooms/agritourism/>
- There are many resources that provide things to think about **BEFORE** starting a new business venture.
  - Learning from your mistakes is a great idea, but also learn from the mistakes of others because you will never live long enough to make them all yourself.

# Agritourism Planning

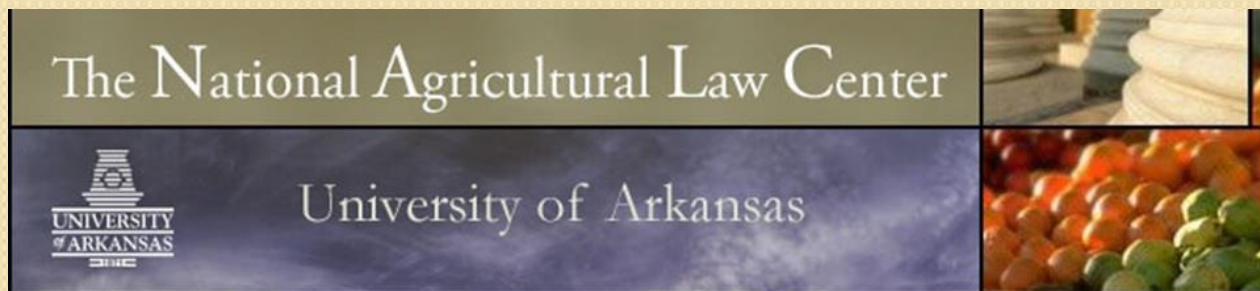
- Helpful hints:
  - Mark boundaries carefully
  - Set up an inspection schedule
    - Pros and Cons of this approach
  - Use information from the inspection to provide invitees with a written warning of the dangers.

# Insurance

- Make the insurance agent aware of any changes and that they are covered by the policy (in writing)
  - If possible have them see the agritourism operation in person before buying a policy
  - Check in yearly to see if coverage has changed



**CONTACT  
INFORMATION:**



Rusty W. Rumley

Phone: (479) 575-2636

Email: [rrumley@uark.edu](mailto:rrumley@uark.edu)