

## 10 Questions to Ask Before Signing a Carbon Credit Contract, January 7-13

No two carbon credit contracts are written the same, and that is why [Texas A&M AgriLife Extension Service](#) agricultural law specialist Tiffany Lashmet, J.D., said there is a list of considerations she advises everyone to take before entering a carbon credit contract.

“That fine print is really important,” Lashmet said. “Don’t read the first paragraph, then the dollar amount, and be done.” She recommends all landowners seeking to enter into a carbon credit contract ask up front if the company is willing to negotiate, as this will save a lot of time and trouble. Similarly, she recommends finding a good attorney to look the contract over for you. These contracts have many details that need attention before signing any document.

Questions to answer before signing a carbon contract.

1. Have you read the entire contract? Read all of it. Every contract includes details in the fine print that can be problematic.
2. What agricultural practices are required within this contract? For example, some contracts may mention no-till farming, reduced tillage, cover crops or regenerative grazing. Make sure you understand what is required to comply with the specific contract.

Similarly, watch for terms like “conservation practices” that are vague and undefined. Also, be aware that some contracts have “additionality clauses” that might prohibit producers from entering into the contract if they already have certain production practices in place for a certain period.

3. How will payments be structured? Do more than just look at the dollar amount. Understand if the payment is based on practice or outcome or if the structure is a flat per-acre fee or price per ton of carbon dioxide equivalent, CO<sub>2</sub>e. Know what is included in the measurements – carbon, carbon dioxide equivalent or greenhouse gases, for example.

Also, make sure you understand the potential for sequestration in your fields, as it can vary by locality. The national average is 0.6 ton of CO<sub>2</sub>e per year; however, it is estimated to be 0.1 ton of CO<sub>2</sub>e per year in some areas of Texas, such as the High Plains.

4. What is the term length of the contract? Are there any mentions of extensions? Look for a discussion of “permanence” that may require a producer to abstain from a certain

activity for a set time. Explore what rights both you and the company have to terminate the contract, if desired.

5. How will the verification of carbon credits happen? For example, will confirmation be based on modeling or measurements? All contract participants should know when, where, how often, how many sites and who will be doing the measurements with what methods. On a similar note, find out who is responsible for paying for this verification.

Check for “no reversal” clauses that could cost you if the amount sequestered becomes lower instead of increases, and be aware of the factors in your area that may impact the amount you sequester. For example, drought can potentially reduce the amount of carbon sequestered in any given year. Are there any provisions for the landowner/producer to audit or appeal determinations or measurements?

6. What other uses can you make of the land? Does the contract restrict hunting, oil and gas production or wind or solar energy production if those concern your operation?
7. What penalties can be imposed on you? What triggers a penalty? Understanding the consequences and penalties that may be imposed if the contract is terminated early is critical.
8. How broad is the stacking prohibition? Nearly all contracts limit a producer’s ability to enroll the same land in multiple carbon contracts. However, some contracts are written more broadly and may also exclude enrollment in government programs.
9. What data must you provide? Be aware that some contracts require you to provide extensive data on production, including fuel use, calving dates, birth weights, yields, pesticide application volumes, fire history, etc. Also, watch for blanket entry rights onto your property and permissions to fly drones anytime over your entire operation, not just over the property enrolled in the carbon contract.
10. Do you understand the legal considerations? All of the contracts will have a number of clauses related to technical legal issues. Know what it says about rights to assign the contract, attorney fee provisions, payment for negotiating and drafting the contract, choice of law, venue clauses, dispute resolution and class action waivers, and the scope of any waiver clauses.

There are a number of different companies offering contracts to producers across the country, from forest landowners to row-crop farmers to rangeland owners, Lashmet said. But every operation is unique, and every contract is different, meaning producers must carefully consider various factors before entering into an agreement.

“Put pencil to paper and determine if the likelihood of payment will be worth the practices you must do under the contract,” Lashmet said. “It is critical to ensure that the anticipated return exceeds the anticipated costs of switching to one of the qualifying carbon-friendly practices. For further information or discussion, explore Lashmet’s [Ag Law in the Field podcast](#) or her [Texas Agriculture Law Blog](#) on this subject.



Reduced tillage can be one of the practices required in a carbon credit contract. (Texas A&M AgriLife photo by Sam Craft)

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## Polk County Snowbirds, January 14-20

Every year snowbirds leave behind the cold brutal winter of northern states to seek refuge in Texas. No, I am not talking about retirees that seek warmer weather (aka snowbirds), but actual birds that migrate south to Texas and specifically Polk County. Today's article is going to focus on six of these snowbirds that call Polk County home during the winter months and are abundant in the right habitat.

The first is the American white pelican (*Pelecanus erythrorhynchos*) which is a large unmistakable bird that is common around Lake Livingston and especially the spillway. American white pelican spends the summer in breeding colonies which number less than 60 colonies scattered from northern California to central Canada. These white birds are marked with black feathers along the wing and a heavy beak easily distinguishes them from any other bird you may see around Lake Livingston. An old belief amongst fisherman along the Texas Gulf Coast is that once American white pelicans arrive in the fall, hurricane season is over for the year. Though this is not a scientific fact, American white pelican usually arrives with the first strong cold front and cold fronts help to block hurricanes from moving westward to the Texas coastline.

The second bird is one of the most common woodpeckers in Polk County or at least during the winter months. Yellow-bellied sapsucker (*Sphyrapicus varius*) is a small woodpecker with a red crown (males also have a red throat) and black and white checkered body. Faint yellowish underparts may also be observed. The easiest way to ID if a sapsucker is present in the forest is to look for almost straight, multiple rows of small holes up and down a tree. Yellow-bellied sapsucker uses these holes to slurp up sap with their tongue and to forage on insects trapped in the sap.

One of most common sparrow in Polk County during the winter months, especially along forest edges and brush lines, is the white-throated sparrow (*Zonotrichia albicollis*). During winter these birds tend to congregate in large flocks. As the name suggest, this attractive sparrow has a vibrant white throat and black and white striped head. The bird has a gray chest and a blotch of yellow between the eye and bill. White-throated sparrows forage on seeds and can be easily attracted to bird feeders.

The next bird is a common hawk of the forest but can be difficult to catch more than a glimpse. Sharp-shinned hawk (*Accipiter striatus*) is a tiny hawk that navigates though the wood with ease in search of prey. Sharp-shinned hawk is the smallest hawk in the United States and is comparable in size between a robin and a crow. While incredibly difficult to catch more than

a glimpse in summer locations further north, during migration and during the winter months sharp-shinned hawks tend to congregate and utilize forest edges and openings instead of dense canopy. This makes Polk County the perfect location to view this hawk of the woods. Identifying sharp-shinned hawks can be difficult due to similar color patterns to the common full time resident cooper's hawk. Other than smaller size, sharp-shinned hawk has a rounded head and square tails compared to the cooper's hawk that has more of a squared head and rounded tail.

Rudy-crowned kinglet (*Corthylio calendula*) is a gray to greenish dull colored bird that does not win the bird fashion show. But what it lacks in color it makes up with in energy. These very tiny birds, smaller than warblers, can be seen darting frantically through the lower limbs of brushy areas. During the winter months the birds congregate in large flocks making them easier to spot. A quick way to ID a kinglet is their behavior of constantly flicking their wings. Rudy-crowned kinglet is named after its brightly colored red crown of the male; however, the crown is only occasionally visible and should not be reliable for identification.

Yellow-rumped warbler (*Setophaga coronate*) is widespread across North America from Northwest Alaska to Panama. Yellow-rumped warbler migrates in large numbers and can be easily seen foraging amongst forest canopy during winter. While the bird is abundant in Polk County during the wintertime the nearest summer population is in the central Rocky Mountains or New England. Yellow-rumped warbler is a mix of gray, black, and white with a yellow rump and sides. Yellow-rumped warbler can consume a wide range of food items from insects to bayberries.

Polk County is home to an abundance of winter snowbirds and no not just the humankind, but also wintering birds. I encourage you to grab some binoculars and head out to the backroads and woodland trails in the county and see if you can spot some of these snowbirds.



White Throated Sparrow: Image Credit: allaboutbirds.org

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**Understanding the Texas Cottage Food Law, January 21-27**

Do you make cookies, bread, jam, or other non-refrigerated treats so delicious that friends and family often suggest, *“You should sell this stuff”*? Are you or others you know considering this but are wary of confusing regulations, expensive permits, and red tape? If so, you will want to get familiar with the Texas Cottage Food Law, which explains in a straightforward manner how to legally sell several homemade foods.

Following the Texas Cottage Food Law requires just three simple steps. First, know what foods you can sell and how you can sell them. Second, get a food handlers certificate. Third, create and use a required label.

This law that was first passed in 2013 and updated in 2019 allows the sale of foods that are prepared in residential homes as long as gross sales do not exceed \$50,000 annually. This type of business is not regulated by a local or state health department, which means that your kitchen will not be inspected by a health inspector (unless there is concern about the public's health).

The food you can sell basically includes any food, excluding meat, that does not require time or temperature control to prevent spoilage. Some foods include baked items that do not require refrigeration (breads, rolls, biscuits, sweet breads, muffins, pastries, cookies, cakes, fruit pies). Also candy, coated and uncoated nuts, unroasted nut butters & fruit butters, or dehydrated fruits and vegetables (including beans). Additionally, consider popcorn (and popcorn snacks), dry mixes, mustard, vinegar, cereal (granola), and dried herbs/herb mixes. If you are a coffee or tea aficionado, you can sell roasted coffee or tea as well. And yes, if canning is your thing (as it is for many) you can sell canned jams and jellies as well as pickles so long as the pH is below 4.6. You can find an exhaustive list at [Texascottagefoodlaw.com](http://Texascottagefoodlaw.com).

A significant change from the original law is that you can now sell at any type of event; it doesn't matter if the sponsor is for-profit or non-profit. You can sell your food directly to the end consumer anywhere in Texas. Any of the approved list of foods can be sold at the individual's home, a farmers' market, a farm stand, or at municipal, county, and non-profit events. Foods can also be delivered to the customer, where the sale can then take place. Foods cannot be sold over the internet, by mail order, or wholesale to other vendors who would then retail sell your product.

As always, be aware that local ordinances apply and may supersede the Cottage Food Law. If a local ordinance says you can't set up a tent by the side of the road in a particular city, then you must follow that law. Although the law precludes local government authorities, including health departments, from regulating the production of food at a cottage food production operation, if a local government has a general ordinance — such as you have to get a permit to sell any product at some location, that is still valid and applicable.

Next, be sure the food you sell is properly labeled. Labels should include the name and physical address of the operation, the name of the product, possible allergens that are in the

food, and the following statement: *“This food is made in a home kitchen and is not inspected by the Department of State Health Services or a local health department.”*

Lastly, you must have a food handler’s card. Individuals interested in receiving their food handler card can do so online in less than a couple hours at prices ranging from \$8 to \$15. One site is <http://foodsafety.tamu.edu/>. Your food handler’s card is good for two years and must be kept current as long as you are selling cottage foods.

So, if you are ready to make some extra money by selling items you cooked from your home, be sure to check out the excellent website [Texascottagefoodlaw.com](http://Texascottagefoodlaw.com) and you’ll find all the answers to begin your home cooking business.

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### **Protecting Backyard Poultry From Bird Flu, January 28-February 3**

Have you noticed the high prices for eggs these past few months? Many consumers have associated these high prices with supply chain issues and inflation. While supply chain issues and inflation are causing some effect on egg prices, the real culprit is bird flu. At the end of November bird flu has killed over 52.3 million birds according to the U.S. Department of Agriculture mostly from commercial chicken and turkey flocks. While the bird flu has not directly killed all these birds, many are euthanized to help prevent the spread once a flock test positive for this high pathogenic and economically devastating disease of commercial poultry flocks. With less hens laying eggs supply had dwindled thus increasing the demand and price of eggs.

Bird flu or avian influenza is a disease found in waterfowl and other species of wild birds. Most wild birds carry a low pathogenicity strain, which is very common around the world, causing little concern. However, wild birds are also a source of a highly pathogenic strain, and once it finds its way into poultry flocks the results are catastrophic as nearly 100% of all infected chickens and turkeys will die. In fact, bird flu is considered a high priority threat to the



nation's commercial poultry flock and food supply that once a flock is confirmed positive the flock must be euthanized to help eradicate the disease.

Outbreaks occur occasionally around the world and the U.S. Prior to 2022 the last significant outbreak in the U.S. occurred in 2014-2015. The current outbreak started in January 2022 when waterfowl on the eastern seaboard were confirmed to have the highly pathogenic strain of bird flu. The first confirmed commercial poultry flock infection occurred on February 8<sup>th</sup> on a turkey farm in Indiana. Since that time the virus has been confirmed in poultry flocks in 46 states. Texas has had 4 confirmed cases in poultry with the first being on April 2<sup>nd</sup> and the most recent being on December 3<sup>rd</sup>. Three cases have been from non-commercial poultry flocks. The fourth was a commercial pheasant flock. So far total number of poultry infected in Texas is 2,030.

Even though Texas has been spared the worst of bird flu so far you should take proactive measures to protect your backyard flock. Backyard poultry flock owners should want to protect their flock not only to prevent illness, but to help minimize the spread to other flocks. To protect your flock, practice the following.

- **Eliminate opportunities for your birds to interact with wild birds.** We know that wild waterfowl are carriers of disease. The best way to avoid diseases that wildlife carry is to keep domestic animals separated from the wild.
- **If you have birds at home, do not visit another farm, home or facility that also has birds.** If you must visit another premises, be sure to shower and put on clean clothes and shoes beforehand.
- **Remember that vehicles can be vehicles for disease transmission.** Before you drive down the road, consider where you are going. Will you be heading to the fair, another farm or a live bird market? If the answer is yes, be sure your vehicle is clean and free of dirt, manure and other organic material.
- **Early detection can help prevent the spread of disease.** Knowing the signs to look for and monitoring the health of your birds on a regular basis is very important. Some signs to look for include nasal discharge, unusually quiet birds, decreased food and water consumption, drop in egg production, and increased/unusual death loss in your flock.

Bird flu is a serious and devastating disease. Not only can it devastate poultry flocks it can threaten the commercial poultry industry and the nation's food supply. Always report sick and dead birds immediately. If your birds appear sick or you have experienced increased mortality, immediately call your veterinarian or Texas Animal Health Commission.

## WHAT ARE THE SIGNS OF AVIAN INFLUENZA?

Early detection is vital to prevent the spread of HPAI. Here's what to look for:

- Sudden death without any prior symptoms of illness
- Lack of energy and appetite
- A drop in egg production or soft-shelled, misshapen eggs
- Swelling of the eyelids, comb, wattles, and shanks
- Purple discoloration of the wattles, comb, and legs
- Gasping for air (difficulty breathing)
- Nasal discharge, coughing, sneezing
- Twisting of the head and neck (torticollis)
- Stumbling or falling down
- Diarrhea



*Swelling of the tissue around the eyes and purple discoloration of the comb and wattles*



*Twisting of the head and neck*



*Complete paralysis*



*Swelling around the eyes and twisting of the neck*

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