

Does Your Timber Management Plan Include a Hunting Lease?

By Ed Wilson, Ph.D.

Introduction

In the southeastern United States, hunting clubs have been leasing land for several decades. The hunting club land-leasing tradition can be attributed to several elements including, liberal bag limits, long seasons, abundant wildlife, and large private land holdings. In most cases, both the landowners and hunting clubs welcomed this land-leasing development. The hunting club gained control of their hunting grounds while the landowner derived income and gained control of who entered or accessed their property.

Most large corporate land owners have active land-leasing programs. They cite access control and public relations as the justification for their leasing programs. A study conducted by the Clemson University Extension Wildlife Program, estimated that "almost three-fourths of the private lands that were hunted in Jasper County (South Carolina) were under a fee-hunting arrangement" (Richardson, Yarrow, and Smathers, 1992). In most of the southern states the demand for quality hunting land continues to be strong. This demand has provided many smaller, non-industrial private landowners an opportunity to lease their property for hunting purposes.

Linking Landowners and Hunting Clubs

Landowners with established leasing programs generally have little problems finding parties to lease their property. As a matter of fact, waiting lists are generally encountered for quality hunting property. If land leasing is being contemplated, there are several avenues that can be used to establish an effective lease program:

- 1.) Advertisements in regional or urban newspapers-this can help provide information on the demand for leasing land in your region.

- 2.) Consulting Forestry Firms-Several consulting forestry firms have established wildlife management programs and can provide a full range of services for the landowner including lease placement and hunting club management. A list of consulting foresters involved in wildlife management can be obtained from The Association of Consulting Foresters of America ⁽¹⁾
- 3.) Land Leasing publications-Trophy Tracts Magazine ⁽²⁾ provides a detailed guide for purchasing and leasing hunting land in the Southeastern United States.
- 4.) Landowner Associations-The Louisiana Forestry Association ⁽³⁾ , Alabama Forest Owner Association⁽⁴⁾, and Local State and County landowner Associations can also provide the necessary advertisement and referral lists for leased property.

Hunting Club Leases

Once a hunting club-landowner association is established, a formal lease arrangement is highly recommended. A hunting lease is a written contract that details the rights and responsibilities of the landowner and hunting club. Legal representation is recommended for the development of any lease.

At a minimum the lease should include:

- 1) Lease period (Annual or hunting season specific);
- 2) Land description for specified hunting areas, safe zones, and access points;
- 3) Landowners rights with regard to use of property;
- 4) Camping privileges;
- 5) Amount of lease and payment terms;
- 6) Rules for placement of structures and gates;
- 7.) Insurance requirements and liability or indemnity release clauses.

There are several publications available that provide detailed instructions and sample hunting lease wording. A partial list of these publications is provided in the reference section.

(1,2,3,4) A complete address and phone number are provided at the end of this article.

Landowner Liability

The litigious nature of society has increased the timberland owners' concern with the inherent liability attached to the ownership of property. Liability concerns with land leasing programs are valid. The landowner incurs some risk any time someone is upon the property. Common law principles provide the legal parameters associated with the rights and duties of landowners. Under common law a landowner has a duty to invitees, licensees, and to a lesser degree trespassers on their property. Simplified, a landowner has a duty to inspect their property, remove hidden dangers, keep the properties in a reasonably safe condition, and take precautions to protect a user from foreseeable danger.

Many states have Recreational Use Statutes that attempt to limit the landowner(s) liability exposure. However, most of these statutes do not (1) limit landowner liability exposure for an intentional, willful, or malicious act or failure to guard against a dangerous condition; structure or activity or (2) protect the landowner who charges a fee for recreational use of land (Kaiser and Wright, undated). The amount of an allowable "fee" for the recreational use laws varies by state. If the Recreational Use Statute is not available for the landowner, other legal defenses such as comparative negligence, liability waiver, and negligence absence may be employed.

Yarrow (1995), recommends the following ways to reduce landowner liability;

- 1) Understand the legal responsibility to recreational users of land and meet those responsibilities;
- 2) Practice risk reduction management by identifying and eliminating known hazards;
- 3.) Obtain liability insurance.

Liability Insurance

In the past 10 years, liability insurance has become a standard lease requirement. Many corporate landowners have established the requirement that hunting clubs obtain insurance before a lease is finalized. More recently, many smaller landowners have sensed the need for liability insurance which covers hunting clubs leasing their property.

Public liability insurance that is frequently required to lease property is often misunderstood.

Simplified, liability insurance is designed to provide coverage for hunting clubs and their members for acts which they could be held **legally responsible**. Thus, the insurance is designed to lessen the risk associated with occurrences caused by a negligent act of the hunting club (or members and guests).

Elements of this public or general liability insurance coverage should include:

- 1) Member-to-member liability coverage for cross member liability claims;
- 2) Guest liability coverage to provide coverage to the club for acts of their guests;
- 3) Landowners as Additional Insured to provide landowners coverage for acts of the hunting club;
- 4.) No exclusionary endorsements should be present for activities specific to hunting operations, for example, exclusions designed to limit coverage for liability associated with tree stands, ATVs, and firearms.

Summary

Land leasing continues to be in strong demand. Hunting clubs and landowners can both gain through an active land- leasing program. Any program should be designed with a written lease including liability indemnity or waivers and a sound risk reduction strategy. Insurance protection should be sought to mitigate losses that occur from the land-leasing operation. Finally, a link between forest landowners and hunting clubs can provide for the continued successful management of wildlife resources on privately managed timberland.

Organizations Cited

Alabama Forest Owners' Association

AFOA

P.O. Box 36134

Birmingham, AL 35236

(205) 987- 8811

Association of Consulting Foresters of America

5400 Grosvenor Lane, Suite 300 Be-

thesda, MD 20814

(301) 530-6795

Louisiana Forestry Association

P. O. Box 5067

Alexandria, LA 71307

(318) 443-2558

Trophy Tracts, Inc.

P.O. Box 909

East Ellijay. GA 30539

(706) 276- 7723

(800) 377- TRAX

References

Kaiser, Ronald A and Brett A. Wright (undated). Liability and Immunity: A National Assessment of Landowner Risk For Recreational Injuries. Environmental Policy Group. Texas A&M University. Suite 156 Francis Hall. College Station, Texas 77843.

Marion, Wayne R. and Julie A Hovis. 1985, Developing a Hunting Lease in Florida. Publication WRS 1 (1985). Florida Cooperative Extension Service. University of Florida, Gainesville, 32611

Marion, Wayne R. and Cyndi A. Gates. 1988. Hunting Lease Arrangement in Florida and the Southeast Circular 793. Florida Cooperative Extension Service. University of Florida, Gainesville. 32611.

Richardson, Calvin L., Greg K. Yarrow, and Webb M. Smathers, Jr. 1992. Economic Impact of Hunting on Rural Communities: Jasper and McConnick Counties in South Carolina. Extension Wildlife Program. Clemson University, South Carolina.

Stribling, H. Lee. (undated). Hunting Leases and Permits. Circular ANR-S41. Alabama Cooperative Extension Service, Auburn University, Alabama 36849-5612.

Stribling, H. Lee. (undated). Organizing a Hunting Club. Circular ANR-537. Alabama Cooperative Extension Service, Auburn University, Alabama 36849-5612.

Yarrow, Gregg. 1995. Wildlife Management Investment and Income Opportunities. Department of Aquaculture, Fisheries and Wildlife., Clemson University, Clemson, South Carolina.

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