

Hunting Lease Enterprises for Private Landowners

Goldmine or Minefield?



PURDUE
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North American Philosophy

- Wildlife is the public trust – You do not own the wildlife on your property
 - Government has custodial ownership
- Private landowners provide wildlife access to the public but the burden lies on them



Two sides to the issue

“Paid hunting...reduces the public’s interest in wildlife, [and] hands wildlife to a wealthy minority for their exclusive use.”

(Geist 1988 in Bratkovich and Floyd 1993)

“As the farmer sees the picture, he feeds, raises, and protects game, the state claims it and the sportsmen get it, while he gets only crop depredations and trespass problems.”

(Howard and Longhurst 1956 in Bratkovich and Floyd 1993)

Bratkovich, S.M., and D.W. Floyd. 1993. Lease hunting in the Central Hardwoods Region: an examination of tradeoffs. Proc. 9th Central Hardwood Forest Conference, West Lafayette, IN March 8-10, 1993.

American Game Policy Committee

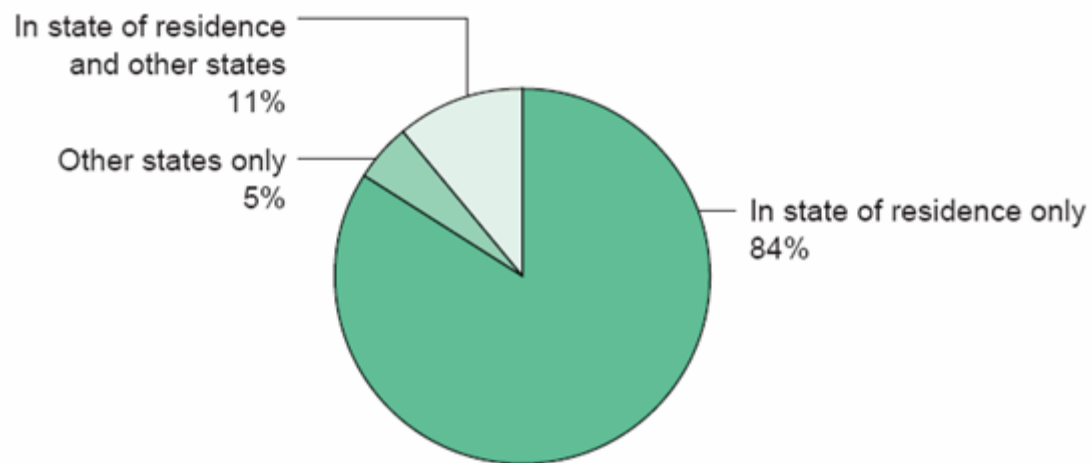
Wildlife Management by Government on Private lands

- Buy private lands and become the owner
- Title the wildlife to the landowner
- Compensate landowners for producing wildlife and allowing others the privilege of harvesting it.

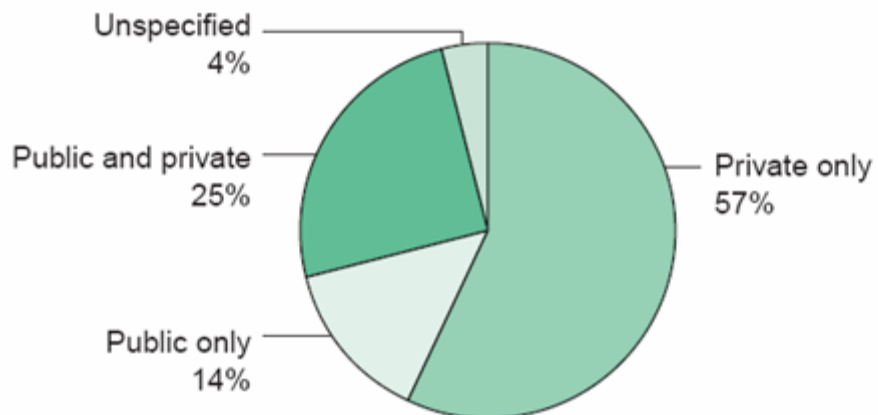
Leopold, A. 1930. The American Game Policy. Trans. Amer. Game Conf. 17:284-307.

Percent of All Hunting—in State of Residence and Other States

(Total: 13.0 million participants)



People Hunting on Public and Private Lands



U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, U.S. Census Bureau. *2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation.*

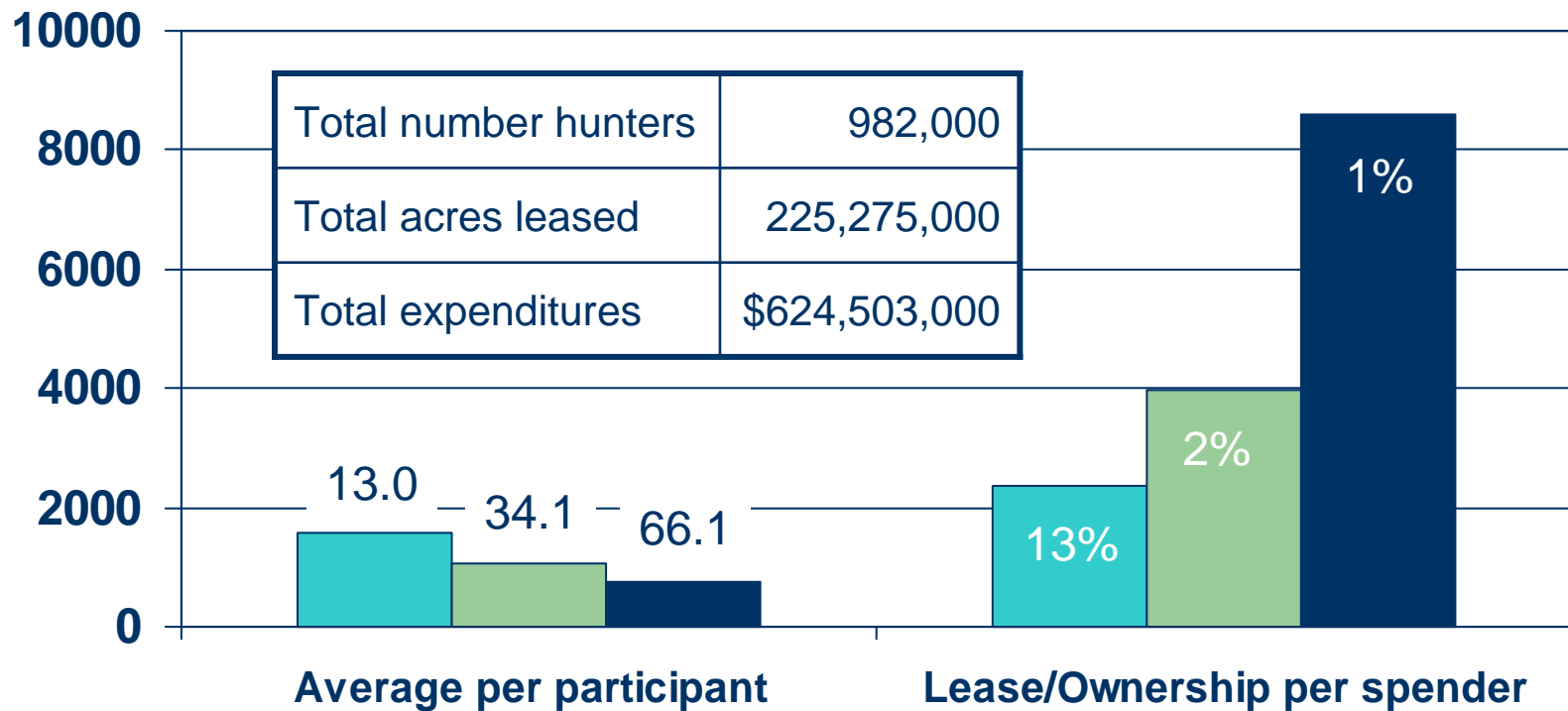
State Recreational Use Statutes

All states have a recreational use statute that protects landowners who allow recreational users on their property free of charge.

A landowners, by giving permission to enter, does not:

- extend any assurances that the property is safe; nor
- assume responsibility or incur liability for injury to person or property of a recreational user.

Summary of expenditures for 2001



U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, U.S. Census Bureau. *2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation.*

What does all of this mean?

According to Benson et al. (1999), the issue is not whether wildlife should have commercial value.

Can commercial value can help preserve wildlife and their habitat?

Benson, D. E. et al. 1999. *Wildlife Stewardship and Recreation on Private Lands*, Texas A&M Press, College Station, Texas.

What do hunters want to pay for?

Colorado study determined that hunters wanted most from fee access hunting:

- Fewer hunters
- Safe hunting
- Restrictions to ensure that other hunters would behave in a sportsman-like manner

Guynn, D.E. 1979. Management of Deer Hunters on Private Lands in Colorado. Ph.D. Dissertation, Colorado State University, Fort Collins

Reasons for lack of interest in lease hunting

- Fear of additional problems with hunters
- Liability concerns
- Disruption of existing hunting activities
- Lack of enough land to make it a feasible enterprise

Raedeke et al. 1996. Landowner resistance to lease hunting: a sociocultural perspective. *Human Dimension of Wildlife* 1(2):48-59.

Will a hunting lease enterprise work for you?

“Why would a farmer with acreage worth up to \$1 million or more risk losing the property for only \$100 a day in recreational fees?” (*Mike Leggett, Austin American-Statesman, July 15, 1990*)

- Those wealthy enough to undertake liability risks
- Those desperate for additional \$\$\$
- Those unaware of liability risks
- Those who have adequate liability coverage

Copeland, J. D. 1995. Recreational Access to Private Lands: Liability Problems and Solutions.

Advantages of fee-access hunting for the landowner

- Additional income
- In-kind labor assistance from sportsmen
- Better access control on land
- Benefits local economy
- Enhanced wildlife management
- Farmland and rangeland preservation



Disadvantages of fee-access hunting for the landowner

- Costs
 - lawyer's fees, road and fence repair, cleanup, barricading hazardous areas, advertising, and liability insurance
- Increased liability concerns
- Increase in landowner time
- Complaints from neighbors and locals
- Requires investment in habitat management
- Potential changes in farm operation





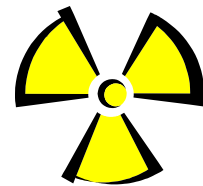
Warning – extension disclaimer

- I am not a lawyer
- State laws vary
- Interpretations of law can change as new cases are ruled upon
- **Each situation is different – seek professional advice**



Strict Liability

- Landowners that create a situation that is extremely dangerous may be liable even if they exercise all necessary precautions
 - Animals that frequently bite
 - Storage of dangerous chemicals



Copeland, J. D. 1995. Recreational Access to Private Lands: Liability Problems and Solutions.

Negligence

Failure to do what a reasonably prudent person would ordinarily do, or not do, under the same or similar circumstances.

- Duty owed to another
- Breach of that duty
- Injury caused as a result of that breach

Copeland, J. D. 1995. Recreational Access to Private Lands: Liability Problems and Solutions.

Visitors' Status

- Property owner/possessor has a legal duty to prevent harm to visitor.
- The degree of care or duty depends on:
 - The status of the visitor, or
 - Reasonable care based on foreseeable risk
 - In some states, possessor owes a duty or reasonable care under all circumstances to all entrants other than trespassers
 - Based on foreseeability of visitor's presence, risk of injury, benefits of the condition, burdens

Land Entrant Status

- Trespasser
- Licensee
- Invitee

Duty of care owed to each varies; this is one part of determining negligence



Steps to Reduce Liability for All Property Owners

- Inspect the property regularly for dangerous conditions, document in writing
- Eliminate dangerous conditions where possible
 - If repairs are necessary, perform properly and document
- Provide clear warnings of dangerous conditions
 - Sign, map, blocking access; document in writing

Copeland, J. D. 1995. Recreational Access to Private Lands: Liability Problems and Solutions.

Steps to Reduce Liability for Fee Access

- Get adequate liability insurance
 - In most cases, your comprehensive liability policy does not cover you for fee access.
 - Notify insurers of any changes that could affect policy
 - If necessary, obtain a separate liability policy. A minimum of \$1 million coverage per lessee is a typical recommendation.

More Steps to Reduce Liability for Fee Access

- Require the lessees to have their own liability policy; does not protect landowner unless named on said policy
- Require the lessee to sign a release form waiving the landowner of liability in case of injury or loss of property (“hold harmless” clause)

Why have a hunting lease?

- Forces you to plan your enterprise
- Best way to avoid misunderstandings between landowner and hunter
- Offers some legal protection

Types of leases

- Long term (annual or multiple years)
- Seasonal (hunting season)
- Short term (days/weekend)

- Broker lease
 - lease rights to a hunting club, they manage access among members

Basic Items to a Lease

- Names of all parties involved
- Date signed
- Legal description of present condition of the lease tract with boundaries, county, etc.
 - Some handle in attachment with pictures, et al.
- Arbitration for disagreements; landowner may be final authority
- Conditions of cancellation and renewal
- Deposits, method of acceptable payment and conditions of return or if towards payment

Benson, D. E. et al. 1999. Wildlife Stewardship and Recreation on Private Lands, Texas A&M Press, College Station, Texas.

Lease Description

- Exact purpose of the lease (hunting, fishing, etc.) and terms of the lease (duration, start and end dates, type of lease)
- Area and boundaries lease covers; map
- Payment, including amount, due date, method of acceptable payment
- Trespass enforcement

Benson, D. E. et al. 1999. Wildlife Stewardship and Recreation on Private Lands, Texas A&M Press, College Station, Texas.

Protection for the Landowner

- List rights retained by the landowner
- Conditions of lease
 - how lessees will gain access, type of game to be harvested, gates, trash, protecting timber from stands, “code of conduct”
- Standard liability waiver
- Acknowledgement of risk

Benson, D. E. et al. 1999. Wildlife Stewardship and Recreation on Private Lands, Texas A&M Press, College Station, Texas.

Lease Restrictions

- Subleasing
- Number utilizing the property for all allowable activities
- Statement of compliance with all applicable game laws, speed limits
- Prohibited activities
- Care for property – gates, litter, fires
- Notice before use of property

Benson, D. E. et al. 1999. Wildlife Stewardship and Recreation on Private Lands, Texas A&M Press, College Station, Texas.

Willingness to pay for hunting leases in Alabama

- \$1.29/ac per hunter or \$23/ac per hunting club
- More than double the actual average payment of \$0.52/ac per hunter or \$9.36/ac per hunting club.
- Results suggested that landowners in Alabama could increase access fees for hunting leases

Zhang and Armstrong. 2004. So. J. Appl. For. 28:21-27.

Setting a Price

- Market Pricing – Check other operations in the area, but...
 - **BE AWARE** of what they offer
 - Your price will depend upon the size and quality of your property, the amount and type of game, the number of people who have access, distance to urban center, and the “extra” services you provide
- Determine cost of operation, determine break-even point, and add margin of profit
- Sealed bid approach

Advertisement

Ads should be placed at least 45 days, probably double that, before the start of the hunting season

What to include?

Location and description of property, species to be hunted, services offered, fees, a statement of the quality of hunting

Where?

Newspapers, sportsmen's magazines, signs around the property, internet, professional publications

Web Services and Brokers

- National audience
- More knowledgeable of the current market
- Most charge a percentage of the lease fee, up to 25%
 - Depends on what services they do

Information on past harvest success



Observations of game species



Other features or wildlife that would be of interest



“Extra” Services

- guide service
- lodging and meals
- restrooms, camping
- cleaning and refrigeration of game
- dog training/boarding
- sporting clays, target shooting, trapshooting
- blinds, decoys other equipment

Managing your Land

- Just like any other business, you need to reinvest in your fee-access enterprise
- Lessees can help with labor and other costs
- Integrating farming and forestry in your wildlife management
 - Cull removal, leave live den and good mast trees
 - Create permanent wildlife openings
 - Harvest, consider larger openings in some situations

Food Plots

- Many hunters value
- Not a substitute for habitat management
- Hold an animal in an area



Mineral supplementation

- Used primarily with the intent on increasing antler growth
- Evidence is mixed
- Ca, P, Na
- Beware of baiting laws



Technical and Cost Share Assistance

- Farm Bill Programs through USDA (CRP, WRP, WHIP, EQIP, GRP)
- State and local sources
- Non-government sources
 - NWTF
 - QU
 - PF

Who should I contact?

- At a minimum, you should contact:
 - Wildlife biologist
 - Lawyer
 - Insurance company