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Forest Finance

Leasing Your Land for Hunting: Income and More



PENNSSTATE



College of Agricultural Sciences

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Introduction

If you are a Pennsylvania forest or agricultural landowner, leasing your woodland can provide substantial monetary and land management benefits. Leasing is becoming more popular in the Northeast as demand for outdoor recreation increases and landowners seek additional income sources. White-tailed deer populations in Pennsylvania have skyrocketed over the last few decades, and while hunters enjoy the availability of more deer, some biologists believe the quality of deer is declining. The preponderance of deer is also believed to have a negative impact on forest management.

These concerns provide an excellent opportunity for landowners to use leases as a wildlife management tool and make some money at the same time. Leasing is not for everyone; it is a business endeavor and requires time and patience to deal with clients.

Many landowners permit access to their land—usually for family, friends, and local people—but many restrict land access by outsiders. By posting your land, you spend resources to keep people off, but perhaps you can put that effort into considering whom to let onto your property. As a landowner you have essentially three options for allowing access to your land. You can: (1) allow open public use, (2) permit selected users (family, friends, neighbors, etc.), or (3) lease to individuals, clubs, or associations.

A recreational lease is an agreement between a person who controls access to property and a person seeking the right to participate in a recreational activity on that property for a certain time and fee. Hunting leases, a specific form of recreational lease, are the most common and have the most

potential to produce income for landowners in Pennsylvania. Hunting leases can be made for individuals or for groups in clubs. Other recreational leases include those for camping areas, vacation cabins, fee fishing, and other forest-based activities such as snowmobiling and horseback riding.

This publication covers some important issues pertaining to hunting leases, although the information it contains applies to other recreational leases as well. For specific information consult the references at the end of this publication and seek professional resource and legal advice about your property.

Hunting in Pennsylvania

Millions of Pennsylvanians enjoy the state's abundant habitat for hunting and viewing wildlife. Although public forestland is open free of charge, studies show that some natural resource users are willing to pay private landowners for recreational experiences. Many people, for a number of reasons, believe they enjoy higher-quality recreation on private forestland. Benefits include less crowding and fewer competing users, exclusive property use, convenience, safety, and often more abundant wildlife.

Only about one-quarter of Pennsylvania's forests are publicly owned, and many recreationists rely on private land for their wildlife experiences. So, traditionally, some Pennsylvanians have depended on private lands and have enjoyed open access to hunting and recreation. The legislature, through the Recreation Use of Land and Water Act, encourages landowners to open their land and water to the public for recreational purposes. The act limits landowner liability for simple negli-

gence for injuries occurring during free recreational use of lands and waters.

Pennsylvania's government owns and controls the right of wildlife possession, and landowners control the right of land access. Wildlife is a public good, entrusted to the Pennsylvania Game Commission (PGC) for regulation through hunting laws. The PGC gives hunters permission during regulated seasons to hunt specifically identified game.

Hunting is important to Pennsylvania's rural economy. Many rural businesses rely on the money that tourists and hunters spend on gasoline, groceries, lodging, and restaurants. Pennsylvania has over 800,000 deer hunters (about 6 percent of the state's population) and millions more who hike, bird-watch, and view wildlife. Hunting supports about 50,000 jobs and contributes over \$3 billion to Pennsylvania's economy. Pennsylvania ranks second in the nation, behind Michigan, for the most hunters. About one million hunting licenses are sold in Pennsylvania each year. During the 2002–03 hunting season, hunters killed over 500,000 deer.

To bring the deer herd into balance with habitat conditions, the PGC is striving to increase the number of antlerless deer harvested each year. In recent years, the PGC has adopted management goals to improve forest habitat by reducing deer quantity and balancing sex ratios. In addition to adjusting seasons and antlerless license quotas, the PGC has instituted programs to encourage hunting on private lands. One of these programs, known as LINK, provides a mechanism for interested landowners to contact willing hunters and trappers. The Deer Management Assistance Program (DMAP) helps landowners manage deer herds on their land by

providing additional antlerless deer permits to hunters. In 2002 about 30,000 landowners formally participated in the various PGC-sponsored programs for landowners, covering 4.5 million acres.

In addition, management and financial assistance for wildlife habitat enhancement is available from federal and state government cost-share programs. These programs provide funding for warm-season grasses, bird nest and bat boxes, waterfowl nest structures, and riparian buffers. An example is the federally funded Conservation Reserve Enhancement Program (CREP), whose goal in Pennsylvania is to enroll 100,000 acres of highly erodible land in conservation and wildlife cover plantings.

White-tailed deer are one of the principal species hunted in Pennsylvania. Although they are an important economic resource for the state, they also create costs that are associated with deer-vehicle collisions, disease transmittal, and crop, ornamental plant (nursery), and forest damage. An estimated 45,000–70,000 reported deer-vehicle collisions occur annually in Pennsylvania, many of which go unreported. The average vehicle repair bill caused by a collision is over \$1,500 in Pennsylvania. Property damage from accidents totals \$65 million to \$105 million annually.

Across the nation deer transmit diseases that may have economic impacts. These include bovine tuberculosis (TB), a contagious respiratory disease; chronic wasting disease (CWD), a relatively new disease; and Lyme disease, which is transmitted to people via the deer tick. Almost 3,000 cases of Lyme disease, the only one currently affecting Pennsylvanians, have been reported annually, with a total cost of

treating the illness of about \$4 million annually. The state ranks third in the number of cases reported.

Over time, the browsing of deer can suppress tree seedling establishment and reduce or eliminate understory plant diversity that typically occurs in forests. Under very high deer densities and other conditions, seedlings and saplings of most hardwood tree species may be eliminated, leading to the emergence of grasses and ferns, and the invasion of exotic (non-native) species, not eaten by deer. This change in forest composition directly affects the survival of other mammal and bird species by altering their habitat. The browsing of too many deer on commercially desirable seedlings and saplings is a major concern for the timber industry and for private forest owners. The Department of Conservation and Natural Resources estimates statewide annual timber losses owing to regeneration suppression or failure at about \$75 million.

Deer are responsible for much of the wildlife crop damage on Pennsylvania farms. One survey found that an average farmer loses over \$9,000 per year because of deer. Costs to the agricultural industry are estimated at \$75 million per year. In rural and urban areas with high deer populations, homeowners lose millions of dollars of ornamental plantings annually.

The Hunting Lease

A hunting lease normally restricts hunting to specific species and seasons. It is an arrangement whereby the landowner grants access rights (for a specified time period) to the hunter for the purpose of hunting in exchange for services, goods, or fees. A written signed lease is essential for avoiding liability and conflict. It is

wise to ask for professional assistance, especially from an attorney, in preparing leases.

Deciding to lease your land for hunting (or other recreation) is a decision that should come after careful thought about tradeoffs. Opening your land to outside use has both costs and benefits. As a landowner you should consider (1) if leasing is right for you and (2) if your land is right for leasing. Leasing is a good decision if your land has the necessary amenities hunters desire, if you feel comfortable having hunters on your land, and if you are satisfied with the lease's terms and conditions.

Benefits from hunting leases are numerous, and landowners may have a number of motives for leasing their land. These range from income generation to security to forest regeneration and protection of crop losses due to deer browsing.

Annual income generation.

Leases are one of the easiest ways to obtain income from the land. Property taxes continue to rise, and offsetting them is an incentive for leasing land. Leases may pay annual management expenses and property taxes. Having regular income from leasing may fill income gaps between timber harvests or crop failures. Lease income may permit landowners to avoid selling or developing their land.

Controlling excessive deer populations.

Hunting is the most efficient tool for managing deer populations since alternatives such as fencing and tree shelters are costly. Because hunters are paying for access, the fee should provide an incentive to take deer, especially does.

Enhanced land management.

Studies show that, for leased land, more is invested in habitat maintenance and management practices than for unleased land. Increased management action can come from landowners, hunters, or both. As stated earlier, certain government programs are available to provide financial assistance for land management.

A presence on the land.

Many absentee owners have concerns about trespassing, vandalism, theft, and illegal dumping on their property. Many landowners lease to control these problems. Hunters tend to show responsibility for their leased land and are usually active on it; their activity provides a sense of security to the landowner.

In-kind investments and services.

Hunters and hunt clubs that lease gain a sense of ownership and like to ensure that they receive maximum benefits from the land. If the landowner allows, hunters may invest in fences, roads, culverts, posting, and patrolling. They may also conduct game inventories and wildlife habitat assessments, trim trees, and keep roads open. For some landowners income is secondary to these types of services. Landowners may be willing to trade a lease for a “guaranteed” reduction in deer numbers or other services that meet land management objectives. In addition, landowners often barter for outside services that hunters can provide in lieu of payments.

Although there are many positive reasons to lease, there are also disadvantages to consider.

Liability.

Perhaps the biggest disincentive for landowners are concerns about liability. The Recreational Use statute does not protect landowners who

charge a fee, nor does it protect them from liability for intentional, willful, or malicious acts or failure to guard against dangerous conditions. Fee hunters are recognized as licensees (not invitees or trespassers), which according to Pennsylvania state law implies that landowners have a legal duty to warn them of known dangerous conditions or to make conditions relatively safe. Landowners, therefore, should take actions to minimize or eliminate potential risks.

Keeping accurate records of efforts to reduce risks is important. Before leasing a property it is essential to inspect the land with lessees, notify them of known hazards in writing, and provide maps showing hazard areas. Examples of hazards are abandoned wells and high-risk trees on the verge of falling. Other types of risk reduction actions include restricting or prohibiting the use of ATVs, portable tree climbing stands, permanent tree stands, and requiring hunter education courses (e.g., hunter proficiency tests) for all hunters.

In addition to ensuring that all lessees have a certificate of insurance, landowners should consider purchasing additional property liability insurance. Your regular insurance company may be able to provide a policy, such as umbrella coverage, but it may be more expensive than dealing with a company that specializes in hunting and recreation insurance. These specialized companies are becoming more common, and it would be wise to do some research before picking a policy. In addition, you should ensure that hunters or clubs have their own insurance policies.

Family conflicts.

Family conflicts can arise with those close to you and who already use the property when the idea of leasing is suggested.

Time and labor.

Leases require that landowners increase their time and commitment to land and capital investments to prepare their land for leasing. Financial issues such as paying for a lawyer, writing the lease, and enhancing wildlife habitat should be considered. How much you are willing to invest depends on the type of lease and the extent to which you want to make a commitment. Unless you use an intermediary, such as a land broker (of which there are a few), you would need to be involved. Such a commitment may include, for example, trespass issues, disputes with lessees, the need to take care of gates and locks, and the need to collect payments. Make sure these items are discussed in the lease. You may also need to carry out resource inventories to determine game populations and the condition of the wildlife habitat.

Neighbor resentment.

Perhaps a critical disadvantage of leasing is the potential for resentment from neighbors, relatives, or friends who used to use the land for free. One way to avoid this problem is to offer the opportunity to lease to them first.

Dealing with strangers.

Working with people and having strangers on your land is part of the leasing process, and you should feel comfortable with this situation. Finding the right lessee is critical for avoiding potential conflicts.

Inopportune visits.

To avoid conflicts, landowners who enjoy the privacy their land affords, or who have ongoing harvests or other activities, may want to consider when the lessee can use the land.

Market and Pricing

Although lease hunting is not common in Pennsylvania, there is a growing market of interested hunters. Lease prices vary considerably. In Pennsylvania they range from a dollar per acre to over ten dollars per acre. The average is between four and five dollars per acre. These prices usually do not include any additional amenities or special resources such as lake frontage, cabins, or unique scenery. If you can provide such amenities, prices may increase substantially.

If there is a competitive market, you can more easily determine a market rate. One way to do this is to use sealed bids. This approach requires that you prepare a description of your property, the site and ecological conditions, and the details in the lease for potential bidders. It is wise to establish a minimum bid that would cover management costs and provide a desirable profit rate. Companies having long traditions with leases set their rates to recover at least annual property taxes. A major problem with using sealed bids is the lack of choice in selecting the lessee.

The principal factors affecting lease prices include the location, special resources on the land, wildlife quality, current wildlife management activities, and competition for leases. Property near a populated area will probably demand higher prices than more remote areas because of accessibility by more people. Having cabins, streams, ponds, recreation trails, old logging roads, truck access in wet months, and game food plots can increase the asking price. Allowing lessees to make improvements, such as building non-permanent shelters (to pull a trailer in), and enhance the land and hunting conditions may provide a premium asking price for landowners.

Providing other recreational opportunities such as fishing or snowmobile trails will also increase the land's marketability.

It may be wise to have separate contracts for separate rights to the land. Some landowners, rather than (or in addition to) receiving a monetary payment, choose to have in-kind services carried out. Lessees who live near the property may be able to carry out services such as protection from trespassers and installation of conservation practices.

The acreage of the property is obviously a factor in leases. To provide adequate wildlife habitat and safety, most hunting leases are for properties over 50 acres. Also important is the proximity to other forestlands. For example, private property adjacent to public game lands allows the lessee access to more land. Landowners with small tracts can pool their land with their neighbor to form one large hunting lease. Although lease cooperatives are difficult to manage, they allow landowners with small acreages to obtain income. A lease broker can manage cooperative leases. Generally, however, as the acreage gets larger the price paid per acre decreases. On the other hand, as the availability of large acreages decreases, there may be more demand for such parcels.

Finding responsible hunters requires proper screening and interviewing. While this takes effort, it is time well spent and helps to prevent future problems. For hunters, the entire experience—planning the trip (anticipation), traveling to the site, traveling back, and recollecting the experience—is often as important as being onsite. Most hunters say their primary reasons for hunting are recreation, sport, being with friends, and hunting for meat or food, rather than finding a

trophy animal. Learn from interviewing potential lessees what they want from their hunting lease.

To find lessees, look at bulletin boards at sports shops, check newspapers and trade journals, visit sport shows, and even search the Internet. Most often, however, lessees are obtained by word of mouth from friends, neighbors, and acquaintances. Finding honest, trustworthy, careful hunters can prevent many hassles in the long run.

Elements of a Well-Written Contract

Having a written lease agreement, signed by all parties with review by legal counsel, is the most important step in avoiding potential misunderstandings and lawsuits. Putting the agreement in writing helps landowner and lessees critically consider what they want in a lease agreement. Every lease is different, but the most popular are long-term, such as annual or multiyear leases.

The type of lease to use depends on landowner and clientele needs. For landowners considerations include types of activities, how much time will be spent on the land, and, in some cases, how much time they want to spend corresponding with clientele. Properly designed long-term leases reduce time and effort for landowners. Long-term leases usually provide opportunities for multipurpose recreational uses year round, and may also allow lessees to carry out enhancements for hunting, such as erecting tree stands and cutting shooting lanes. If you prefer to limit the use of your land, you can provide a seasonal lease just for the legal hunting season or even short-term leases (day, weekend, week). Generally, shorter leases require more direct interaction with the lessee. Short-term leases may bring higher prices per

acre, but you should consider the additional interaction costs.

Most landowners prepare a simple lease that involves very little up-front investment other than a small legal fee to review the agreement, additional insurance premiums, and perhaps advertising. Sample leases are available from forestry and wildlife professionals and public agencies. When crafting an agreement, be as specific as possible about rights and responsibilities and limit the agreement to the person or club and those lands involved in the agreement. Although there is no special format for a lease agreement and it can be made to fit individual situations, there are some essential clauses to include:

- Statement of purpose (i.e., what is hunted)
- Description of property leased (include name, address, and maps)
- Rights and responsibilities of each party. For example, posting the land, number of hunters allowed, guest privileges, child supervision, camping, pet restrictions, alcohol use, wildlife harvest quota, building shelters, cabins, or target ranges, recording and reporting harvest data. (PGC has rules to follow.)
- Financial considerations and when payment is made (e.g., up-front payments)
- Terms of lease and renewal (beginning and end dates)
- Damage deposit
- Cancellation provision
- Proof and copy of liability and insurance (make sure it cannot be cancelled)

- Arbitration mechanism in case of disputes
- Notification of presence (sign in-out sheet)
- Compliance with game laws
- Ability to amend rules
- Annual meeting to discuss past year's activities and issues.

Summary

Leasing forest and agricultural land can be a win-win situation for landowners and hunters. Hunters enjoy the uncrowded conditions and a better-quality hunt. Landowners receive direct benefits in the form of income and improved forest habitat. There are also indirect benefits such as peace of mind about reduced risk of trespassing and vandalism. The annualized values from leases may be more lucrative than timber revenues. If successful, lease income can enhance land value enough that recreation becomes the highest and best use of rural land.

Drawbacks include additional time and resources needed to manage leases, more liability concerns, and perhaps less use of the land by the owners themselves and their relatives and friends. Realize that you are entering into a business, and carefully think through your land management objectives to see whether a lease fits your needs and situation. Elements of successful leases include a well-written lease agreement to protect everyone's interests and a good working relationship between the parties.

References

- For information about hunting in Pennsylvania, see the Pennsylvania Game Commission Web site: www.pgc.state.pa.us/
- For information about financial resources: www.pa.nrcs.usda.gov/programs/
- For information about sources of insurance: www.naturalresources.umd.edu/Pages/Insurance.html
- For examples of hunting leases: www.naturalresources.umd.edu/Pages/Hunting_Lease.html

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