

Directed Research Program Objective 3**Reducing landowner liability in Mississippi wildlife and fisheries enterprises**

Investigators: W. Daryl Jones, Wildlife and Fisheries; Changyou Sun, Forestry

Project Goal:

To assess the current and potential risks/liability to landowners who charge any type of fee to paying clients for recreational access to their properties.

Objectives:

1. Determine differences between landowners that participate in fee access wildlife and fisheries recreation and those that do not, with respect to their attitudes/concerns about the activity.
2. Determine real and potential risks and liabilities of established fee access enterprises involved with hunting, fishing, and eco-tourism activities on private lands.

Synopsis of research activities per objective:

A review of literature on fee access enterprise development in the U.S. with emphasis on risk and liability issues has been completed. A review of case laws and precedents related to the risk/liability of landowners was also completed. The review covered the past three decades and summarized the trend and characteristics of these related lawsuits.

The extent of actual bodily injuries and property damages sustained by hunters and anglers in Mississippi during the

hunting and fishing seasons from 2002/03 to 2004/05 have been examined. Data were acquired from a telephone survey on a random sample of adults who purchased Mississippi hunting and fishing licenses for the 2004/05 season. A review of recreational insurance policy options available to landowners in the United States has also been examined. This listing of insurance providers and policies is available to landowners interested in establishing fee access enterprises and will assist researchers in identifying any shortfalls in liability coverage for consideration of the insurance industry. Additionally, a review of legal codes in Mississippi, Arkansas, Texas, Louisiana, Alabama, Tennessee, and Georgia to identify legal opportunities and challenges in the development of natural resource enterprises on private lands and associated liabilities incurred by landowners operating these businesses has been completed.

Statistical analysis on responses to a mail survey study to determine liability and risk exposure of Mississippi resident and absentee landowners who operate fee access recreational enterprises on their properties has been completed. The survey produced 873 landowner responses, of which 154 respondents currently operate enterprises on their properties with total gross revenues of \$509, 888. Most landowners lease their property on an annual or seasonal basis and have

been doing so, on average, between 10 and 12 years. Nearly 43% of landowners with enterprises report that revenues have increased over previous years and 73% had their expectations of profit fulfilled. The respondents with enterprises reported knowledge of only two occurrences of bodily injury to individuals on their properties from 2002–2005. One-third of landowners purchased some form of liability insurance to protect their businesses and personal assets. Respondents also took advantage of other actions to protect their businesses, including, but not limited to, well-written leases (52%), camp or hunting rules (23%), restriction of alcohol and drugs (22%), client waivers (17%), restriction of all terrain vehicles (12%), and tree stand repair (7%). Consistent with prior findings, respondents engaged in natural resource enterprises found landowner liability to be less of an issue than those landowners not engaged in natural resource enterprises. Most landowners operating natural resource enterprises attended college (88%), earn over \$80,000 a year (58%), are Caucasian (97%), male (74%), do not live within 50 miles of their properties (52%), and are between the ages of 62 and 65.

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The 2005 Mississippi Natural Resource Enterprise Landowner Survey reported: quantity and types of wildlife recreation activities occurring in Mississippi, the financial statistics of these enterprises, and landowner attitudes concerning the operation of natural resource enterprises. Liability issues were also assessed along with effects of liability claims on business practices of the landowners. From October 2004 to September 2005, Mississippi non-industrial private landowners (NIP) responded to surveys concerning net revenues from fee-based wildlife recreation on their lands.

Of the 3,502 landowners meeting the criteria of owning at least 40.5 ha; 2,478 responded to mailed questionnaires, and 883 (36%) completed the entire survey. From a sample size of 883 respondents, 154 operated enterprises on their land grossing \$509,888 in total revenues. Fifty-nine percent of total respondents received a college education, holding bachelors, masters, professional, and doctoral degrees. Of those respondents who participate in fee access hunting, 77% had obtained one or more of these college degrees. The majority

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of respondents were males (74%) older than 40 years (54%) and Caucasian (91%). Thirty-two percent of these landowners earned more than \$100,000 in 2004, with 17% earning less than \$40,000 for the year.

Fifty-five percent of total respondents lived within 80.5 km of their property, and 43% of landowners reporting fee hunting lived within 80.5 km of their property. The majority of those reporting fee hunting (75%) preferred annual leases, with 21% using seasonal leases and 2% using brokerage leases. An operation taking advantage of annual leases has the least amount of time invested in the business. A variety of native species including: white-tailed deer (*Odocoileus virginianus*), mourning dove (*Zenaida macroura*), Northern bobwhite quail (*Colinus virginianus*), squirrel (*Sciurus* spp.), Eastern wild turkey (*Meleagris gallopavo silvestris*), rabbit (*Sylvilagus* spp.), wild hog (*Sus scrofa*) and waterfowl were reported on the properties. The most hunted species was white-tailed deer (91%), followed by turkey (76%), squirrel (59%), and rabbit (48%).

Total respondents (N=883) reported owning on average: 123 ha of agricultural land, 127 ha of forested land, and 13 ha of other land including permanent water (man-made and natural), wetlands, right-of-ways, wildlife food plots, and residential.

Respondents offering fee hunting and/or fee access recreation (N=168) reported owning on average: 116 ha of agricultural land, 280 ha of forested land, and 13 ha of other land. On average, landowners owned fee-hunting operations for almost 11 years, and the majority (78%) claimed expectations had been fulfilled or exceeded. Sixty of the 145 individuals (45%), who responded to the question of increasing or decreasing revenue, stated that revenues had increased throughout the years. The majority of respondents found that profitability of fee hunting operations was important to their financial stability with a mean of 2.92 on a Likert-type scale where 1 is not important and 5 is important. Very few participating landowners had employees, and most employees reported were only part-time. Sixty-five percent of respondents had not invested in facilities and equipment; whereas, 25% of respondents invested up to \$25,000 and 3 respondents invested over \$250,000. Some landowners included services and amenities to increase income from fee access recreation or hunting including: maintenance of food plots by landowner or customer (57%), lodging (17%), and providing blinds/stands (11%).

Landowners in the data set seemed to be proactive in reducing liability on their lands by: drafting well-written leases for lessees (50%); implementing rules for camping and hunting (22%);



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and restricting alcohol use (20%), ATVs (10%), and horses (2%). Twenty percent of respondents did not implement practices to reduce liability issues. Landowners also took advantage of client waivers (16%) and purchasing liability insurance (34%) to cover assets in the case of injury occurring on their property. Only two landowners reported bodily injury on their property in the three previous years. The majority of landowners chose to reduce liability by performing the more dangerous management practices; such as, prescribed burning, thinning timber, planting trees, beaver pond management, predator control, and pest species management.

Significant findings/results per objective to date:

Landowner and hunter surveys on accident liability concerns have been completed. A review of case laws and precedents related to the risk/liability of landowners has been completed. A listing of insurance providers offering policies to landowners who operate enterprises has been completed and has been made available through workshops, Internet web sites, and printed media. Landowner survey results have been made available for landowner educational materials and workshops. The telephone survey revealed that 1% of respondents had incidents related to their recreational activities in the past three seasons. About 17% of respondents had liability

insurance coverage in the 2004/05 season. Age, years of hunting, and incomes were positively related to the purchase of liability insurance. In addition, Caucasians or nonresidents of Mississippi had a higher likelihood of having insurance coverage. The results revealed that special liability insurance has been helpful in reducing the financial losses of outdoor enthusiasts, and furthermore, liability insurance may be effectively promoted in several ways.

Applications or broader impacts of significant findings, including economic impacts or projected impacts:

Findings have been reported to landowners interested in natural resource enterprise development through 17 workshops in Mississippi, Arkansas, Alabama, and South Carolina.

Project success relative to original objectives:

Findings from this research have been implemented in landowner outreach activities.

List post docs and graduate students with title of thesis or dissertation, if completed, and estimated graduation date:

Pokharel, S. 2006. Recreational incidents liability insurance and

judicial interpretation for fee access activities on nonindustrial private forest lands in Mississippi. Thesis, Department of Forestry, Mississippi State University.

Rink, J.K. Expected graduation in 2009. Dissertation, Mississippi State University.

Fund Leveraging	
Mississippi Department of Environmental Quality	\$155,000
US Environmental Protection Agency Wetlands Division	\$327,000