

A PLAN FOR STATE USE OF WILDLIFE RESOURCES ON A PRIVATE TIMBER TRACT

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Lots of people like to hunt and don't have a place to go. The Anderson-Tully Company of Memphis owns and manages nearly three hundred thousand acres of forest in seven Mississippi Valley states. They have a place to go. Their thirty thousand acre timber tract in Lauderdale County, Tennessee, is composed predominantly of all-age mixed stands of bottomland hardwood, cottonwood bars, and cypress brakes. The area has been under Company control, protection, and management for over fifty years. During this time, timber harvest has been of an improvement cutting nature, aimed at establishing a permanent sustained yield cutting cycle.

As a number of private tracts in the vicinity were combined through a period of years about 1900, into this large acreage under one ownership; as other local timber tracts were clearcut, burned, or stripped for farming; and as many natural waters were drained or became drifted and silted in, the Anderson-Tully area presented a protective haven to all native bottomland wildlife. This oasis in the Mississippi bottoms soon attracted hordes of hunters, trappers and fishermen and other predators, eager to bag game for sport, personal use, or for the market. A combination of factors served to make the forest attractive to wildlife and consequently to game seekers:

1. The land is situated in fertile well-watered Mississippi bottomland, a belt renowned for high wildlife productivity.
2. The large size, good cover and comparative isolation of the tract offered both game and trespassers a safe degree of protection from predation and from law enforcement respectively.
3. The interspersion of timberlands with lakes, sloughs, river cut-offs, bluffland and a few open agricultural areas afforded ideal broken home range for bottomland wildlife and waterfowl.
4. Proper fire protection instigated by the Anderson-Tully Company resulted in lowered mortality, and therefore, in higher game populations than were apparent on similar, but less well-protected lands in the vicinity.

With the increased pressure exerted on the area by those attracted to harvest this by-product game, came also, increased possibility of timber damage—principally from fire. In their efforts to cut fire hazard to a minimum and to effect speedy suppression of unavoidable fires, the Anderson-Tully Company had: (1) allied themselves with others who might readily appreciate the benefits of the game supply and the dangers of fire, by granting leases and hunting and fishing rights to selected sporting clubs; and, (2) granted various privileges to a few local residents in return for keeping an eye on the place.

By 1953, the increased popularity and heavier use of the area by sportsmen had created the following dilemma posed to many absentee owners. Good public relations naturally advised unhampered use of the area by all comers. Good timber management and fire protection dictated exactly the opposite—*i. e.*, the minimum of human use. The risk allowed by such informal control of trespass became incompatible with the Company's rising investment in growing stock. Various cranks and hot-heads had expressed their feelings that unless they were granted certain favors, rights or privileges, it just could happen that the Anderson-Tully Company might wake up some morning to find their woods burned. Unable to say "no" to these requests for fear of reprisal, and reluctant to say "yes" in the face of greater fire hazard, the Company was obliged to seek other ways to insure the safety of their property. The owner of a forty-acre woodlot might possibly out-bluff such warnings, but when you have a million dollars worth of inflammable goods out of sight, unguarded and unfenced, such threats cannot be laughed off.

Late in 1953, information reached the Tennessee Game and Fish Commission that the wildlife harvest rights on the Anderson-Tully Forest land might be available for lease. On the basis of this rather nebulous tip, official contacts

were begun with the Anderson-Tully Company—primarily through Mr. W. E. Houser, the Company's Chief Forester, better known as "Mr. Anderson Tully." We found the company quite receptive to the proposal of a lease agreement whereby public hunting on the area could be supervised with a proper degree of authority and enforced by sufficient man power that would be possible through the cooperation of the Game and Fish Commission.

From this point, progress was slow. The officials of the Anderson-Tully Company and of the Commission reached complete accord early in their meetings. The Company was willing to allow the Commission to administer the management and harvest of wildlife on the forest area in exchange for a reasonably efficient fire protection program to be effected by the State. Naturally, a tremendous area of paper surface covered with the typewritten word is required to express in detail, all the possible ramifications of a fairly simple gentlemen's agreement. It is difficult to express in legal terminology the fact that "a game and fish commission" will do it's best (really, it's dead-level best), to protect someone else's timberland from damage. It is equally repugnant, from the legal practitioner's point of view, to think that any corporation would be so foolhardy as to say, "Sure, you can have all the squirrels, coon, deer, fish, and bobcats on our land, if you'll just ask people not to burn up the woods." No absolute promises or rigid guarantees—simply an understanding which said in effect: "We can aid ourselves a lot if we'll just help each other."

Understandably, the Attorney-General's staff at Nashville broke into a cold sweat when they read some of the suggested terms in the earliest proposed drafts of the lease. Three large bones, caught in the meatgrinder, were apparent to them:

1. No State agency could establish permanent buildings, roads or other improvements on private lands.
2. The Game and Fish Commission could not commit itself to supply fire control improvements, which were under jurisdiction of the State Forestry Division, in a county which had no organized forest fire protection association.
3. The Commission, as a state agency, could not legally enter into a contract accepting any financial responsibility for fire damage which might occur in spite of their promised protection, and neither, on the other hand, could they legally be permitted to renounce their liability for damages so long as the Anderson-Tully Company rendered to them "equal value" in exchange for such protection.

Justly too, the attorneys of the Company looked askance at required terms of the sample lease whereby the State could renew the option after ten years or could terminate the lease by six months' written notice, while the lessor had no cancellation privileges.

Of considerable importance to both parties were terms first suggested which would give to the Game and Fish Commission practically unlimited power to cut any trails needed for patrol and proper administration of the area. A remaining bone of contention arose (again, not between Anderson-Tully and the Commission, but between the legal advisors for each), over the proper description of what could be called "reasonable protection." Did it constitute a fire plow, a drag, a fire tower, radios and other specified equipment, or did it depend basically on conscientious effort put out by those who man the area?

Finally, long vigorous cranking by all hands smashed the stuck bones out of the sausage mill and the finished product was wrapped up. After a year's time, a final lease agreement satisfactory to each party was reached, not so much through compromise or horse trading, but rather by more complete understanding of all conditions and, most important, by the development of mutual confidence—a realization that the lease would be a contract between two organizations composed of decent humans. Reaching a harmonious agreement required that both the Company and the Commission rid themselves entirely of ideas that one or the other might get "boss rights" or "controlling interest" from the lease conditions. It was necessary that each participant assume the responsibilities of a full-fledged partner.

The original straight-forward, unwritten statement of reciprocal benefits grew by January, 1955, to a legal document of some eight pages. The lease was signed on February 17, 1955.

Here's how the ground-up bones looked after they were fried:

1. It was agreed that "the lessor and/or the lessee may close the area to hunters during any period of fire hazard" (the clause incidentally gave the lessor indirect power to close the area at any time, and therefore, for all practical purposes, to cancel the lease). This hurdle past, other troublesome clauses shrank in importance.

2. Realizing that effective personnel, not permanent improvements, were the final answer to fire protection and wildlife management, we were able to delete two troublesome clauses from the lease. In addition, the Company graciously offered to deed to the Game and Fish Commission in fee simple, such land as might be necessary for carrying out our contract program.

3. In order to satisfy the legal lease requirement of "exchange of equal value," the Commission agreed to "hold fire hazards to a minimum" and to "... cooperate with the lessor in a program to prevent forest fires. . . ." The lessee furthermore "shall not be liable for fires."

These outline the major problems which confronted us and might confront other states in producing a satisfactory lease of this type. Other secondary, but necessary conditions in the lease were satisfactorily resolved by granting equal rights to both parties by such phrasing as "... the lessor and/or the lessee may . . ." or "... will be determined by agreement between parties. . . ." Another tedious but fairly straight-forward job was that of abstracting the various Anderson-Tully deeds—a process we later found completely unnecessary in dealing with so reputable a company.

Aided by the prestige of the Anderson-Tully Company, we were able to add six thousand acres of Luxora Cooperage Company land to the management area by means of an identical contract with Mr. Alvin Wunderlich of Memphis. This acreage has since been purchased by the Anderson-Tully Company. Owners of other large land-holdings continue to show interest in fair cooperation of this type.

CONCLUSION

Partially through good judgment, maybe mostly through luck (they placed high on the personnel employment examination), we were able to place on August 1, 1955, three local men to the positions of area managers on the newly created Anderson-Tully Wildlife Management Area. As a result of the outstanding work done by these men in preparing the local public for acceptance of the new regime, and in fair but strict enforcement of regulations, violations (particularly deliberate ones), have actually been reduced in the entire county. Threats had been bandied about that "No three men could make me pay a dollar to hunt on land that I've hunted for thirty years," or, "They get smart with me, I'll burn them out." Despite such dire warnings no such retaliations have materialized. We were lucky to have had good men, good weather conditions, successful breeding seasons, and satisfied sportsmen. The result has earned the Commission an honorable name in the district. Anderson-Tully has experienced no loss from fire or timber theft there in the past twenty months. Game and Fish personnel on the area have extinguished three small fires, and have conducted over twenty meetings with local high schools, civic or sportsman's clubs carrying the gospel of proper wildlife management and fire protection.

Admittedly, this is dry material from a wildlife standpoint, but from the practical angle, it presented an important if not the only method by which the State could supply choice public hunting areas, without funds to buy or rent the land outright. Since World War II, and the steadily increasing public enthusiasm for hunting, a steadily increasing amount of choice bottomland has been lost to public use by club leases, no hunting signs, or clearing for cropland.

An agreement such as this, honestly enforced, is of extreme benefit to each party. The Anderson-Tully Company receives at no direct cost, the services of from two to twelve men engaged in regular patrol and trespass control of