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A PRESIDENTIAL VISIT

While in town for the Republican Convention in Philadelphia, former President George Bush paid a visit to Eric Bergstol's latest project — Pine Hill Golf Club in Pine Hill, N.J. Bergstol, president of Empire Golf, plans to officially open the Tom Fazio-designed layout this spring.

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PERIODICAL

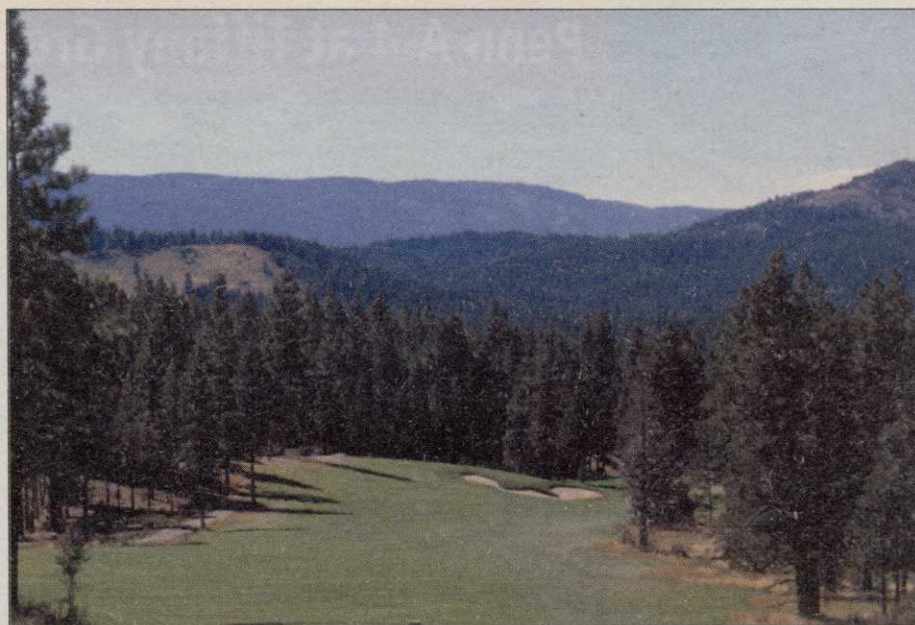
Water crisis looms in S. California

By JOEL JOYNER

SANTA ANA, Calif. — Radical changes in California water policy could leave Southern California golf courses in “a world of hurt,” according to agronomist Mike Huck, of the U.S. Golf Association’s Green Section. From his base here in the southwest region, Huck has been tracking a complicated battle between environmentalists, farmers, municipalities, government officials and others over the future of water distribution in the Golden State.

Indeed, the unfolding situation portends such dire consequences that one water-resource specialist, engineer Dana Ripley, is urging that Southern California

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The 1st hole at the “Dragon” course at Gold Mountain

Dramatic new Dragon course opens in remote ‘Lost Sierra’

By DOUG SAUNDERS

CLIO, Calif. — The surging economy has been the catalyst for numerous golf-driven real estate developments around the country. Every region has seen the creation of new golf courses, including some areas where you would least expect it. A prime example is Gold Mountain, located in this tiny hamlet in California’s Sierra Nevada mountains.

Here, in a town of 200 located in a county that has only one stop light, is a 1,300-acre development situated on a two-lane mountain road overlooking ranch land, the Feather River, a solitary railroad track, and the towering Sierra peaks.

Is this where you want to retire? Why not, is the philosophy at Gold Mountain.

The developers, Dariel and Peggy Garner, have made their mark in such various business ventures as marketing wood by-products overseas, developing bank-

ing software, and growing specialty vegetables. Their diverse interests and imagination lead them on a search for a natural setting, a place to settle down. They stopped looking when they found this remote area of Northern California known as the Lost Sierra.

“We were trying to find a place that we could retire to, but what we found was a place of such solitude and natural beauty that we felt we should share it with others,” explained Peggy Garner.

SELLING SOLITUDE

To make that dream a reality required a different approach to development. From the beginning, the Garners would make their remote mountain setting the cornerstone of its appeal. To incorporate these features the Garners took careful steps in the design process by bringing together an interesting mix of collaborators.

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Going East: Simplot buys Lange-Stegmann, to extend POLYON deal

By ANDREW OVERBECK

BOISE, Idaho — Simplot Turf and Horticulture (Simplot T&H) continues its eastward march with the acquisition of the professional product line from St. Louis-based fertilizer formulator Lange-Stegmann. The deal includes the Lange-Stegmann production facilities for its professional products in the golf, landscape and lawn-care markets. The financial terms of

the agreement were not disclosed.

Located on the Mississippi River, the newly acquired production facilities provide Simplot T&H with efficient intermodal distribution service to a large segment of the United States east of the Rocky Mountains.

“This allows us to move east,” said Bill Whitacre, Simplot T&H president. “The

mountains are a natural barrier for our operations in the West. The Lange-Stegmann facility has a phenomenal location right on the Mississippi and has access to an intermodal barge terminal. The efficiency of having that location right in the heart of the United States is really an opportunity for us.”

Simplot T&H will also add Lange-branded greens-grade and

Continued on page 35

Safety-minded lawyer urges ‘mulligan’ ban

By JAY FINEGAN

NEW YORK — “NO MULLIGANS!” If there is one sign that every golf course should post prominently, that would be it. So says lawyer Robert D. Lang, who has drawn fresh attention to the dangers — legal and otherwise — of wild golf shots.

In a recent cover story in the Journal of the New York State Bar Association (NYSBA), Lang cites numerous personal injury cases in which errant shots struck golfers, caddies, spectators and even motorists. Among the potential defendants, he said, are the golfer who hit the shot, the course or club owners if a suit alleges negligent



Robert D. Lang

Continued on page 36

Increase in beginner golfers leads to more golf-related personal injury and liability cases

Continued from page 1

design, and a club professional who may have been supervising play at the time of the accident.

A partner in the Manhattan law firm D'Amato & Lynch, where he heads up the casualty defense department, Lang has represented golf courses in liability lawsuits.

In his article – "Lawsuits on the Links: Golfers Must Exercise Ordinary Care to Avoid Slices, Shanks and Hooks" – he warns that the risk of injury is greater today than ever. Legions of new golfers, intrigued by the Tiger Woods phenomenon, have taken up the game. Some three million Americans tried golf for the first time last year, he said.

"Given the increased number of golfers," Lang writes, "now typically armed with technologically advanced multi-metal woods, irons promising to produce explosive power due to revolutionary breakthroughs, and with minds crowded with diverse 'swing thoughts,' crowded golf courses can give rise to potential liability for personal and property damage that may be the result of the seemingly inevitable off-line shot."

ACCIDENT RATE GROWING

The actual number of personal-injury lawsuits filed against golf clubs or players is unknown. "I looked into that [for the article]," Lang said. "A lot of them are settled through insurance coverage. I did find, however, that there are more and more incidents on golf courses now, and people are taking them more seriously."

Given the highly litigious nature of our culture, he added, the instinct is to file suit. "The feeling people have is that, I'm not really suing you [the player/defendant], I'm suing your insurance company, or the club, or the course. Someone should pay for my medical bills, for my pain and suffering."

Most courses have insurance coverage for this kind of action, Lang said, but golfers would be wise to have their own coverage. "In a general sense, I always encourage my clients to have an umbrella policy, because you don't know what catastrophe is going to strike you, or for which you might be held responsible. It's possible in some cases to lose your house, all your savings. So people ought to have umbrella coverage. It doesn't cost that much."

NEGLIGENCE HARD TO PROVE

In Lang's lengthy essay in the NYSBA Journal, he explores case law surrounding golf course mishaps and liability.

By and large, he concluded, most court rulings are favorable to the golf courses. "There is this oddity in golf that, although it's negligent to hit a bad shot, bad shots are part of the game," said Lang, who himself carries a 14 handicap that he admits is "sometimes questioned." The important thing, he added, is "to show due care, so that before you hit the ball, you make sure people are out of your intended path."

A good example came in a case called *Jenks v. McGranaghan*. The defendant had driven a golf ball from the 8th tee at Windsor Golf Course, in California, without warning to players standing near the 9th tee, adjacent to the 8th fairway. The ball, as Lang explains, struck one of the players in the eye, causing blindness. Members of the defendant's threesome shouted "fore," but the plaintiff did not hear the warning.

The court observed that "there is no fixed rule

regarding the distance and angle which are considered within the foreseeable danger." Significantly, at the time that the defendant drove the ball, the plaintiff walked out from behind a screen where he had left his golf bag. The Court of Appeals fastened onto that fact, Lang writes, "pointing out that, at the time the defendant was preparing to drive, the plaintiff was still behind the protective fence."

The court wrote thusly: "A golfer cannot be expected to break his concentration while addressing the ball the instant before he hits to look and see if someone has stepped into the danger zone."

The court went on to conclude that there was therefore no duty to yell "fore" before hitting. A unanimous Court of Appeals found that the defendant did not breach a duty to the plaintiff, Lang explained, and dismissed the complaint.

HOOK TO THE PATIO

In another case, a man was relaxing on the patio behind his house, which backed up to the 13th hole of a course in New York's Nassau County. A 15-year-old player – not a club member but actually a trespasser on the course – fired a severe "hook" that struck the unwary homeowner in the head, inflicting a concussion and hospitalizing the man for a month. The victim filed suit against the country club and the golfer.

According to Lang, "the plaintiff's wife conceded that no golf ball had previously struck their home, although balls were found in the bushes and fence area. Using language that suggests a social commentary," Lang writes, "the Court of Appeals observed that 'these inva-

sions are the annoyances which must be accepted by one seeking to reside in the serenity and semi-isolation of such a pastoral setting.' "

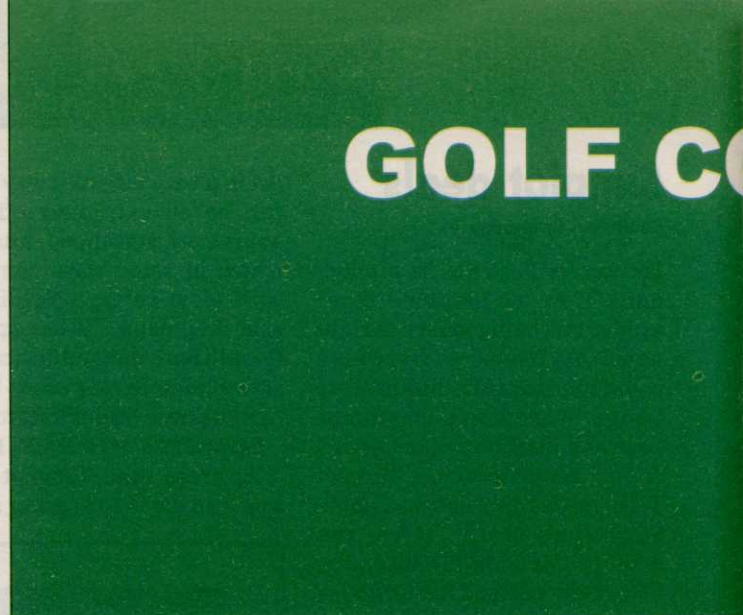
The failure of the youthful player to shout "fore" was irrelevant, the court said, because the plaintiff, living so close to the course, would hear numerous warning shouts all day, from one player to another, and could be expected to ignore them.

THE MULLIGAN MENACE

Lang advises that the basic rule imposes no duty on the golfer to warn persons who are not in the intended line of the ball's flight. Spectators, for their part, assume the risk that even the best golfers will occasional hook or slice a shot. But courses can take steps to promote safe play and save on legal fees, he said.

"First, it's very important to have a rule, and to enforce the rule, about mulligans," Lang explained. "Say I'm playing and I hit a bad shot, and you're playing with me. You hear me hit my ball so you walk off to find yours, and I decide to hit a second shot – not because my ball is lost or provisional but just because I'm upset and want to make sure I can hit a 6-iron correctly. All of a sudden, you've gone from a position where you are out of range to one where you are in range. I'm upset about my shot, so I don't bother to look around to see if you're safe. Next thing you know, the ball is in the air."

Lang also advises clubs to remind members about course safety, so more experienced players can keep tabs on newer golfers. "Some people's idea about course safety is to hit the ball, and when it's really off line, they yell out 'fore.' That doesn't do a hell of a lot of good, especially when the wind is blowing against you." It's better to observe fundamental safety points, he said, "so we may all enjoy a round of golf without a request for judicial intervention." ■

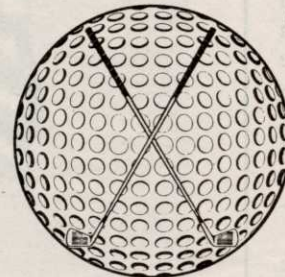


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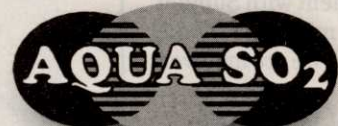


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