BUILDING A GOLF COURSE WITHOUT BUYING LAND

by STEPHEN W. BYERS

Skyrocketing land prices in the more desirable areas of the country have severely limited the recent expansion of golf facilities not connected with some other type of development. Though it may sound too good to be true, and despite the several qualifications that bear heavily on its accomplishment, it has been possible since 1897 to lease Federal land for golf course development. That there are only eight cases of private parties leasing Federal ground for tnis purpose might lead one to conclude that the process is too difficult, that too many obstacles must be hurdled, else many more instances of this highly desirable arrangement would attest to its possibility. We urge the reader not to be dissuaded. We submit that so few have availed themselves of this alternative to buying land because only a few investors are familiar with the ABC's of the Federal use permit and that, until recently, the United States Forest Service, the Federal agency empowered to dispense these permits, had not considered the golf course to be congruent with forest oriented recreational activities. This attitude was based on the fact that the majority of national forest land is unsuitable for golf courses due to heavy tree

ILLUSTRATION BY LIAN ROBERTS

In the wake of tight money and exploding land prices, GOLFDOM explores the feasibility of leasing highly desirable Federal land as a way to build golf courses or expand existing courses without the, often times, prohibitive expense of buying land

growth and steep mountains. What the service overlooked was that the many level and gently rolling valleys and drainages amount to thousands of acres of terrain compatible with golf course development, though insignificant by comparison to the unsuitable terrain.

FEDERAL LAND LEASE BENEFITS

The chief advantage of leasing over buying land for golf course development is self evident. The investor can channel the money that would otherwise have been consumed by the land purchase into building his golf facilities, improving existing structures, seeding, landscaping and generally developing his golf course.

A lesser known benefit is that leasing Federal land is usually half as costly as leasing private ground of similar value. (The specifics of the lease arrangement will be covered in detail later in this article.)

Not the least advantage of leasing public land is that land under the jurisdiction of the United States Forest Service is interlarded with timber, mountains, streams, wild flowers and wildlife; all of which would surround, intertwine and provide scenic overviews for golfers. These natural embellishments make less the job of the developer to satiate the golfer's need for primal beauty.

Another important consideration favoring leasing over buying land is the relief it brings from paying property tax. Many courses have been plagued by recent property tax hikes based not on the value of the land used for its present purpose, but on its value if used in the most profitable way. Thus, a course could be forced to develop its land for housing or other more profitable purposes than the one for which the land was originally purchased, simply by virtue of the property tax structure. Leasing Federal land for the golf course mitigates this profit drain.

THE LAW AND FEDERAL LAND LEASING

Meeting the Federal requirements for leasing public land (as the Government refers to land under purview of Federal agencies), is not necessarily a cakewalk. The Government has strewn in the path of the private investor a variety of hurdles that must be overcome to comply with the rules on leasing public lands. The mother of these rules is the National Environmental Policy Act, which governs the leasing of Federal grounds under the jurisdiction of the United States Forest Service.

Other Federal agencies, such as the Bureau of Land Management, rely on other acts for their authority in land management. (Leasing land from this agency is a remote possibility.) But for purposes of this article any reference to Federal land will mean land managed by the United States Forest Service.

The National Environmental Policy Act has three basic requirements: That the purpose for which the use permit is applied (in leasing public lands the Government refers to the use permit rather than to the lease) be in the long term public interest and need and proves to be of the highest public purpose; that this interest or need cannot be better served by development on private land, and that the proposed use is consistent with over-all Forest Service and environmental objectives.

The Forest Service stresses that a sound land use planning program be an integral part of satisfying the above act and that a thorough justification by the proponent would also be necessary in the Forest Service's review of the proposal.

The major considerations the in-

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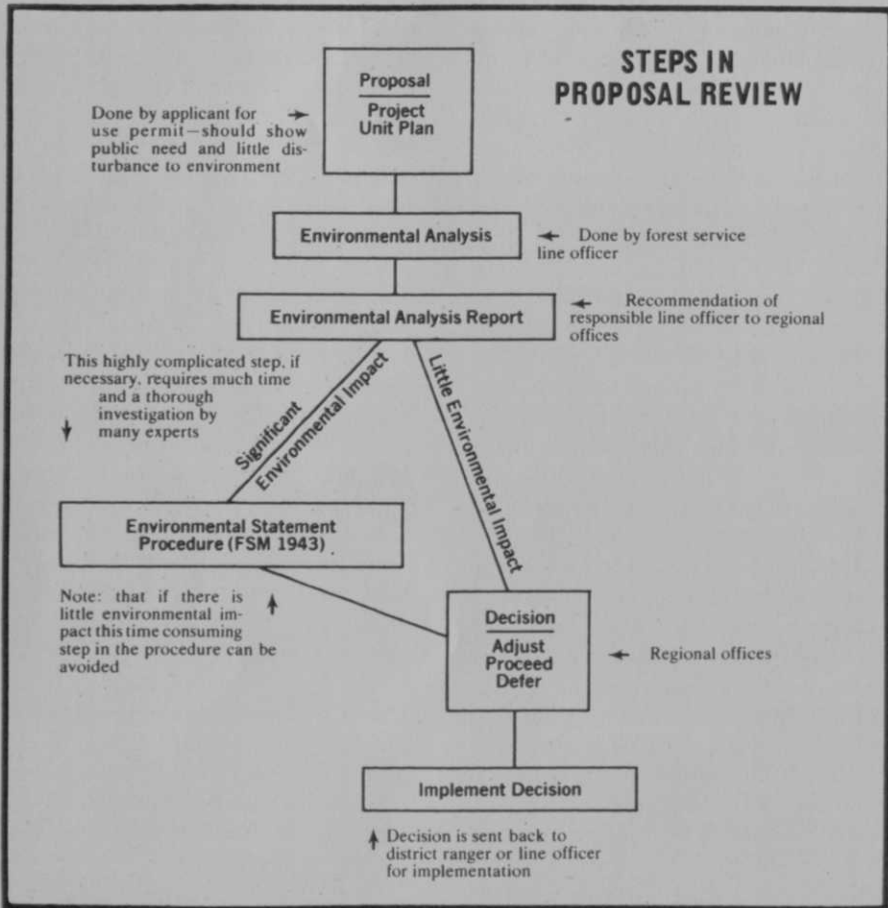
NATIONAL FOREST SYSTEM REGIONAL BREAKDOWN AND RELATED DATA

PACIFIC NORTHWEST REGION (6) — WASH., OREG.
NORTHERN REGION (1) — MONT., N. DAK.
CALIFORNIA REGION (5)
INTERMOUNTAIN REGION (4) — IDAHO, NEV., UTAH
ROCKY MOUNTAIN REGION (2) — WYO., S. DAK., NEBR., COLO., KANS.
SOUTHWESTERN REGION (3) — ARIZ., N. MEX.
EASTERN REGION (9) — MINN., WIS., MICH., IOWA, ILL., IND., OHIO, MO., W. VA., PA., N.Y., VT., N.H., ME., MASS., CONN., R.I., N.J., DEL., MD.
SOUTHERN REGION (8) — OKLA., TEXAS, ARK., LA., MISS., ALA., TENN., KY., VA., N.C., S.C., GA., FLA.
ALASKA REGION (10)

▨ Prospective areas for investigation
Land in other regions, although ideal for golf course development, is heavily weighted with private ownership, a condition that makes leasing unlikely (see article—*Another Factor Bearing On Commercial Use Permits*)



LAND *continued*

vestor should bear in mind concerning complying with the act are: that the golf facility he wishes to build would not significantly change or damage the environment and that the community profess a strong interest in golf. It would behoove the proponent or investor to use community opinion and cooperation to strengthen his plea for the permit. He should also make every effort in his initial proposal to indicate his ability to follow through successfully if the permit is granted. Of course he will need to demonstrate good credit and a competent developmental record.

VICISSITUDES AND CONSTANTS

The basic rules governing the granting of use permits on public lands are, of course, uniform from forest region to forest region country-wide, but the interpretation of these rules varies greatly from region to region. This is because of the differing types of environment among various parts of the country. In one area a golf course development would do im-

measurable environmental damage (*i.e.*—An area where a golf course would render unusable, a valley heavily trafficked by elk and deer that need it for winter range.) whereas in another, it would enhance the area; in one region public interest in golf may be so strong that any other recreational use of the land available for use permit would not be considered, while in another, many types of recreation would vie for use of public ground, in which case the Forest Service would determine which would best serve the needs of the community; in one region the administration will favorably view golf as a viable type of forest recreation, whereas another forest supervisor will pronounce golf inconsistent with forest-oriented recreation. This is not to imply that administrative partisanship is the determining factor in the granting of use permits, but often it proves to be the catalyst that tips the scales one way or the other, when the facts, favorable and unfavorable to a type of proposed use, are on balance. It is only natural that the administrative attitude would differ from region to region as does the terrain.

Notwithstanding the variations evident in Forest Service application of the law to the facts of each proposal in each area, a fair general statement of their policy as it applies to commercial public-service facilities on the national forests (golf courses operated for profit by private parties would come under this category) would be as follows: Resorts, hotels, cabin camps, ski lifts, stores, gas stations and similar developments offering accommodations and services needed by the public are permitted on national forest lands under special use permits.

The Forest Service permits the construction of commercial public-service facilities by private capital on suitable tracts of national forest land when there is a public need for such accommodations, facilities and services, and when such use is consistent with the over-all plans of national forest administration. Developments offering moderately-priced accommodations or services, which are within reach of a majority of recreationalists, have priority.

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"THE USE OF SCENIC LANDS PROVOKES AS MANY DIVERSE AND CONFLICTING OPINIONS AS A FRENCH ELECTION"

by CHET HUNTLEY

The former television news commentator writes from personal experience on the Forest Service view of use permits for golf course development in Montana

BIG SKY, MONT.—Criticizing and castigating the United States Forest Service is one of the most popular pursuits in this nation, because it is the principal administrative agency for the millions of acres of publicly-owned scenic America. The use of scenic lands provokes as many diverse and conflicting opinions as a French election, and the question is more recently confused by the appearance of the "instant ecologists" on their ego trips, who can usually draw a crowd by assailing the U.S. Forest Service and its policies.

At Big Sky we had some rewarding experiences negotiating with the Forest Service in behalf of the use permit for our golf course. Seven acres of Forest Service land lay there obstinately between tee and green of the 15th hole and it refused to move, nor was there any way to bend the 15th fairway around the intruding seven acres. The problem was explained to the Forest Service and a use permit was negotiated. Later, the seven acres in question were part of a land exchange between the Forest Service and the Burlington Northern Railroad, and Big Sky purchased the seven acres from the new owners.

There are, of course, those who disapprove of this type of permit. By the very nature of its responsibility, the United States Forest Service is certain to draw the ire of most and the applause of few. It is charged with the awesome task of administering these vast acreages for the benefit of *all*. That being the case, the Forest Service is frequently attacked on the grounds that it seems to have no settled policy . . . that its rules and practices in Montana are totally different than those in West Virginia or Upper Michigan. The land-use requirements in Montana are not the same as those in another part of the country, and so the Forest Service has practiced its "multiple use" concept. It is, indeed, a policy that invites the charge that the agency tries to be all things to all interests and, thereby, pleases none.

But the United States Forest Service has managed to accommodate an incredible range of interests: the lumbering industry, the mining industry, towns and cities and farmers in need of water sources, the advocates of more and more wilderness and primitive areas, the fishermen, the hunters, the wild life conservationists, the camper, the backpacker, the mountain climber, the skier, the kayak enthusiast, the float-trip crowd . . . name it.

At Big Sky, a very small portion of one of our lifts is on Forest Service land. In treating and negotiating with the agency's representatives in this district, we have found them to be fair, reasonable, efficient and helpful. The lift towers

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The Forest Service requires that facilities of this type be constructed in accordance with accepted structural standards and that the design be appropriate to the forest environment. The terms of the permit reserve sufficient control over the operation to ensure that reasonable prices are charged, that services and accommodations are adequate to meet the public needs and that conditions affecting public health and safety are satisfactory. All plans are subject to approval by the Forest Service.

Applicants for a commercial public-service permit are required to show that they are qualified by experience to operate the facility and serve public needs and that they have the financial ability to undertake the construction and operation of the development as planned. The Forest Service has authority to issue term permits for a maximum renewable period of 30 years for commercial public-service facilities.

The fee charged for a permit is commensurate with the value of the land for the use to be made of it. The objective is that the rental will be fair to the operator and to the Government. The fee is usually based on a percentage of the gross income less certain allowable deductions. (Note: Fees are generally assessed on one of two bases: 1) Graduated Rate Fee, which is an escalating rate charged against gross income. Rate increases as ratio of income to investment increases—this is adjusted annually—also if income decreases, rate of fee decreases proportionately. 2) The usual fee basis is predicated on 5 per cent of the fair market value of land under the use permit. The fee is adjusted at five-year intervals to reconcile with changes in land value. This 5 per cent rate is generally half the rate charged by private landowners when leasing land of value similar to the forest land.)

The Forest Service advertises opportunities for commercial public-service developments if these developments are expected to exceed $75,000 or if there is a competitive interest in the development. In such cases a prospectus is issued and given publicity, so that interested parties may have an opportunity to apply. The prospectus calls for applicants to propose a development plan and to bid on the rental for the land. Where the granting of a use permit is subject to public bidding (usually not the case), the proponent would have prior notification before he incurred the time and expense of working up his proposal, getting community support, and so forth.

Persons who want to obtain a commercial public-service permit should write directly to the forest supervisor of the national forest on which they desire to operate. They should state the type of development planned, the kinds of accommodations, facilities and services contemplated and the approximate investment required. The forest supervisor is responsible for determining the proposal's desirability.

An applicant who wants general information about commercial public-service opportunities should write to the regional forester or forest supervisor of the Forest Service region of the national forest in which he is interested.

General inquiries addressed to the Chief of Forest Service, Washington, D.C., will be referred to the regional forester in whose region the applicant is most likely to find the area specifications he wishes.

ANOTHER FACTOR BEARING ON COMMERCIAL USE PERMITS

Although not mentioned in the National Environmental Policy Act, GOLFDOM's research showed that district rangers, to whom the proposals are initially directed, generally do not react favorably to requests for golf course use permits in regions where the ratio of public to private land is more heavily weighted on the private side. The reason for this attitude is that the Forest Service does not wish to compete with the private sector for this type of recreational activity. Also, they are more prone to strictly conserve their available land for resource preservation where they have small holdings compared to privately-owned ground.

In an effort to aid potential investors in choosing suitable regions to research the possibilities of leasing Federal land for golf course development, GOLFDOM proposes regions 1 (Northern), 2 (Rocky Mountain valley areas), 4 (Intermountain), 5 (California) and 6 (Pacific Northwest) as likely areas to investigate. These regions have an equal balance of private and public land and, though much land in these areas is mountainous, there are many wide valleys at altitudes compatible with golfing needs.

Regions 3 (Southwestern), although this area was once suitable for golf course development on Federal land, there is now too much private land available for forest administration to take a favorable view of a proposal for leasing, 8 (Southern), 9 (Eastern) and 10 (Alaska) are much less desirable for this type of development. Generally, these regions have a small amount of public ground by comparison to gross area and the severe climate of region 10 (Alaska), would preclude it as a possibility.

The rejection of the Waterville Valley Company's proposal for a golf course commercial use permit is an example of what happens when application is made in an area (Region 9-Eastern), where there is considerably less public land than private. This imbalance lead the Forest Service to give priority to more dispersed types of recreation. The state planning board corroborated the forest administration's view in an environmental statement, which concluded that this type of expansion would put undue strain on already meager forest resources. They issued a use permit for skiing, because there was a clearly indicated public interest in skiing and because the base facilities were on private ground. The Government also concluded that denying the golf course in Waterville Valley would help retain the present land for badly needed forest uses and would decrease the need for fertilizers, herbicides and insecticides in a flood plain area.

TESTAMENTS TO FEASIBILITY

There are eight examples in the United States of golf courses being granted special use permits from the Forest Service. The amount of acreage under this type of permit ranges from four to 82 acres.

It is interesting that some of these clubs are private membership clubs, albeit the National Environmental Policy Act requires, precedent to the

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LAND *continued*

granting of a commercial special use permit, that the proponent show the proposed use is in the *public* interest.

When GOLFDOM asked how the private nature of certain golf clubs that lease Federal ground could be reconciled with the law, Federal line officers uniformly responded that these "so called private clubs are not really private in the sense that they discriminate. Their doors are open to anyone who can pay the nominal membership fee." One said, "I've never heard of anyone being turned away."

The Tamahoc Lake CC, Deadwood, S.D. (Region 2), has over 80 acres of its course under a use permit issued in 1944. Forest Service records showed that land suitable and available for a golf course was mostly public. There was very little available private ground that could even support a nine-hole course. This, coupled with strong community interest in golf, resulted in the granting of Tomahoc Lake's term use permit.

The permit recently issued to the Vail Metropolitan Recreation Assn. for a five-acre expansion of its golf course (Region 2) is another example of public land being more appropriate for golf course development than available private ground.

Although the Vail golf course is a public facility, it rests in the shadow of the Vail Assn.'s mammoth ski-resort complex in the Vail valley, much of which is under commercial use permit for ski runs and lift facilities.

The proximity of this highly commercial resort has exploded land values in the valley. In their evaluation of the initial proponent's request for a golf course use permit, the Forest Service determined that there was a community need for a public course, but that the privately-owned property was much too expensive to be considered for the low gross yield of a golf course (as compared to the high yield of the ski complex, responsible for the inflation of property values). In addition, the small acreage required to round out the needs of the already existing course did not pose a threat to the forest's land base resource. The Forest Service, therefore, quickly decided to grant the use permit for the proposed course.

The Skylake GC, Highlands, N.C. (Region 8), rests on private ground, but is divided by an L-shaped piece of forest land, which they lease under a use permit to consolidate the course.

There are three golf clubs under Federal use permit in Region 3, which lease a substantial amount of public land. The Williams CC, Arizona, has leased 63 acres since 1928. The Flagstaff CC, Arizona (a private club charging a $10 membership fee), leased 53.3 acres of Federal ground under a use permit in 1925, and the permit has been renewed and is still operative. Its entire nine-hole golf course is on Federal ground.

The Alpine CC, Alpine, Arizona, leased six acres of forest land under a use permit issued in 1960, in conjunction with a high mountain resort and summer home complex. It is a private club, but professes to turn nobody away who can pay the annual fee.

Also in Region 3 is the White Mountain CC, which gained impetus from a summer home area of 100 acres under a special use permit. The seasonal residents organized an association (of which the Forest Service highly approved) that lobbied the Government for the establishment of community recreational facilities. They were issued a short term permit for golf course development and subsequently negotiated a land exchange with the Service for the Federal land under permit. They acquired property the Forest Service had professed an interest in, which they used in the trade for the golf course ground they were leasing.

The particulars of the use permit granted to Big Sky Resort (Region 1) of Montana and the subsequent land exchange are related in the accompanying side-bar by former NBC newsman Chet Huntley, chairman of the board of Big Sky of Montana, Inc.

INVESTOR PROTECTION

With regard to the investor's natural concern that there be some guarantee to protect his investment from Federal takeover on the termination date of the 30 year use permit, GOLFDOM's study of Federal business ethics on the matter indicates a commendable spirit of fairness to the investor even when he has breached the terms of the permit. The Forest Service states that permits will be renewed unless a major infraction of the terms and spirit of the permit occur during the period of the lease and unless an unforeseen environmental threat emerges as a result of the development. Permit renewals are the rule rather than the exception.

LAND EXCHANGE

Should the investor decide at some time after being granted a use permit, that he wants to own the forest land on which he developed his golf course, it is possible for him to negotiate a land exchange with the Forest Service.

He may also negotiate such an exchange for forest land on which he has no use permit rights. These exchanges have been common for over 50 years. Some 5,000 transactions have been completed in which more than nine million acres have changed hands. In 1966 alone, about 315,000 acres were exchanged in 128 separate agreements.

The law governing these transactions is the General Exchange Act of 1922, which requires that: the exchange must be in the public interest, the value of the property the United States gives in exchange cannot exceed the value of the property it receives, lands are exchanged on the basis of their market value, not acre-for-acre and the properties given and received must be in the same state.

The Government's appraisals are based on prices received for comparable properties in recent private transactions in the market area. Formal appraisals to determine the estimated fair market value are made by Forest Service appraisers or are obtained from impartial sources for each property involved in the proposed exchange.

As a matter of practice, the Forest Service participates in land exchange only when it is to their advantage and not as a accommodation to the private investor. The advantage must either be monetary or include some immediate benefit of consolidation or other convenience. This advantage need be no

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more than 1 per cent, but that 1 per cent must be there or it's no deal.

Huntley's side-bar (see page 23) is an example of a use permit being issued and a subsequent land exchange.

Despite the several legal conditions, vicissitudes of market and administrative inclination, which must be surmounted to qualify an investor for the granting of a commercial use permit for golf course development, GOLFDOM is convinced that this alternative to buying land is a feasible and worthwhile process, unless the availability of funds is not important to an investor.

We have tried to anticipate the reader's questions and forebodings on this subject, but if we have inadvertently left any loose ends we welcome reader inquiries. □

REFERENCE SOURCES

The National Environmental Policy Act; Regional Foresters and Land Use Experts, Division of Recreation and Land for the 10 United States National Forest Regions; United States Department of Agriculture, Washington D.C., Assistant Chief of Concession and Special Uses; Multiple Use-Sustained Yield Act of 1960 (Dept. of Agriculture); Multiple Use Management Plan—Final Environmental Statement for White Mountain National Forest, Eastern Region Forest Service; Forest Service District Rangers in districts where golf course use permits are in force; Bureau of Land Management, Washington D.C.; "Land Exchange In The National Forest System;" a Department of Agriculture publication.

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are being installed to meet the Service's ecological standards, which made sense. At the end of each year, we shall determine the total receipts for that particular lift, multiply by the percentage of the lift on Forest Service land, and multiply again by the agreed percentage of the gross.

The Forest Service, out here in the West, has pursued a general policy of limiting its leases to 80 acres. That is usually ample for a ski resort and the attached amenities, such as hotels, hostels, restaurants, shops, and so on. In its concern for the basic resource—the land—the U.S. Forest Service takes the enlightened attitude that a ski resort is of no permanent danger to the land and represents only a minute, temporary threat to the ecology. The same attitude, very likely, would prevail for a golf course.

But the Forest Service would probably take a dim view toward leasing land for a golf course in these Northern Rocky Mountain areas. Its first question would be, "How many people will use this proposed course?" And quite likely the agency would conclude that the acreage would, in the long run, serve more people, better, if it were employed as a habitat for wild life, a camp ground for recreational vehicles or as a source of supply for the lumber industry.

As golfers petition the U.S. Forest Service for lease permits to design and build new courses, the agency will certainly be a good listener. For a government bureaucracy—which it undeniably is—it will respond to the numbers . . . . . the numbers of people who might evidence an interest in playing golf on public land.

But a warning. In proposing that few golf courses be located on Forest Service land, the golfer will find himself assailed and slandered by the arrogant and extremist self-styled "ecologists." We are all a bit stupid and remiss for permitting them to parade with that word "ecologists." They are something else. They belong with the alarmists who predict earthquakes and the end of the world, those who call up tidal waves and who are constantly observing "Unidentified Flying Objects." In our new and admirable concern for the environment of our country these egocentrics were standing "at the head of the line," and it is they who represent the clearest danger to the U.S. Forest Service. By every device, from outright slander to the use of phony petitions and fictitious organizations, they seek to destroy the public confidence in the Forest Service and eliminate the agency. These extremists must be kept out "in the rough" and at least a mashie shot away from the decision-making processes regarding the use of our public lands.

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