

Preventing Timber Theft

By *Kenneth Elmore*

Forest Investigator, Alabama Forestry Commission, Northwest Region

A working class North Alabama couple owned a home with a mortgage, and twenty acres of land. Their handicapped child suffered from many health problems, and medical bills for treatment and special equipment were staggering. Physical therapy sessions for the child were needed, but wouldn't be covered by their insurance.

An acquaintance dropped by one day and offered what appeared to be a quick answer to their financial worries – a timber sale. Their 20-acres of land included about 5-acres of nice yellow poplar, red oak and white oak surrounding a small pond. The wife's father had refused to cut the trees more than 30 years earlier and they had not been cut since she inherited the land. The buyer said the trees would make quality grade veneer logs and saw logs, and he'd get a very good price for them. He offered them one-half of what each load brought at the mill.

They quickly agreed to the deal. He cut the five acres, loaded up his equipment and left. He only paid a little money for the first two loads and did not respond to repeated attempts to contact him. The couple had no written contract.



Installing a culvert allows access to the property while preserving water quality.



Clearly marking streamside management zones helps logging crews avoid sensitive areas. Fayette County TREASURE Forest landowner Joe Smith (left) and professional logging manager Ray Clark (right) watch as Mark Milligan of the Alabama Forestry Commission (center) designates an area.

They had no record of how many loads left the property or where the loads were taken, nor were they provided with mill scale tickets.

The couple was devastated. He seemed like a nice man and they trusted him to treat them fairly. The simple timber sale they counted on to help them financially became a source of frustration and bewilderment. It took only about a week to harvest trees the family had protected for many years. Now the trees were gone and the young family had nothing to show for it.

The case appeared to be a matter for civil court, but first the couple turned to the Alabama Forestry Commission (AFC) for help. The Commission's investigators knew this man's history of similar behavior. When contacted, the buyer's wife said the money had been spent on bills and they couldn't presently pay the landowner. The AFC was unable to locate the wood at nearby mills and wood yards, so a stump cruise was performed to determine what wood was taken and how much it was worth.

The grand jury indicted the man based on his history of similar complaints. The case was settled before going to court with the man pleading

guilty and paying full restitution to the landowners based on the stump cruise data.

Unfortunately, this type story is not unusual. Timber theft occurs in a variety of ways and no one is immune. It happens to large forest industry companies as well as private landowners. It happens with well-written and supervised contracts as well as verbal agreements. It has been my experience, however, that far more complaints result from verbal agreements and small non-industrial private landowners get hurt most often.

PRECAUTIONS

You can minimize your risk of timber theft by taking the following precautions.

- Know timber's worth.** Think of your standing timber as a bank account. Anyone taking money from your account through outright theft, theft through deception, or fraudulent business practices is stealing money. A timber sale contract is a business deal. Keep it business. The old adage applies: "Trust, but verify."
- Know your property.** There is no foolproof plan to prevent timber theft. However, prevention starts with know-

ing the location of your property, having clearly-defined property lines, limiting access to the property, having good neighbors, and being a good neighbor. If you are an absentee landowner, having good neighbors or friends to check your property and report any suspicious activity is critical.

•**Hire a reputable professional consultant forester** to protect your interests when dealing with timber buyers, procurement foresters, and producers. They charge a fee for their work but earn it by getting you top dollar and by giving you peace of mind.

•**Check references of your consultant forester.** Ask previous clients if they were satisfied with the work or if there were problems with the sale. Ask if there were any contract violations and, if so, how they were resolved.

•**Understand conditions of sale.** You will make the final decision on how your timber is sold, so be certain you know the advantages and disadvantages of two basic types of timber sales: Lump Sum and Pay-As-Cut.

In a *lump sum sale*, the landowner receives one large payment before the timber is harvested. Since competitive bidding usually ensures fair *stumpage* value, this method is often in the landowner's best interest. It's important to get as many bids as possible. With a good timber sale contract to protect your property and other interests, any theft problems become the buyer's.

In a *pay-as-cut sale*, the landowner receives a set sum of money for each unit of pulpwood and/or sawtimber as the timber is harvested and delivered. This option may bring a better price if loggers merchandise different products and take advantage of spot markets. However, it is also the method where law enforcement receives the most complaints from landowners unhappy with the final compensation, believing they did not get paid for everything.

If you select the pay-as-cut method, be careful. There is a lot of potential for abuse. Some examples include but are not limited to:

* *Poor utilization* - The tract is high-graded (taking only the best), costing

the landowner money and making it difficult to get another contractor to come in and finish the job. This can make reforestation more costly.

* *Poor merchandising* - You are paid pulpwood prices for sawtimber.

* *Diverted wood* - The wood producer sells it as his own. Unless you are there every day, how do you know what timber was removed from your property and where it was taken? Wood is a commodity: once it leaves your land, it looks the same as any other load of wood.

* *Co-mingling of wood* - The producer or buyer cuts more than one tract of timber, paying you for the lower grade wood from another tract and pocketing the difference.

• **Establish a paper trail.** Make certain that each load of wood removed from your property is accounted for. Alabama laws are minimal that require the recording of information at the first place of weight and off-loading. Mill records require the date of delivery, weight or volume, product, seller/producer name, landowner name, and the county from which the forest products were severed.

• **Demand copies of mill scale tickets.** Check tickets for accuracy of basic information. Be absolutely certain that your name as landowner (first and last name) is on all scale tickets.

• **Record dates of activities.** Record dates of when the producer moved onto your property, when the first load

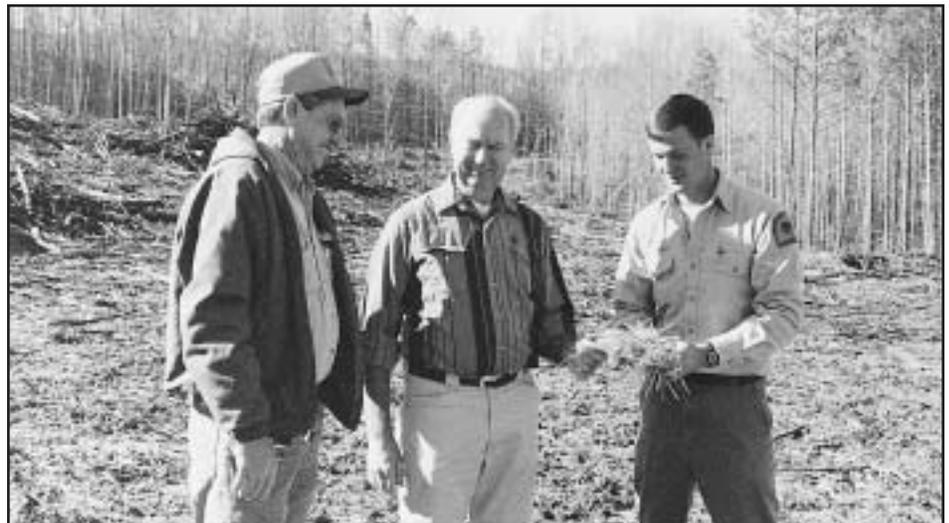
was severed and removed, and when the last load was removed. If the producer moves off your property before finishing the job and then moves back to finish the job later, record these dates.

• **Identify and record any trucking companies.** Know the identity of all trucking companies the producer may use, getting the drivers' names whenever possible.

• **Be alert to suspicious behavior.** There are unscrupulous individuals in all professions. The following "red flags" will alert you to possible problems.

- Loggers operating where they should not be.
- Truckers hauling when they should not be.
- Loggers or trucking contractors delivering to unauthorized markets.
- Multiple trucking contractors on a site.
- Loggers segregating products not mentioned in the contract.
- Logs hidden in the woods.
- Logs mixed with pulpwood.
- Boundary trees cut or boundary lines moved.
- Harvesting in streamside management zones in violation of contract.
- Logger working an adjacent timber tract.
- Trucking contractor hauling from adjacent tracts.

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The timber contract for this large harvest was designed with reforestation in mind. Getting your forestland back into production is easier and more affordable when the timber sale contract spells out important details for cleanup. This contract required this loading deck to be seeded and hayed to control erosion.

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A Simple Retreat *(Continued from page 10)*

Tour stops included pine and hardwood management, a southern pine beetle demonstration, and recreation opportunities.

Tony is an active member of the Macon County Forestry Planning Committee. He received his Tree Farm Certification in 1985 and became certified as a TREASURE Forest landowner

in 1999. He is also a member of the newly established Outreach Advisory Council for minority landowners created by State Forester Timothy C. Boyce.

Whether they go to there to camp, hunt, fish, walk in the hardwood bottoms, or just to relax, this TREASURE Forest remains what it has always been for Tony and his family. . . a simple retreat. 🌲

Preventing Timber Theft *(Continued from page 15)*

- Logs removed from the site that are not delivered promptly.
- Complaints or tips from landowners, neighbors, other loggers, foresters, consultants.

•Use a written timber sale contract.

Entering a timber sale without a written contract to protect your interests is asking for trouble. A good timber sale contract that demonstrates good wood flow accountability measures and outlines termination date, prices, volumes, products, markets, sales area, cleanup, and penalties for contract violations will reduce temptation, thus eliminating most potential theft opportunities.

Harvesting and marketing timber products can be very complex. If you don't know the timber business, you better know the people with whom you are dealing. Most producers are hard working, honest business people. Treat the sale as a business deal; they will understand

and not be offended. Keeping the sale on a business level will act as a deterrent and aid in resolving any disputes. Good background checks and the bidding process are two key elements to protect the landowner.

An article in *Forest Landowner* magazine, written by Tom Kazee of Woodland Security, Inc., quotes three numbers that, based on my experience, all landowners should remember. The three important numbers are: 80-19-1.

Eighty percent of us are honest and would not cheat another person even if given a golden opportunity. Nineteen percent are opportunistic and if an unhindered opportunity presents itself will succumb to temptation and take full advantage. Less than one percent are determined crooks that look for every opportunity to steal or cheat. Keeping the timber sale on a business level will deter most opportunities for theft. 🌲

Work Hard, Work Smart . . .

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parts enter your skin. Do not twist when tugging and avoid squeezing the tick's abdomen. Wash the site with soap and water. Save the tick in a sealed jar of alcohol for future reference.

ANIMAL BITES or SCRATCHES

Immediately wash a wound or scratch caused by an animal with soap and water, and visit a physician as quickly as possible. If the bite is from a wild animal, try to capture the animal so it may be tested for rabies. The animal's brain must be intact to conduct rabies testing, so avoid injury to the animal's head and neck area.

BE WEATHER SMART Know the proper responses to weather emergencies.

- Tornadoes – A tornado may spring up quickly any time of year. Seek the lowest level by lying flat in the nearest ditch with your hands shielding your head.
- Lightning – Avoid a lightning strike by taking precautions before the storm reaches you. Most lightning strikes hit people from one to seven miles in front of clouds and rain. Remember, five seconds between the flash and the thunder means the storm is only one mile away. 1) Seek shelter in a low area under a thick growth of small trees, never under a single tree. In an open area, seek a low spot, such as a ravine or a ditch. 2) Stay away from tractors, wire fences or rails. 3) Drop to your knees and bend forward putting your hands on your knees. DO NOT place hands on the ground or lie flat on the ground - wet ground can carry electricity. 4) If you are in a group of people in an open area, spread out, keeping people several yards apart.

Experts in wilderness travel, camping and out door safety agree that "common sense" is always your best companion when you work outdoors, but it does not hurt to be prepared. You can work hard and be able to work another day if you will attend to the basic essentials. 🌲

Resources

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www.enviroderm.com
www.georgiamagazine.com

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