

BOUNDARY LINES

Know, Mark, and Protect What You Own

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Much of the United States was originally surveyed 175 years ago or more, and many times since then in some instances. However, even today, boundary line disputes happen. As a result, it is very important to know exactly where your property is. Common disputes in the Southeast arise from others accidentally trespassing on your property and/or cutting your trees, or you accidentally trespassing on your neighbor's property. Most of these disputes can be eliminated with an inexpensive task of painting your boundary lines. Also, in legal matters, properly marking your property lines can be a distinct advantage if you do discover a trespass has occurred on your property.

Most importantly, you must know the exact location of your boundary line before you even consider marking your boundaries. This is usually accomplished during the purchase of your property when a deed is surveyed, and recorded. Today, surveyors usually identify property corners with metal pipe and flagging so the property corner can be found later using a metal detector. The idea is to mark the point with something that will not rot, weather, or burn, so that it could be easily located for many years.

If you have not located your property boundaries, it is possible to locate them yourself. This requires work and some caution to make sure you don't permanently mark the boundaries in the wrong location. Be very careful because you could be liable for your mistakes. Since most deeds have been surveyed in the past, there should be some evidence, if you know what you are looking for.

First, you must locate the legal description for your property which will specify the distances and bearings (compass directions) of each of your property boundaries. The legal description is usually associated with the deed for your property or a previous deed it references. Your deed is available in the office of the revenue commissioner or circuit clerk at the county courthouse where the land is located. Courthouse personnel can help you find this information if you ask for assistance. Once you acquire

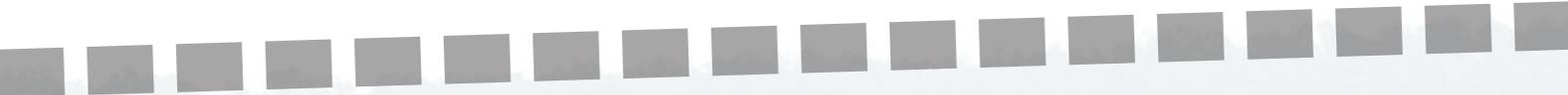
the legal description, you are ready to start locating your property lines.

In addition to your legal description, you will need several other pieces of equipment such as a compass, biodegradable flagging, and a 100-foot measuring tape. Using your legal description, try to find the most obvious of your property corners. This corner could be along a road, or a well-established boundary with a neighboring property owner. In the past, many section corners were identified using concrete markers. Other items used to mark property corners included rocks, piles of rocks, iron, wooden stakes, lighted posts, trees with multiple "blazes" (cuts in the tree, often painted), and iron axles.

Once you have located an obvious property corner, use your legal description, compass, and measuring tape to find your next property corner. In many cases, using the compass and measuring tape will only get you in the vicinity of your property corner. Then you must painstakingly search in detail for some indication of the corner marker. Sometimes it is necessary to work toward a corner marker from opposite directions. After locating the property corner, you can lay out a temporary boundary line between the two corners using biodegradable flagging. Move on to the next property corner, continuing to work around your entire property. Afterwards, contact your neighbors for agreement regarding the locations you've flagged as the actual property boundaries. Hopefully, some or all of your lines will have significant evidence indicating this is the true boundary. Once you've reached agreement about the property lines, you can paint your boundaries.

In recent years, several Southeastern states passed trespass laws which have specifications when marking property boundaries. Therefore, it is best to determine these requirements before proceeding. These laws make it easier to prosecute when trespass has occurred. Marking your property boundary can still benefit you civilly in legal matters, even if your state does not have such specifications.

In states that do not have these requirements in their trespass laws, consider the following common specifications and practic-



es. Mark trees within 3 feet of the property line at distances of 50 to 75 feet apart. The mark should be made 3-6 feet above the ground. The area where the paint is to be applied should be scraped to allow the paint to adhere longer. A common tool for scraping away loose bark and debris is the draw knife. Safety should be your top priority when using the draw knife. Also be careful not to cut into growing tissue of the tree. The mark is commonly **one** vertical line (stripe) with a minimum size of 2 inches by 8 inches, but can be larger depending on the diameter of the tree. It should be clearly visible when entering your property. Trees that are actually on the property line can be marked all the way around the tree. The paint is applied using a brush, usually when weather will permit drying for 2-3 hours. Corner trees are marked with **three** stripes and an “X” with the lower end of the stripes pointing toward the property corner. Property lines that change directions should be marked with **two** vertical stripes. Paint only the top of monuments. Painting and erecting metal fence posts are common when dealing with young timber.

Boundary lines are usually marked using boundary-marking paint, an oil-based paint developed for use on trees which can be purchased from suppliers such as Forestry Suppliers and Ben Meadows. Common boundary-marking paint brands include Nelson and BarkMark.

These are just a few tips to assist with locating and marking your property boundaries. Keep in mind that problems do occur, particularly when boundaries have not been surveyed for many years. When difficulties arise, you should seek professional assistance. Adjusting property monuments is a crime, even when it appears to be incorrectly placed. Remember, there are licensed professionals available for resolving these problems.

Timber Marking

All boundaries of a timber harvest should be marked to identify the specific area to be cut, and to prevent logging contractors from harvesting across the timber harvest boundary. Just as important, the timber contract between the logging contractor and the landowner should fully describe the method, type, color, and manner used to delineate and identify the specific timber to be harvested.

A timber harvest boundary is usually marked using paint, biodegradable flagging, or a combination of both. Other common boundaries involved with timber harvesting include indentifying sensitive areas such as streamside management zones, or habitat for threatened and endangered species. These areas are usually identified using biodegradable flagging with wording for the particular sensitive area. For example, in a typical first thinning of a pine plantation, the trees to be harvested might be painted, and the perimeter of the sale area marked with timber harvest boundary flagging.

There are many timber-marking paint brands with a variety of colors from which to choose, available for purchase from the same suppliers as boundary-line paints. It can be either oil or water based, with choice usually specified by need. Oil-based paint tends to last longer on the tree, while water-based cleans up much easier. On average, timber-marking paint will last over one year, depending on the amount of dilution during preparation. It can be purchased in spray cans or quart and gallon containers. The paint is usually applied using one-quart paint guns or larger backpack sprayers. Some paint guns have pump triggers that attach directly to the containers, while others require pouring from containers. Although more expensive, backpack sprayers can deliver more paint and cover a larger area before refilling.

Marking timber for harvest can be complicated, and in many cases requires someone with experience. First, should the timber be marked for harvest? In situations where all merchantable timber will be harvested, the answer is no. However, timber marking is necessary in situations requiring identification of specific timber classes to be harvested, while other specific timber classes are to be left after the harvest. In the previous example, a typical first thinning of a pine plantation could have every fifth row of timber removed, and thinning in between on the remaining four rows.

In most cases, timber is marked in a manner which will require the least amount of paint and labor. Typically, individual trees are marked so that equipment operators can easily identify harvest trees, and also so that it can be easily recognized when unauthorized tree cutting is occurring during the harvest. In our example, a typical first thinning of a pine plantation could have the end tree on every fifth row marked with a continuous blaze on the outside face, up to 6 feet high, to identify that row for harvesting. Harvest trees on the remaining four rows could be marked on one side at eye level, with another spot at ground level as a means to recognize unauthorized timber harvesting.

In another example, a mature longleaf pine forest requiring an establishment thinning could require “leave” trees marked on three faces, and a spot at ground level so the mature harvest trees can be thrown in any direction to minimize damage to leave trees. Also, leave trees would be marked using a crew of timber markers briefed on a list of established priorities that might include 1) preference to longleaf pine species; 2) leaving 14+ dbh trees with large cone producing crowns; 3) adequate spacing to leave a 25-to-30 square foot basal area; and 4) leaving one mast-producing hardwood every five acres as a primary food source for native wildlife habitat.

Another activity requiring tree marking is to identify specific classes of merchandized timber as either pulpwood, sawtimber, poles, pilings, or transmission poles. The timber is marked before harvest so that it can be better evaluated. In our example of a mature longleaf pine forest, transmission poles could be marked

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using an “X” and classes of poles marked with one slash every five feet starting at 30 feet, in a thinning effort designed solely to take advantage of high pole prices.

Also important is what is done after the timber contract between the contractor and landowner is finalized. In some cases, harvesting begins, then changes occur to the agreed plan outlined in the contract. When this happens, problems can arise! Often what should be settled in a courtroom is not, simply because of a poorly maintained timber contract. It is very important for landowners to protect their interests by updating timber contracts with the contractors when important changes occur. Examples of changes that have led to irreparable damage between contractor and landowner include: not using the specified color of tree-marking paint because of availability; using flagging instead of paint; or allowing the harvesting contractor to make harvesting decisions because tree marking is behind schedule.

As you can see, there are multitudes of forest management goals requiring timber marking. The method of timber marking is always based on the planned forest management activity to be accomplished. To get desired results and achieve set forest management objectives, timber marking should be planned in advance and completed in a systematic manner.

Resource and Improvement Protection

Land ownership implies stewardship, that responsibility toward planning and managing all natural resources found on the property. Conservation and protection of water quality, soil stability, threatened and endangered species, and native habitat is critical in every forest management endeavor. In recent years, tools have been developed toward conservation and protection of those natural resources.

These tools are mostly the result of laws such as Section 404 of the Clean Water Act, the Coastal Zone Management Act, the Water Quality Act, and the Endangered Species Act. Contrary to popular belief, these regulations, policies, and guidelines are written to allow silvicultural activities both within and adjacent to identified sensitive areas. Also, depending on your state, there can be additional regulations, restrictions, and procedures that could affect your efforts. You should always check with your local state forestry and/or wildlife personnel beforehand when implementing forest management activities in and around sensitive areas. Sensitive areas include jurisdictional wetlands, streamside management zones (SMZs), riparian areas, roads, as well as threatened and endangered species habitat.

During timber contract preparations, these sensitive areas should be addressed. Sections within the contracts should incorporate minimum standards when dealing with sensitive areas and associated penalties. For example, a timber contract clause could read as follows: trees shall be felled and skidded away from water as much as possible; any tops or other logging debris dropped into the water or channel shall be removed immediately; heavy equipment shall not be operated within the SMZ (or within 35 feet of any water of the State and U.S. if SMZs are not specifically delineated) unless the forest floor and understory vegetation can be protected from unnecessary damage; wheel ruts shall be filled in with soil; failure to meet these standards immediately terminates this contract.

Sensitive areas are usually identified with biodegradable flagging around the perimeter of the area and at a spacing determined by equipment operator visibility. For example, a typical first thinning of a pine plantation could have trees painted that are to be harvested, and the perimeter of the sale area marked with timber harvest boundary flagging. A drainage area/sensitive area with harvesting restrictions within the timber sale area would be marked using SMZ flagging.

Fences, dams, and structures are valuable improvements to property. As such, they should be considered during all phases of forest management activities and protected in the same manner as sensitive areas. During planning, an effort should be made to minimize potential problems associated with each feature and it should also be addressed within the timber contract.

Timber contracts should also address maintenance and repair of forest roads. Sometimes it may be necessary to improve roads prior to the forest management activity. For example, it may be necessary to install at contractor's expense a rock ford stream-crossing suitable for all equipment planned for the contract period. As a minimum, contractor will install rip-rap (class II or smaller) of a sufficient depth in the stream bottom, and 2 to 4 feet beyond to support all equipment to be used during the contract period. In addition, contractor will install smaller crushed rock aggregate (2- to 4-inch size) to a depth of 4 to 6 inches for a minimum of 100 feet on each side of the ford approaches. Said ford will be in good working order at the end of harvest operations, and it and all materials will become the property of the landowner.

In all forest management activities, landowners should set aside sufficient time for careful planning, necessary negotiation, and completion. ♣



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