

# FORESTLAND SECURITY FOR SMALL-SCALE FOREST LANDOWNERS

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## ABSTRACT

Forestland security is an issue which has received attention within the forest industry for years, but little information has been disseminated to small-scale forest landowners regarding methods of prevention and recourse for security violations. Specific areas of concern for landowners are timber trespass and theft, arson, illegal dumping, illegal drug operations, and general issues associated with landowner liability. The Cooperative Extension Service can provide educational programming tailored to fit the need for information on forestland security, but little science-based research is available on the topic. By teaming with forest industry organizations, sufficient expertise and knowledge should be available to generate an informative forestland security extension program for small-scale forest landowners.

## INTRODUCTION

For years, the U.S. forest industry has been vigilant in creating awareness about forestland security issues through organizations such as the Forest Resources Association which distributes news releases regarding potential security threats to member companies. This practice is sensible considering the volume of timber transactions which a typical forest industry corporation may conduct in a given year. It has been estimated that as much as 5–10% of the volume delivered to processing facilities in the U.S. South could be stolen, a potential loss of \$75 million annually (McCary 2000). The danger is not unique to the forest industry, though. In fact, as trends in forestland ownership have begun to shift in the past decades, non-industrial private landowners (NIPLs) stand to lose tremendous value if they fail to show equal vigilance in protection of their timber investment. A review of timber theft cases in Louisiana showed that 140 out of 144 cases which were tried in 1998 originated from NIPL property (McCary 2000).

The potential for damage is not simply one of economic loss through theft or vandalism. Security for forestland owners extends to issues regarding liability for hazardous wastes or dangerous conditions, arson, and illegal drugs. This inclusive array introduces concerns and ideas with which many landowners are likely unfamiliar. The functioning of the business of forestry can be perplexing to NIPLs, and introducing a multitude of legal requirements and stipulations simply adds another level of confusion.

Educational programming through extension can help in fulfilling this knowledge gap. Forestland security poses a unique problem to cooperative extension personnel, though, because there is very little scientific-based research available dealing with security topics. Partnerships with industry organizations and the state forestry agencies may be necessary in order to generate the

materials and information needed for a successful program in forestland security for small-scale forest landowners.

## FORESTLAND SECURITY ISSUES FOR NIPL'S

There are numerous legal infractions which can be perpetrated on non-industrial private forestland. Among these are timber trespass and theft, arson, illegal dumping, and illegal drug growing and manufacturing. In addition, landowners may face civil or criminal liability through acts of both commission and omission. Providing accurate information regarding the legal ramifications of each of these issues requires investigation into the relevant state laws. There are, however, general recommendations on methods to prevent these crimes, major areas of susceptibility, and possible sources of recourse for offended landowners.

### Timber Trespass and Theft

Trespass and theft of timber are a danger which most landowners can easily visualize and understand. The threat of unauthorized access to one's property purely for the purpose of removing the timber thereon is a natural and real concern. Information on crimes of this nature are available already in a number of states (Baker and Mortimer 2002, Mercker 1999), but the susceptibility to crimes of this sort is highly dependent on the location of property. Land located along major travel corridors is most visible, but this does not necessarily make it the most ideal target. Baker (2003) showed that timber is most susceptible to theft when it was located along rural access roads, but not in close proximity to the owners of the property. This location impedes discovery and aids in theft. Prevention of the crime is difficult, but vigilance in maintaining property lines and strong neighbor relations are crucial to reducing susceptibility. Likelihood of theft is greatest when harvesting operations are occurring on or adjacent to a landowner's property.

Legal recourse can be an extremely difficult battle for NIPLs (Mortimer and others 2004). The laws used to deal with both the civil and criminal offense differ greatly between states, and often are not organized in the best interest of landowners. Research is required at the local level to determine the likelihood of successful criminal prosecutions and the appropriate legal structure of timber trespass statutes. Frequently, a "discovery rule" will be in effect which means that landowners only have a limited time to file a suit against perpetrators. This rule applies to many of the violations associated with forestland security and should be noted as a reason for vigilance in inspecting property on a regular basis for illegal activity.

### Arson

The crime of arson is likely one of the best recognized rural crimes because of the national exposure received from the expansive western forest fires. In the Eastern United States, almost all forest fires originate from human causes, and in some areas, arson is the leading cause (Maryland Department of Natural Resources Forest Service 1995). This trend should be alarming to all NIPLs as arson is a crime which does not necessarily focus on only one victim. The transient nature of fire means that damage can occur wherever the winds blow. Prevention of arson originating on an NIPL property is similar to methods mentioned in timber

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trespass and theft. Here again, location is critical, as the possibility of catching offenders in the act is greatest when residents are within view of the forested property. Maintenance of fuel loads on the forested property can have an impact on the severity of forest fires, however, and creation of firebreaks within the property can also be beneficial. Many state forestry agencies have taken a very active role in arson and fire investigations because of the potential for large scale damage to many citizens. As a result, information and assistance in the prosecution of arson violators can often be provided by a state agency.

### **Illegal Dumping**

Another very common and potentially detrimental action perpetrated frequently in forested settings is illegal dumping of wastes. This action can include anything from a bag of household waste to drums of industrial waste, and the liability faced by the landowner may differ depending on exactly what has been dumped. Here again, vigilance is of utmost importance, as many laws dealing with illegal dumping and hazardous wastes on private property remove liability on the part of the landowner in cases where they did not know and had no reason to know of the dump site. If the perpetrators cannot be found, the cost and responsibility for cleaning the dump site fall on the landowner, unless hazardous wastes are involved. The extreme costs associated with hazardous waste removal have initiated a set of federal laws which provide funding for the cleanup, and seek restitution for those costs from all liable parties (Plater and others 1992). It is in the best interest of all NIPLs, therefore, to ensure that they notify authorities immediately upon discovering dump sites. Landowners could be held liable for any damage incurred between the discovery of the site and notification of authorities.

Absentee landowners and owners of secluded properties with easy vehicular access are particularly susceptible to illegal dumping. Restricting access with gates where possible and ensuring that a property looks as if it is visited somewhat frequently may help reduce the likelihood of dumping. Also, ensuring that all potential dumping sites have visible "No Trespassing" and "No Dumping" signs prominently displayed will be important not only as a deterrent, but as a legal tool to assist in showing the malicious nature of the crime, should it occur. If waste is discovered, look for labels or mail with contact information. Asking authorities to contact these individuals may persuade them to cease further dumping in that location.

### **Illegal Drug Operations**

The seclusion of expansive forested areas can be inviting to growers and manufacturers of illegal drugs. Owners of large areas need to be cautious of suspicious activities or garbage found on their property as it may be an indication of an illegal drug operation. These can include both drug plants, such as marijuana, being grown in the forest interior, and illegal drug laboratories, for creation of methamphetamines or other substances, operated within the property. Because of the invasive nature of illegal drug operations, they will most likely be found on large landholdings of absentee NIPLs. The best preventative measure is to ensure that someone visits the property relatively frequently and maintains boundary markings and postings. These may serve as indication that the land is not left unattended for long stretches.

Discovery of illegal drug operations requires special care on the part of the landowner. They should never approach either planted areas or drug laboratories as these will frequently be booby-trapped. The proper federal or state authorities should be notified immediately, and the discovery must not be publicized until the authorities have had an opportunity to investigate. If local authorities are notified, landowners run the risk of alerting the

perpetrators. Discussing the discovery with friends and neighbors may also alert the perpetrators and allow them time to vacate the area. In the case of illegal drug laboratories, large quantities of hazardous materials may be involved with the operation. If the violators cannot be found, the liability for cleaning up this site will likely fall to the landowner.

### **Landowner Liability**

Ownership of forest property includes a set of responsibilities on the part of the landowner for all visitors. As described by Wright and others (2002), the type of visitor will dictate the level of responsibility a landowner has. An invited guest is owed the greatest protection. Anyone expressly invited onto the property must be notified of known hazards, but the landowner has a further responsibility to inspect the property and fix hazards of which they should be aware. For example, a landowner would be liable if an invited guest was stung by a wasp from a nest in their entrance gate, even if the landowner were unaware of its presence. Individuals with an implied invitation, such as fire fighters, are owed a slightly lower level of care. In this instance, landowners are required only to notify them of known hazards and fix defects of which they are aware. For example, a landowner could be liable to a fire fighter who falls in an abandoned well which is not clearly indicated if that landowner knows of the well's presence. Finally, trespassers are owed the least level of care, but landowners still have the responsibility to not intentionally injure them with booby-traps or pratfalls. Any device set up to intentionally do harm can create criminal liability on the part of the landowner.

In addition to the duty of care to visitors, there are other forms of liability which landowners may face. As mentioned previously, landowners are wholly responsible for any hazardous materials found on their property, no matter what their source. Federal laws have been enacted to deal with hazardous materials discovered on private lands, and the umbrella of liability is far-reaching. Only if landowners can show reasonable diligence in ensuring no such materials were present, or that they had no reason to know of the presence of the waste, can they escape joint and several liability (Plater and others 1992).

## **FORESTLAND SECURITY EXTENSION PROGRAMMING**

In some areas, extension programming is addressing certain aspects of forestland security. Most educational efforts which deal with selling and harvesting timber will address using contracts for timber sales and ensuring boundaries are marked to reduce the chances of theft. In some areas, landowner liability concerns have been addressed as well, particularly with respect to allowing recreational use on the property. These efforts have not been suitable, though, to reduce the level of concern over liability issues. According to the National Woodland Owner Association (NWOA), landowner liability is among the top ten issues facing private forestry, and was ranked the fourth most important issue in 2002 (Argow 2003).

While materials printed in one state are typically available for programming in other states, the majority of laws that deal with forestland security are state specific, and therefore will not necessarily abide by the same rules across state lines. For example, an extension publication addressing timber trespass in Virginia goes into elaborate detail regarding the possible levels of damages and scenarios which might play out once a trespass is discovered (Baker and Mortimer 2002). This document would be misleading in West Virginia where there is only one level of damages, no matter what the facts of the trespass are (West Virginia 2001). As a result, publications must either be made very generic, avoiding

details regarding the interplay of state laws with possible factual situations, or each state must address the issues individually.

Industry sponsored organizations, such as the Forest Resource Association, have served as a dissemination source for technical information to member companies for years. Among the information included in their mailings are safety notices, innovative technology development, and forestland security alerts. Security alerts discuss security breaches or damages which have been incurred by members, the actions they took to remedy these breaches, and if possible, recommendations of methods others can take to avoid similar occurrences. The breadth of topics covered by these security alerts do not always pertain to concerns NIPLs will face; however, many do relate to appropriate methods of dealing with various unauthorized uses of private forestland, and the liability issues relating to these uses. The generic nature of the recommendations for many of these alerts lends itself to their nationwide dispersion. This level of information can serve as an excellent starting point for state-specific programming.

The Cooperative Extension Service is well-established as an organization which disseminates scientific research to citizens. When issues which have not been heavily researched emerge, though, the Extension Service may be better able to meet the demands of their target population by working in cooperation with other organizations (Monroe and others 2003). These cooperative arrangements can provide the expertise and information needed to generate the materials necessary for a successful program. Very little science-based research has focused on forestland security, and as a result, few extension personnel will have the expertise necessary to adequately address the varied issues which it entails. Working in cooperation with industry-sponsored organizations can provide a source for the information needed to create extension programming in forestland security for small-scale forestland owners.

## CONCLUSION

The lack of science-based research on all aspects of forestland security means information on the extent of the problem and the impact on NIPLs is not available. Local studies and estimates show that there is an impact on NIPL's, and this trend will likely continue. The Cooperative Extension Service needs to take an active role in providing information to NIPLs on possible areas of security susceptibility, methods of prevention, and sources of recourse for offended landowners. Regrettably, there is no readily available source for information on these topics, and most Extension personnel likely lack the expertise to address these topics. As a result, partnerships need to be sought with forest industry-sponsored organizations. These groups have been providing knowledge-based assistance to their members regarding forest security for a number of years. Taking the information currently available and translating into a form useful and informative for NIPLs is a role the Cooperative Extension Service should actively pursue.

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