

## Timber Theft Deterrence in Texas

Tyler County Forest Landowner Association

Spring General Meeting - March 16, 2024

**Joshua Mizrany, Criminal Investigator with Texas A&M Forest Service**, described timber theft methods and steps landowners can take to deter timber theft. The buyer's failure to pay the landowner during a thinning or harvest operation is the most frequent theft complaint landowners bring to law enforcement.

Texas Natural Resources Code, Title 6 Chapter 151, as amended by the 88<sup>th</sup> Legislature (HB 1772) in 2023 (<https://statutes.capitol.texas.gov/Docs/NR/htm/NR.151.htm>) requires a Bill of Sale, i.e., contract for timber and specifies information that must be included in the Bill of Sale. Selling timber on a handshake is not legal. The legislation allows the landowner to hold the buyer criminally liable if proper paperwork is not provided.

The amendment also states that the timber contract must identify any third parties involved in the sale. Previously, the landowner could be unaware that the buyer may have sold the revenue from the sale to a third party. An example of how this might occur is as follows: If a purchaser is experiencing cash-flow issues and needs cash immediately, the purchaser may enter into an agreement with a third party. The third party will pay the original buyer an agreed upon amount for the expected loads. Upon delivery of the loads to the mill, the third party receives the revenue.

The best deterrence against fraud is to investigate both the credentials and the references of the logger/purchaser before signing a contract. While Texas does not require licenses for loggers, there are certification procedures. The Texas Forestry Association maintains a list of certified industry professionals.

The landowner should educate him or herself regarding the plethora of considerations for a timber sale contract. Among other considerations, contracts should specify the price to be paid, the schedule and method of payment, the documents to be provided to the landowner and a warranty to ensure that the purchaser has insurance to cover mishaps.

The terms of payment, as specified in the contract, could be a lump sum or pay-as-cut. The landowner should cease the operation if a payment date is missed. Additional considerations for the contract include a performance bond. The landowner should be able to keep the bond money if the performance terms are not met.

In addition to "failure to pay", other common timber theft methods include skimming, boundary jumping, and diversion.

- Skimming occurs when the landowner is not paid for some of the loads of logs that are removed from his/her property. Skimming can be deterred by the landowner (1) being

present during the operation, (2) installing cameras to observe the number of loads exiting the site, (3) requiring copies of in-woods loader sheets, and (4) requiring copies of the mill scale tickets. The landowner can then reconcile the different data points to ensure that there is no skimming.

- Diversion occurs when the loggers send loads to a mill outside the agreement. Skimming can occur in conjunction with a diversion.
- Boundary jumping occurs when loggers on an adjacent property remove trees from your property without your consent and compensation. To enhance your legal position in a boundary jumping situation, be sure your property lines are well marked using either fencing and/or purple paint. For more information about the use of purple paint, access [https://tpwd.texas.gov/landwater/land/habitats/faq/law\\_enforcement/trespass1.phtml](https://tpwd.texas.gov/landwater/land/habitats/faq/law_enforcement/trespass1.phtml). Properly marking your property lines can make the difference as to whether the boundary jumping incident is a civil or a criminal case.

#### Do Not

- Accept cash for your timber at your doorstep.
- Sell timber that is not marked or identified.
- Sell timber on the spur of the moment.
- Sell timber without a contract. (This is also illegal in Texas.)
- Sell to a buyer who does not have insurance.
- Sell only the largest trees.

The Texas Timber Theft Hotline is 1-800-364-3470.

