



# The Dogwood Times

A Publication of the Tyler County Forest Landowner Association

<http://tcforest.org/>

Tyler County Forest  
Landowner  
Association  
(TCFLOA)

Volume 23 Issue 4  
Winter 2021-2022

## TCFLOA Fall General Meeting and SFI Workshop Summary

One-hundred-twenty individuals participated in the Sustainable Forestry Initiative (SFI) workshop in Woodville on September 18th. Texas Forestry Association (TFA), in collaboration with the Texas A&M Forest Services and TCFLOA, sponsored the event. SFI is a leading forest certification standard in North America and, in Texas, is led by TFA.

Managing forests sustainably requires a long-term commitment and ensures abundant forests for future generations. With over half of Texas' 12.1 million acres of forestland being owned by families, it is up to us to re-plant more trees after harvesting and then keep our forests healthy while protecting them from fire, insects, and disease. To achieve that goal, it is important that we follow Best Management Practices, search: [BMP Handbook, Texas A&M University](#). Twenty-five percent of clean water originates in private forests and these practices emphasize protecting riparian zones and wetlands.

Tools to assist forest landowners are available on the Texas Forest Information portal at [texasforestinfo.tamu.edu](http://texasforestinfo.tamu.edu). The site includes tree identification, tree MD, landowner mapping and planning tools, economic impact analysis, location of mills and land acquisition tools. The Funding Connector provides resources for financial assistance.

Trivia: On average, each new 2,600 sq ft American home requires an estimated 218 trees to provide 16,380 board feet of framing lumber to build.

## CALENDAR

**January 15, 2022, Saturday**—TCFLOA Board of Directors meeting, 9:30 AM, location to be announced later. This is a planning meeting. Association members are welcome to attend.

**February 8, 2022, Tuesday**—Timber Tax Workshop, 8:00A-3:00P, Lottie and Arthur Temple Civic Center, Diboll, TX. One day workshop for private forest landowners covers timber taxation for 2021 tax preparation. For more information or to register, contact Melissa Yeldell at 979-458-6650 or visit [tfsweb.tamu.edu/taxworkshop](http://tfsweb.tamu.edu/taxworkshop) where you may also print a registration form.

**March 19, 2021, Saturday**—TCFLOA Fall General Meeting, 9:30 AM, location to be announced. Proposed program—new State Representative Trent Ashby will be the keynote speaker. We are also looking for a speaker to talk about carbon credits. CEUs—to be announced. More information will be announced in our spring newsletter and will also be posted on the [tcforest.org](http://tcforest.org) website.

**Quarterly**—Newsletter, *The Dogwood Times*, published by TCFLOA.

Visit the Tyler County Forest Landowner Association website at [tcforest.org](http://tcforest.org) for a summary of past presentations, interesting articles, upcoming events, contacts, and the latest news relating to effective forest and land management practices for Tyler County landowners.

## Inside this Issue:

<b><i>SPB Prevention Program</i></b>	2
<b><i>Statutory Protections</i></b>	2
<b><i>Rainfall Totals</i></b>	4

## *The Vast Impact of Texas' Working Forest—Texasforestry.org*

- \$37B impact of the Texas economy
- 168,000 Texas jobs supported by forestry, direct and indirect
- \$4B in salaries and wages
- 2.3M Texans get more than half their public drinking water from forests
- 608M Texan residents benefit annually from the oxygen produced by forests
- 250,000 gallons of rainfall filtered by private forests each year



### ***Funds Available for forest thinning through Southern Pine Beetle Prevention Program — Texas A&M Forest Service***

Texas A&M Forest Service is now accepting applications for Southern Pine Beetle (SPB) Prevention Cost-share Program. Through this program, Eligible landowners may receive up to \$50 per acre, with a 100 acre maximum, to assist in conducting first thin operations.

Applications are due by January 7, 2022 and can be submitted through your local Texas A&M Forest Service office. When approved, the thinning project must be completed within 14 months.

For information and application, landowners can visit [tfsweb.tamu.edu/spb](http://tfsweb.tamu.edu/spb) or contact your local Texas A&M Forest Service Office.

### ***What Statutory Protections Apply if Hunters Are Injured on My Land?— Tiffany Dowell, Texas A&M AgriLife Extension***

There are two main statutes that could apply in this situation: Texas Recreational Use Statute and Texas Agritourism Act. As you will see, there are many situations, including hunting, where both statutes may be an available defense if someone is injured.

#### Recreational Use Statute

The Texas Recreational Use statute provides that a landowner, lessee, or occupier of land can be liable only for intentional acts or gross negligence if three requirements are met. In other words, it is not enough for an injured party to prove ordinary negligence to recover damages—he would need to prove that the landowner, lessee, or occupier acted intentionally or with gross negligence, both much higher standards that are far more difficult to prove. The three requirements for the Recreational Use Statute to apply are:

- (1) Agricultural land. “Agricultural land” is defined by the statute as land that is “suitable for” growing crops, raising livestock, or forestry. Note the statute does not require that these activities actually be done, only that the land is suitable for conducting them. (Do note that portions of this statute apply to non-ag land as well, but that is beyond the scope of our focus).
- (2) Recreational use. The plaintiff must have been injured during a recreational activity. The statute defines recreation broadly as “an activity such as hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving (including off-road motorcycling and off-road automobile driving and the use of off-highway vehicles), nature study (including bird watching), cave exploration, waterskiing and other water sports, any other activity associated with enjoying nature or the outdoors, bicycling and mountain biking, disc golf, on-leash and off-leash walking of dogs, radio control flying and related activities, or rock climbing.”
- (3) One of three listed monetary requirements. The statute lists three options to satisfy this third monetary element. A landowner, lessee, or occupier need only meet one.
  - (a) Owner, lessee or occupant does not charge a fee. Thus, if hunters are allowed to come for free, this satisfies the statutory requirement.
  - (b) The owner, lessee or occupant charges a fee, but the total charges collected for the previous calendar year for all recreational use is not more than 20 times the total amount of ad valorem taxes imposed during the previous calendar year. In summary, a landowner, lessee, or occupier of land would need to calculate all of the revenue collected from recreational users last year. So long as that number is not more than 20 times the ad valorem taxes paid by the landowner on any property in Texas (not limited to the land where hunting occurs), this requirement is met.
  - (c) The owner, lessee, or occupier of land has liability insurance coverage relating to the premises where the injury occurred equal or greater to \$500,000/person, \$1 million/ single occurrence of bodily injury or death, and \$100,000 for a single occurrence for injury or destruction of property. Carrying that level of insurance satisfies this requirement, regardless of what the landowner charges. Additionally, there is an added benefit of having this level of insurance. The statute provides that total damages may not exceed \$1 million if the landowner, lessee or occupant carries this level of insurance or higher and the injury occurs on agricultural land. In other words, this provides a cap on damages that may be recovered. That is the entire statute. There are no requirements to obtain additional waivers or place signs, and there is no list of exceptions. If a landowner, lessee, or occupier

*(continued on next page)*



*(Statutory Protections-continued from page 2)*

of land satisfies the three listed requirements, they are liable only for intentional acts or gross negligence.

#### Agritourism Act

The Texas Agritourism Act provides that an agritourism entity is not liable to any person for injuries to an agritourism participant if the agritourism entity has either hung up the required sign or obtained the required signed release. Let's break that down.

- (1) An "agritourism entity" is a person engaged in the business of providing an agritourism activity, without regard to compensation, including a person who displays exotic animals to the public on agricultural land.
- (2) An "agritourism activity" is defined as an activity on agricultural land for recreational or educational purposes of participants without regard to compensation.
- (3) The definition of "agricultural land" under the Agritourism Act is land that is "suitable for" growing crops or raising livestock.
- (4) The definition of a recreational activity is identical to the definition of the same term in the Recreational Use Statute quoted above.

If we combine these definitions together, we see that the statute applies to a person providing a recreational or educational activity on agricultural land. This, of course, is pretty broadly defined and can certainly apply to people who open up their ranches to allow hunting.

(5) Importantly, landowners must take an additional step in order to achieve the limited liability offered by the Agritourism Act. Landowners have two options:

(a) They can hang up an Agritourism Act sign "in a clearly visible location on or near any premises on which an agritourism activity is conducted." The sign must contain the following language:

#### **WARNING**

**UNDER TEXAS LAW (CHAPTER 75A, CIVIL PRACTICE AND REMEDIES CODE), AN AGRITOURISM ENTITY IS NOT LIABLE FOR ANY INJURY TO OR DEATH OF AN AGRITOURISM PARTICIPANT RESULTING FROM AN AGRITOURISM ACTIVITY.**

(b) Alternatively, landowners can obtain a signed written warning statement. The statement must be signed prior to the activity, by the participant, guardian, or managing conservator, be separate than any other agreement between the agritourism participant and landowner, and be printed in not less than 10-point bold font. The waiver language must read as follows:

#### **AGREEMENT AND WARNING**

**I UNDERSTAND AND ACKNOWLEDGE THAT AN AGRITOURISM ENTITY IS NOT LIABLE FOR ANY INJURY TO OR DEATH OF AN AGRITOURISM PARTICIPANT RESULTING FROM AGRITOURISM ACTIVITIES. I UNDERSTAND THAT I HAVE ACCEPTED ALL RISK OF INJURY, DEATH, PROPERTY DAMAGE, AND OTHER LOSS THAT MAY RESULT FROM AGRITOURISM ACTIVITIES.**

Landowners can satisfy this requirement by either hanging the sign or obtaining the waiver. The one place it seems the waiver may be better than the sign is if there will be minor children on the property. This is because the statute expressly states that the waiver may be signed by parents, guardians, or managing conservators on behalf of minor children.

Do note there is a list of exceptions in the statute listing when the Act's protections would not be applicable.

#### Summary

This statute offers protection for agricultural landowners if a person is injured during a recreational or educational activity so long as the landowner either has the required signage or signed release.

These statutes are an important part of a liability protection plan for any farm, ranch, or rural land that will allow hunters on the property. There are additional steps I recommend as well, including carrying liability insurance that covers hunters, obtaining general waivers of liability, and having signed hunting leases in place.



**A Publication of the Tyler County Forest Landowner Association**

<http://tcforest.org/>

C/O Charles Zimmerman  
298 County Road 2152  
Woodville, Texas 75979

Phone 409-200-1451  
[merle.charles.zimmerman@gmail.com](mailto:merle.charles.zimmerman@gmail.com)

**Rainfall Totals (inches)—Tyler Co. Emergency Management Weather Division**

	September	October	November
Chester	1.83	3.43	3.90
Colmesneil	2.24	3.60	3.24
Fred	5.05	3.41	3.30
Spurger	3.81	3.74	2.12
Warren	3.69	4.29	3.90
Woodville	3.09	2.24	3.55

**OFFICERS & DIRECTORS  
2021-2022**

- Pres: Col. Eddie Boxx
- VP: Steve Lauff
- Sect: Oliver Hensarling
- Treas: Charles Zimmerman
- Dir: Andy Niemann
- Dir: Elizabeth Parker
- Dir: Dr. Jay Fish
- Dir: Josh Lempert (past President)

**Tyler County Forest Landowner Association (TCFLOA)**

The Tyler County Forest Landowner Association is a non profit organization whose objectives include educating landowners about good forest management and harvesting practices, and keeping landowners up to date on matters affecting timberland operations, taxes and legislative actions.

**Membership 2022**

Check your memberships status for 2022. Look at the address label on the envelope for your status—if the **year number** after your name is not **22** (for 2022) or greater, then consider renewing your membership. You may also send in your 2023 dues at this time.

Note that we are asking for your e-mail address. This will allow us to communicate time sensitive information on programs, workshops, late cancellations or fire situations. We will **NOT** give your address to any other group, people, advertisers, etc. Membership information is for your board members and newsletter editor **only**.

**MEMBERSHIP FORM**

**Tyler County Forest Landowner Association (TCFLOA)**

**Regular Membership:** Private non-industrial owners of five (5) or more acres of land in Tyler Co.

**Dues:** \$15 per calendar year per couple. One (1) vote per membership.

**Associate Membership:** Any individual not qualifying as a Regular Member who supports the objectives of TCFLOA. **Dues:** \$15 per calendar year per individual or organization. Associate Members are non-voting.

**USE THIS FORM TO JOIN TCFLOA OR TO MAKE CORRECTIONS**

NAME

ADDRESS

CITY / STATE / ZIP

PHONE

APPROX # TIMBER ACRES IN TYLER CO.

E-Mail

Please make checks payable to TCFLOA, and mail to:

Charles Zimmerman, Treasurer, 298 County Road 2152, Woodville, TX 75979