

The New York Forest Owner

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**THE NEW YORK
FOREST OWNERS
ASSOCIATION**

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The New York Forest Owner

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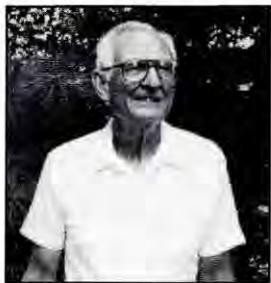
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COVER: Eric and Ken Binder enjoy the equipment demonstration at the Pack Demonstration Forest during the NYFOA 2000 Fall Conference. Photo courtesy of Gretchen McHugh.

From The President

The single engine de Haviland landed smoothly on Lac Cambrai, Quebec, 100 plus miles northwest of Ottawa. Our canoe was unstrapped from the struts, our gear passed down into the boat, and Bob and I joined our friends who had flown in earlier.

Our pilot Mike Dennis is an experienced bush pilot, and also a keen observer of his surroundings. During our 45-minute flight he griped and griped about how timber harvesting was ruining the area with the clear cuts. Interestingly, areas that had been



cut 10-20 years ago were apparently okay, it was the recent clear cuts that were bad.

Canadian provinces (most forestland in Canada is government owned) have taken major steps to improve forestry practices in the last few years, as have we in the United States. But "outback," a recent clear cut, regardless of size or shape, looks pretty grim from a low flying airplane.

Certainly, forest management techniques have improved, and will continue to improve, but I wonder if some of the commentary we hear is another aspect of the "instant gratification" that pervades much of our society these days.

It occurred to me to suggest to Mike that timber companies be required to use camouflage drapes to hide harvest areas for a few recovery years – which, of course, really wouldn't help a bit. To all who really want to know, it is clear that the care and nurturing of a woodlot produces far greater environmental and social benefits than ignored woodlots. We want our children, and all peoples, to appreciate all the wonderful values of

woodlands and to respect and understand what it takes to have them.

There was certainly no cover up at NYFOA's Fall Conference in September. The Southeast Adirondack and Capital District Chapters, and their many supporters, along with the Department of Environmental Conservation, the College of Environmental Science and Forestry, Cornell Cooperative Extension and with special help from Finch Pruyn & Co. and the International Paper Company, organized and executed an excellent weekend. A record attendance and representation from every NYFOA chapter attests to the widespread interest. Thanks to all for a great conference! (See page 6 for a recap).

The weekend again illustrated that NYFOA is but one part of a huge team, each member having a role in the process of producing and utilizing a renewable natural resource. It is a huge responsibility, downright awesome when you think about it, and one that requires a lot of teamwork.

When Peter Levatich received NYFOA's Heiberg Memorial Award in 1998, he observed that credit belongs to the whole group, as a tree grows to strength and maturity because of the influence, discipline, and support from all the trees around it.

NYFOA never considered itself an island unto itself, and the team effort that went into the Fall Conference, and the array of major sponsors (NYFOA, AFC; CCE; DEC; USDA) of the Ninth Annual Landowner Conference next February in Arcade, Wyoming County, are reminders of our dependence upon and the importance of all members of the "team."

As Thanksgiving approaches, it's one more thing to be thankful for. Peggy and I wish you, your family and friends, all a safe and wonderful holiday season.

—Ron Pedersen, President

Join!

NYFOA is a not-for-profit group of NY State landowners promoting stewardship of private forests. Stewardship puts into practice knowledge of forest ecosystems, silviculture, local economies, watersheds, wildlife, natural aesthetics and even law for the long term benefit of current and future generations. NYFOA, through its local chapters, provides this knowledge for landowners and the interested public.

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In The MAIL



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Free Press

For the past four years the **Allegheny Foothills Chapter** of the New York Forest Owners Association has created a special Forestry-related insert for a July issue of the Jamestown Post Journal. NYFOA and MFO members, public and private foresters, Cooperative Extension, Soil and Water, Seneca Trails RC& D, DEC and other individuals and agencies interested in Forestry and its concerns have contributed ideas, time, articles and support. The Post Journal is deeply committed and will publish a "magazine" in future years if content, interest and advertising warrant it.

We're trying to present items attractive to the thousands of private woodland owners who have a wide diversity of knowledge and experiences. We seek to give useful information to them and increase their awareness of the critical need for good forest management and current forest practices. The project seems to be working with increased calls, participation in woodland activities and referrals from private woodland owners.

We hope you enjoy this issue. Perhaps other papers across the state may be willing to undertake similar joint efforts.

—Albert W. Brown
Jamestown Post Journal

A Note of Thanks

Thank you for publishing "Journal of a Small Conifer Planting" and accompanying photographs in the September/October issue of The New York Forest Owner.

On first glance at the cover photo I said to myself, "gee, that pruning

scene looks familiar." Second glance, "it can't be." So I checked inside and sure enough, our brush piles. We feel

flattered you chose our picture for the cover photo. Thanks again.

—Patrick H. (Pat) Kelly
Venice Center, NY

NYFOA Scholarship Fund

The NYFOA Fund was established at ESF in 1996 in order to support forestry education and research at the College for generations to come. The NYFOA Fund is supported through gifts, bequests, honoraria, and memorials from NYFOA members, chapters and affiliates.

The NYFOA Fund is currently used to support scholarships for students studying with the Faculty of Forestry. Recipients of the scholarship are selected by the Chair of the Faculty of Forestry on the basis of academic achievement, demonstrated financial need, service to the college, and participation in extra-curricular activities. All ESF forestry students are automatically eligible for the scholarship once

they apply for financial aid at the College.

The current balance of the NYFOA Fund is \$22,908.26. The NYFOA Fund is endowed and only a portion of the interest income is used each year to fund an award. Based on the current spending policy of the ESF College Foundation, the NYFOA Fund produces an annual award of approximately \$1,200.

The recipient of this year's NYFOA scholarship is Patricia Baretzky who is from Dannemora, NY. She and her family were thrilled to receive this scholarship. "I grew up in the mountains all my life and thought that being a ranger would be a good career for me." She is currently enrolled in the Forest Management Option. ▲

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NYFOA 2000 FALL CONFERENCE

ARTICLE BY CHARLIE MOWATT, PHOTOGRAPHS BY GRETCHEN MCHUGH

NYFOA's Fall Meeting, held at Pack Demonstration Forest in Warrensburg, was a smashing success! Congratulations to all, and there were many, who had a hand in planning and executing the event. Right on down to the people in charge of the weather (Dick Schwab on Saturday and Peter Gregory on Sunday). Though not perfect, produced positive results when it counted; such as for the bonfire and flute concert by the lake on Saturday evening.

There were so many door prizes that distribution had to be started on Friday evening and continued up to the minute that we left camp for Woodswalks and other field activities on Sunday morning. And was that guy who took home the Stihl chain saw happy, or what? (see photo below).

I'm not privy to the numbers attending, but there have not been so many smiling NYFOA faces at a Fall Meeting in a long time. Many thanks to the speakers and woods guides for providing a stimulating and informative agenda. We westerners brag about our cherry, but they don't compare to the size and majesty to Sven Heiberg's favorite tree, "Vite Pine." Thanks, also, to the cooks who provided the extra five pounds I happily took home under my belt.

And a final thanks to the committee for giving me a chance to revisit the college days I spent at Pack Forest and for the similar, but more...(ahem)...mature, camaraderie of long ago (to the best of my recollection... and I certainly do not remember so many girls!). ▲



The Mechanized Harvester, courtesy of Blue Ox Forest Products, put on quite the demonstration.



Above: Dennis Flynn (center) and Peter Gregory (right) presented Brad Mitchell (left) the Logger of the Year Award for the SAC of NYFOA. Right: Vinnie Faraone of Hamilton, NY was quite pleased to win the Chain Saw, which was one of over 100 door prizes donated for the event.



Above: Peter Gregory and John Hastings with Stewardship Award winners Chip, Sally and Bud Ellms of Ballston Spa, NY.





Above: Polly and Erwin Fullerton display some of their equipment during the woodswalk at their property.

Right: Bob Beyfuss (Greene County CCE) shows Ginseng on the left which should not be confused with an "imitator" on the right.



Above: Many people stopped to watch the logging operation taking place at the Pack Demonstration Forest.



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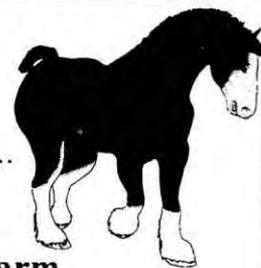
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QUALITY DEER MANAGEMENT

Can QDM Improve Deer Management in Forested Landscapes?

PAUL D. CURTIS

Introduction

There is little doubt that deer (*Odocoileus virginianus*) management is demanding increased attention and resources from many state wildlife agencies. Deer conflicts have greatly increased during the past 10-15 years (Flyger et al. 1983, Diamond 1992). Population increases of deer in parks and suburbia have been aided by hunting restrictions imposed by towns and private landowners (Curtis and Richmond 1992). Hunting is the traditional control method used to manage deer numbers in rural landscapes. However, long-term declines in hunter participation, and limited hunter access to private and public lands, may soon make it difficult to harvest adequate numbers of deer.

The challenge now facing many wildlife agencies is how to manage growing deer herds to meet a variety of conflicting public demands. Deer present safety hazards to motorists, consume ornamental shrubs, and are perceived as agents in Lyme disease transmission (Connelly et al. 1987, Decker 1987, Siemer et al. 1992). These negative deer-people interactions have increased public concern and awareness about deer management, and expanded the list of potential stakeholders in the decision-making process.

Deer also have substantial positive recreational and economic values. During the late 1980s and early 1990s, nearly 200,000 deer were harvested in New York, and another 400,000 deer were killed in Pennsylvania, during hunting seasons each year. Kosack (1991) estimated that income generated

by deer hunting adds more than a billion dollars to the Pennsylvania economy annually. The last three generations of hunters have come to expect high deer densities and associated harvests as normal and sustainable (deCalesta 1997), and hunters represent a significant lobbying force for maintaining current or expanded deer population levels.

Increasingly, wildlife management agencies are being asked to balance the positive and negative values of deer, and develop management strategies that are acceptable to many stakeholder groups. It's impossible to remove politics from the decision-making process, and no matter what the final outcome may be, not everyone will be supportive of a single solution. However, Quality Deer Management (QDM) offers a flexible approach that could potentially regulate deer numbers across broad agricultural and forested landscapes, yet still be acceptable to many stakeholder groups.

Deer as a Keystone Herbivore

Chronic high densities of deer may have multiple and often substantial negative impacts in forest communities (Waller and Alverson 1997). Paine (1969) defines a keystone species as one that affects the abundance of other species, and community structure, by changing the relative numbers of competing species. It is very clear that deer influence the relative abundance of tree seedlings and shrubs in forest stands. Forestry textbooks mention that deer browsing can be a problem for regenerating economically-valuable trees, such as oaks. Suppression or

elimination of the most-favored seedlings results in a slow but steady conversion of the forest to less palatable species, such as American beech. At very high densities, grasses and ferns may dominate vegetation within the reach of deer. Ferns can interfere with the germination and growth of desirable trees, and thereby add to the direct impacts of deer feeding. Slow-growing conifers like eastern hemlock may be particularly sensitive to deer damage.

Deer also eat many species of native herbs, reducing plant diversity in the forest (Waller and Alverson 1997). Rare lilies and orchids can be adversely impacted by deer feeding, and fencing may be required to sustain populations of these flowers. The height of trillium can be used as an indicator of deer browsing pressure and density (Anderson 1994). In northwestern Pennsylvania, hemlock stands lost 60-80% of their ground-cover species during the last 70 years as a direct impact of deer browsing.

Bird populations have also been severely reduced by deer over-browsing. Canopy-nesting birds declined 37% in abundance and 27% in species diversity at high deer densities (deCalesta 1994). Forest structure is modified by deer, and bird species that nest in low shrubs are particularly sensitive to deer damage. Biodiversity can be diminished across entire ecoregions.

Finally, deer quality is diminished when inadequate food resources are available, and the potential exists for dramatic herd reductions during severe winters. Pennsylvania deer herds have experienced steady growth during the past 80 years, except during the late 1930s and 1970s, when a series of severe winters cut herd size nearly in half (deCalesta 1997). Deer populations maintained at lower densities in balance with their food resources are less likely to be impacted by deep snow and cold temperatures. As more forage is available per animal, deer will have greater fat reserves to make it through difficult winters, and bucks may

produce better-quality antlers. This is the biological basis for QDM.

Scale-Related Deer Management

Small-scale options - Many things can be done to protect vegetation and tree seedlings from deer if only a few acres require protection. Tree-tubes can be used to protect seedlings and get the terminal bud above the reach of hungry deer. Simple electric fences baited with attractants or repellents can protect small areas if deer densities and foraging pressures are low.

Land-owners have significantly reduced deer damage to orchards and Christmas tree plantations on blocks up to 20 acres in size using invisible fencing and dogs with radio-collars.

All of these strategies have significant installation costs, and are primarily useful with high-value crops that produce an annual income (e.g., orchards). The economic return for enhanced forest regeneration has not been well-documented. Also, these methods perform best in areas with low to moderate deer feeding pressure, a criteria that has already been exceeded in many agricultural and forested landscapes. Consequently, other management strategies are needed to cost-effectively control deer impacts across broad landscapes.

Large-scale options - Few low-cost options are available to enhance forest regeneration on areas hundreds or thousands of acres in size. Larger-scale timber harvests have sometimes succeeded in "saturating" local deer herds with more new browse than they can consume. Although this strategy can work to regenerate some hardwood species, seedlings that are highly preferred by deer may be selectively removed, even at relatively low deer densities. At 20 deer/square mile, seedlings of six tree species were missing or prevented from reaching the overstory by deer browsing (deCalesta 1992). As deer densities exceeded 20 deer/square mile, clear-cut sites became monocultures of black cherry, and uncut sites were dominated by American beech and striped maple

(Tilghman 1989). Obviously, timber harvests can only produce adequate diversity in tree species during regeneration cuts in areas where deer numbers are maintained at low to moderate densities. QDM has the potential to reduce deer numbers over large areas (thousands of acres), and improve biodiversity in our future forests. QDM also makes sense economically, because it primarily requires a change in hunter and landowner attitudes to implement.

Quality Deer Management Applications

The main goals of QDM are to shift the age and sex structure of the deer population, and provide more forage per deer so each animal is in better physical condition (Miller and Marchington 1995). The benefits to hunters that make this strategy attractive include: (1) a higher proportion of bucks in the deer herd, (2) more mature bucks that are likely to have larger racks, (3) an increased opportunity to harvest deer as more does are removed from the population, and (4) a stable deer population that is in better physical condition and less likely to succumb to severe winter weather. Also this program will require increased hunter skill to identify and select appropriate deer to harvest, and many sportsmen find that this increases the quality of the hunting experience. Drawbacks for some hunters are that deer will be less visible at lower densities, and more female deer must be harvested. In addition, as an area is recognized to have large bucks, poaching and trespass problems may need attention. Accomplishment of these changes in deer management will require cooperation of hunters and landowners, and a shift from traditional bucks-only deer seasons.

The basic guidelines for QDM are readily available (Miller and Marchington 1995), so I will only highlight a few of the most important components here. First, is enough land area available to effectively implement QDM? Although QDM can be

practiced on 500 acres, it is better to have at least 1,500 acres in this management system to control boundary affects and allow for deer movement. It may be possible to get neighboring landowners to form a cooperative to ensure that adequate land area is available to measure changes in deer quality.

Second, does the habitat provide adequate food to maintain healthy deer? In mixed agricultural and forest land, crops provide sufficient resources for deer. However, large blocks of mature forest where there has been little timber harvest may not provide adequate browse to get deer through a tough winter. Either cuttings or plantings may be necessary to provide food for deer. Lure crops (i.e., alfalfa, corn) may be a way to concentrate deer feeding in areas away from sensitive forest regeneration.

Third, are hunting rules and regulations flexible enough to allow adequate harvests of antlerless deer? Many state wildlife agencies will work with landowners or hunt clubs to help them achieve their deer management goals. To reduce deer densities across broad landscapes and provide more food for bucks will require aggressive harvests of antlerless deer through a permit or quota system. Often equal or greater harvests of does than bucks are required for several years to help balance the deer sex ratio. Over time (4 to 5 years), the proportion of bucks and associated buck harvest from the herd will slowly increase.

continued on page 20

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Along the Finger Lakes Trail: *Cattaraugus Serendipitous* Part III

IRENE SZABO

...another wonderful junction along the Finger Lakes Trail

In April of '99 Charlie Mowatt, past NYFOA Director and active Allegheny Foothills member, invited me to provide a presentation on trail-building at the annual NYFOA/Cooperative Extension day of workshops for forest owners in Olean. At the end of my hour, several people introduced themselves as landowners who have had the Finger Lakes Trail on their property for years, in the region where the path goes endlessly and mercilessly up and down sharp forested hills with no flat tops north of Allegany State Park.

Yet one couple, new NYFOA members Sharon and Charlie Wieder, had only recently bought their West Valley farm, and were intrigued by trail blazes that seemed to go along the hedgerow that formed one of their

borders after the trail left a road walk along Roszyk Hill Rd. southward. How nice it was to hear that they wanted to know more about the trail system, and were actually excited to think it might be on their property.

The Foothills Trail Club from the Buffalo area built the parts of the Finger Lakes Trail system that now travel from Niagara Falls down to the Pennsylvania border in Allegany State Park, so I gave the Wieders' address to Mary Domanski, Foothills' enthusiastic ambassador to trail landowners. Sharon and Mary walked the farm's border but discovered that, alas, the trail did not enter their new property.

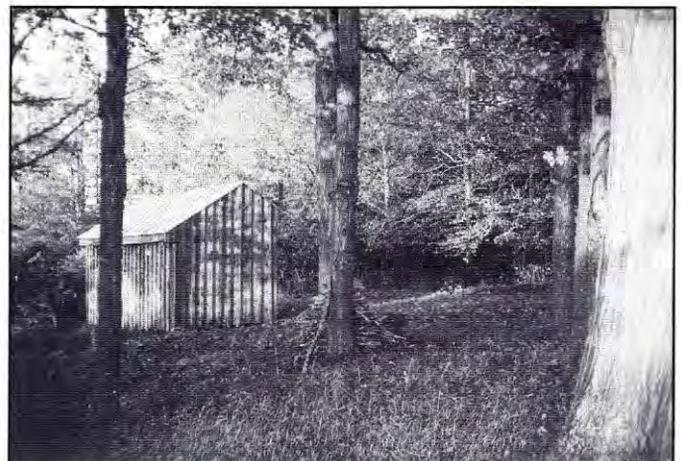
A week later Sharon and Charlie offered to allow the trail route onto their property, which would both eliminate some road walking AND provide a wonderful moment at the top of their hill when the view is at least 270 degrees and crosses miles of

hilltops to the northwest! Mary Domanski was beside herself with rapture already when the Wieders also offered to take care of that piece of trail themselves and then topped that with a proposal to build a hikers' overnight shelter along that trail.

The Finger Lakes Trail Conference centered its annual meeting and traditional spring weekend of hikes in nearby Ellicottville this past May, so host club Foothills scheduled two hikes to include the new trail south of Roszyk Hill Road. Perfect sunny weather made the view from the top spectacular and wide, so many hikers were able to enjoy the new route along the edges of the Wieders' hay fields and uphill into their woods, where everyone remarked on the personal touches: tiny flower gardens had been built into corners where tractor path and trail intersected in the woods, and there was a bench with a view.



One of the many benches that are scattered along the trail.



Looking up at the Wieder Trail shelter.



View inside the Wieder trail shelter

The first Saturday every June has been National Trails Day for eight years now, and each time Foothills has committed the day to a project: a month after the spring weekend of hikes, club volunteers gathered at the Wieder hilltop and actually built all of the shelter but the roof in one very long day, using Charlie's leftover materials plus additional lumber bought with a Trails Day grant from Eastern Mountain Sports stores.

While the main east-west FLT has many camping spots and even log shelters dotted along its 560 miles, most of them are within parks or state forests (with notable exceptions like the Garrisons' *Evangeline II* south of Prattsburgh, previously featured in these pages), seldom on private land. So the Wieders' home for backpackers ranks among the very few on private property in the whole 800-mile trail system, but is also an historic first for the branch trail that goes up to Niagara Falls.

While the main trail keeps heading eastward past Ellicottville, the branch called the Conservation Trail, Foothills Trail Club's special baby, breaks away northward a few miles south of the Wieders' new home. From there to Niagara Falls there has never been a place to camp legally along the Conservation Trail, except slightly off-trail within Darien Lakes State Park, so those many miles of trail have been used mostly for day trips.

Sharon and Charlie's shelter therefore is a brand new amenity on the Conservation Trail branch, and we look forward to hearing appreciative tales from those hikers who have stayed there overnight. In fact, if our editor's deadline weren't already past, I myself might have

been able to add first person stories to the stockpile of lore that every shelter eventually develops. This has been an incredible gift from the generous Wieders, indeed. 🌲

In addition to tending New York trails, Irene Szabo is a member of the Western Finger Lakes Chapter of NYFOA and a Director of the Finger Lakes Land Trust.

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NEWS & NOTES

NYFOA AWARDS COMMITTEE FOR 2001

🌲 The Awards Committee of NYFOA is seeking nominees for the year 2001 for the NYFOA Outstanding Service Award and for the Heiberg Memorial Award. If you have a nominee, please contact any of the following Awards Committee Members: Bob Sand, Chairman; Mike Greason; Eileen Schaefer; or Don Wagner.

STATE TO CRACK DOWN ON TIMBER THEFT

🌲 The Legislative Commission on Rural Resources, after wrapping up hearings last month, said it would propose several new guidelines in January making it harder for people to claim they were unaware of the property lines when they stole the timber.

Current environmental laws, based on a statute from 1920, levy a \$10 fine or triple the damages for each instance of timber theft. Officials say that is not strong enough to deter thieves and are likely to propose toughening the penalty.

The commission will put its findings in a report due in December. In January, a task force consisting of representatives from the timber industry, landowners and government officials will propose the legislation.

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Commentary:

Public Hearing on Timber Theft

PHILIP T. STARKOWSKI

I've been an independent consulting forester in the Adirondacks since 1978. Over the past 22 years I've investigated, or helped the police investigate, a number of timber thefts on private and public lands, and have tried to help my clients seek justice through our legal system. Recently, I have also tried to seek justice for myself as the victim of a timber trespass on my own land.

It's been a frustrating experience. The losses in timber value to my clients can be measured in the hundreds of thousands of dollars, and the perpetrators have almost always gotten away with no meaningful penalty.

The main reason for this is that the laws dealing with timber theft have traditionally rewarded crime instead of deterring it.

Section 9-1501 of Environmental Conservation Law has been reworded to prohibit the cutting and removal of trees without the consent of their owner. This appears to make this a crime, which has not been the case in the past. However, when prosecuting a timber thief on criminal charges, the burden of proof is on the prosecution to show the defendant was in a culpable mental state, as well as producing very strong evidence of having committed the crime, including witnesses, physical evidence, etc.

The remote nature of timber theft makes it tough to put together a successful criminal prosecution, and police have traditionally shied away from it. Therefore, most victims resort to pursuing it as a civil matter, seeking monetary damages under Section 861 of Real Property Actions and Procedures Law, which says that a landowner may seek damages against anyone who cuts down *or carries off* (my emphasis) his trees without his leave. The owner can seek treble damages, unless the cutting was "casual and involuntary," or the perpetrator thought he was on his own

land. For many years this statute was the only one dealing with timber theft.

This law is a license to steal, because:

1. It's a real property statute that treats larceny as property damage. Although standing trees are classed as real property (the same as a house), this is only when they are attached to the ground by their roots. Once a tree is severed (by wind, chainsaw, etc.), the law no longer allows it to be classed (or taxed) as real property. By default it is now the *personal* property of its owner, the same as a wallet.

When a logger cuts down a tree, he is damaging or destroying real property. But from the moment the tree is severed, he is handling someone's *personal* property. Carrying off their personal property, without their leave, is usually a crime—larceny. Having Section 861 describe it as property damage presents a huge loophole to timber thieves because it muddies the legal waters. Police and the courts have often declined to treat timber theft as a crime, forcing victims to pursue criminals using a real property statute, at the victims' expense.

2. Section 861 encourages timber theft, because it almost guarantees the thief a profit, even if found guilty.

In order to solve this anomaly, lawmakers need to understand two concepts, which form the heart of the problem. These are: *Enhanced*, or *Mill-Delivered Value*, and *Stumpage Value*. These terms are used and accepted by the forest industry and the courts.

Enhanced Value is the price a logger is paid for a tree after he has felled it and processed it into logs, and



then delivered them to a sawmill or other buyer. If the logger owns a lumber mill, the enhanced value might also be the value of the lumber that was made from the logs. Since the most common enhanced value is what a logger is paid when he delivers logs to a mill, it's often called *Mill-Delivered Value*.

Stumpage Value, on the other hand, is the value of a tree as it stands in the woods, "on the stump." It's what an honest logger would pay the tree's owner for the right to fell the tree, cut it into logs and resell them, *at a reasonable profit to the logger*. In the past, a common method of calculating stumpage value for logs was one-third of the mill-delivered value. The logger kept the other two-thirds to pay his logging expenses and yield a profit. This same ratio is still used today, in many cases.

Remember—the concept of stumpage value assumes the landowner has *invited* the logger onto his property to cut his trees as part of a normal business deal. Most importantly, it also assumes *the logger is entitled to a profit*. This is a normal business concept—but it's a scam when applied to timber theft.

Under Section 861, if the owner can prove the logger intentionally carried off trees he knew weren't his (which is not *theft*, you understand...), the owner can recover three times the value of the trees. But if the logger's actions were "casual and involuntary," or if he thought he was on his own land, the owner can recover only single damages—not treble.

The problem is not only that you must prove what the logger was thinking when he cut your trees, but also that the courts have almost always interpreted "value" and "damages" to mean *stumpage value*, rather than enhanced, or mill-delivered value.

But stumpage value, remember, contains a built-in profit for the logger. So, a timber thief merely has to remain blissfully ignorant of where anyone's property lines are, and just keep on

casually slashing away. If he's caught, and the landowner wants to hire an attorney to file civil charges, as well as a forester to appraise the stumpage value of the missing timber, and then wait a few years for a court date (usually), the thief only has to play dumb, and convince the court the theft was committed in a "casual and involuntary" manner; or that he was not really aware he was on someone else's land (this actually seems easy to do). That done, **case law requires the owner be paid only the stumpage value of the stolen timber, which guarantees the thief a reasonable profit**. This is no different than if the owner invited the thief to cut his trees in the first place.

If the owner convinces the court the thief was acting in bad faith (much more difficult than it sounds), the court can award treble damages, meaning three times the *stumpage value*. Traditionally, this would be about what the thief sold the logs for at the mill. So, he has to give back the money he sold the logs for. Big deal. At worst, the thief breaks even. This isn't a deterrent to crime—it's an incentive.

RECOMMENDATIONS

1. Remove language describing the carrying off of timber from Section 861 of Real Property Actions and Proceedings Law. The carrying off of wood or trees without consent is larceny, and shouldn't be addressed in a real property law.

At the proper statutory level, define severed trees as personal property, and their removal as larceny.

To my knowledge, this concept is not mentioned in law, though it's easily deduced. It seems obvious—but it hasn't been, within our legal system. It needs to be codified, and made obvious to all. The new wording of Section 9-1501 of Environmental Conservation law may solve this, though it doesn't seem obvious enough to me.

Once the law clearly defines the taking of trees without consent as larceny, landowners and police might stop thinking they can only prosecute thieves under a real property statute, and potential thieves may be deterred.

2. The Legislature never intended to guarantee loggers a profit from their mistakes. Amend Section 861 to define "value" and "damages" to always mean the *enhanced* value of trees, rather than their stumpage value. This way, even a casual and involuntary case will result in the trespasser breaking even *at best*, instead of at worst, as it is now.

This real property statute will become a deterrent to crime, rather than the incentive it is, even if nothing's done about the criminal aspect of timber theft. It will encourage loggers to adopt a professional attitude, instead of promoting sloppiness and criminality. I guarantee this one step will reduce the rate of timber theft and "casual" trespass, by removing the

continued on page 14

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Forest Fragmentation 2000 Conference: *Sustaining Private Forests in the 21st Century*

JILL CORNELL

Fragmentation of our nation's forests and farmlands is the result of population growth, pressure of development for home sites, the need to settle inheritances, and is a spin-off of the booming economy with people wanting vacation home sites. Five to fifteen million forest and farm owners are affected by fragmentation and the numbers are growing daily. Nationally there are 10,000,000 private forest landowners, yet each year 130,000 new forest owners are established, as the 100 – 500 acre holdings are divided, and holdings of 10 – 49 acres of forest increase dramatically.

The Forest Fragmentation 2000 Conference held in Annapolis, MD from September 18 – 20 presented varied perspectives on national and regional trends; explored environmental, economic and social impacts; examined the social, land use and economic dynamics and changes; and discussed private land, marketplace and public policy solutions.

Most rural people are aware of the changes in the area surrounding their homes as forests and farms are split into building lots, and subsequently paved roads increase. The national aggregate picture is staggering, and has spawned some appropriate slogans: "terminal harvests," "clearcuts precede condos," and "the environment is a wholly owned subsidiary of the economy."

Inhabitants of urban and suburban areas are generally aware that there is little open, green space, and they seek to find it for second homes or future retirement sites. Add to that the increasing number of people who telecommute and work from remote locations and fragmentation is on the rise.

The impacts of fragmentation are many. Water quality is affected as development, paved roads and driveways speed up and alter runoff and soil absorption. Animal and plant habitats are reduced and changed, threatening some species. Planning for wildlife corridors is essential to wildlife diversity in fragmenting landscapes. Fewer and smaller open space areas increase human stress, diminish health, and increase the need for places with solace.

Natural resources do not conform to jurisdictional boundaries. Streams, rivers, wildlife, and winds move about between towns, counties and states, impacted by fragmentation.

Commitment to Smart Growth principles, coupled with inter-state regional, and inter-county coordination of data collection and planning could improve data quality, watershed management, and provide protection of fragile areas.

Recommended possible solutions to harness fragmentation:

1. Estate planning for forest landowners. (By the time one is in their final subdivision – a grave site, it is too late for planning!). See Thom McEvoy's book: *Legal Aspects of Owning and Managing Woodlands.*
2. Increased funding for Purchase of Development Rights (PDRs).
3. Develop state and federal tax relief to encourage continued ownership of forest and farm lands as compensation for the clean air and water, open space aesthetics, and recreation they provide as public good.
4. Encourage formation of forest owner cooperatives, for large local management objectives and marketing of forest products.
5. Encourage initiatives such as The

Nature Conservancy's "Forest Bank" Program in Appalachia.

6. Explore the benefits of Green Certification for individual owners and cooperatives.
7. Encourage national regional, state, and intra-state planning coordination.
8. Increase federal funding for extension research, education and forestry professionals.
9. Increase federal funds for NRCS and FSA programs (SIP, FIP, WHIP, WRP, etc.).
10. Increase state funding of private forest landowner programs — professional state service forester education, advice, and management plans in support of private landowners.
11. Increase federal and state funding for purchase of perpetual easement rights, instead of "fee simple" purchases. (Spread the state moneys further).
12. Increase federal funding support for forest stewardship initiatives, including support of state landowner associations, education and expansion.

For information on how to order copies of the proceedings from the Forest Fragmentation 2000 Conference visit Neil Sampson's website: www.sampsongroup.com 

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Tussock Moths, Tiger Moths & Other "Hairy" Caterpillars

DOUGLAS C. ALLEN

Caterpillars in many families of moths in the Order Lepidoptera (lep-i-dopp-terra) are clothed with hair-like setae (see-tee) that impart a "furry" and very colorful appearance. Probably the best known example in the northeast is the burnt orange and black-banded woollybear. Woollybears feed on a variety of herbaceous plants. The caterpillars are very conspicuous in the fall as they scurry across roads in search of a place to overwinter.

While visiting several woodlots this summer, it seemed to me a number of species of "hairy" caterpillars were unusually abundant; at least they were relatively easy to find compared to past years. Most surprising, was my frequent encounter with the **hickory tussock moth**. I had never seen this insect before, yet this year it occurred in almost every hardwood stand visited throughout the state. It is distributed from southeastern Canada south to North Carolina, and its preferred hosts are walnut, butternut and hickory. The

fully grown caterpillar is approximately 1.5" long, has a shiny black head and is clothed with grayish to bright white hairs with a row of black spots down its back (Fig. 1). Close examination reveals a pair of relatively long tufts of fine hairs (called hair pencils) on top of the body segment that occurs immediately behind the third pair of front legs. A similar set of hair pencils appears six segments further back. When done feeding in late summer, caterpillars crawl down the tree bole and disperse along the ground looking for debris under which to spin their characteristic dense, grayish, oval cocoon of silk and body hairs, where they overwinter. This species, like the woollybear, is in the tiger moth family. The term "tussock," which appears in the common name of several moth larvae, refers to the fact that the setae or "hairs" often occur in dense clusters or tufts.

The **American dagger moth** belongs to a family known as owl

moths and underwings, most species of which have a dull colored and smooth skinned caterpillar. The full-grown dagger moth caterpillar may be 2.0" long. Its body has dense long, soft, yellow to white hair with long black hair pencils on top of the first, third and eighth abdominal segments (Fig. 2). Dagger moths feed on a variety of broadleaved trees throughout the eastern United States and Canada. They overwinter as pupae (pew-pee) in compact silk cocoons.

One of the most colorful caterpillars in the eastern United States and Canada is the **whitemarked tussock moth**. It is in the same family (the tussock moths) as gypsy moth and, like the latter, feeds on a wide variety of broadleaved and needle-bearing trees, such as maples, basswood, poplar, larch, and balsam fir. The full-grown caterpillar is about 1.25" long with a bright red head and three vermilion spots on its back—one behind the head and two near the back end just forward

continued on next page



Figure 1 Hickory tussock moth caterpillar.



Figure 2 Caterpillar of the American dagger moth.

of a solitary, long, black hair pencil. The general body color beneath the hair is yellow to cream with a black stripe along the back. Two tufts of forward-projecting black pencil hairs arise immediately behind the head and are similar in appearance to a tuft that occurs at the end of the body. The top of each of the first four segments of the abdomen (the abdomen begins posterior to the last pair of front legs) has a dense tuft (tussock) of short, white to bright yellow hairs (Fig. 3). These tufts resemble old-time shaving brushes. Tufts of long white and black hairs occur on the sides. Eggs of this species overwinter on top of a cocoon made of silk and body hairs. Cocoons usually occur of the bark of host trees.

The **pale tussock moth** is another eastern defoliator that is capable of feeding on most species of trees and shrubs. The fully grown caterpillar is about 1.4" long. The body is covered with dense, compact body hair that varies from light yellowish-orange to a grayish-white. A row of dense gray tufts occurs along the back. Three black and several white hair pencils arise immediately behind the head and a pair of black hair pencils occurs on top of the caterpillar's back end (Fig. 4). This species winters as a pupa in its hairy, brownish gray, ball-like cocoon.

The **"hairs" or setae** on most caterpillars have a sensory function. Also, they are easily detached which allows some species to incorporate them into the cocoon. The combination of silk and detached setae makes a tough, protective covering within which the caterpillar may overwinter and eventually will transform into a moth. When handled, caterpillars of many species of tussock or tussock-like moths cause a rash, because the loosely attached hairs may break away and temporarily irritate skin. In formal terms, the urticating hairs (i.e., "nettling" setae) may cause a contact dermatitis. People react differently to this type of irritation. For example, this summer I handled many hickory tussock moth caterpillars with no apparent reaction. For other people, however, especially some children who frequently touch or pat these insects, frequent contact can cause local reddening of the skin, swelling and a burning sensation.

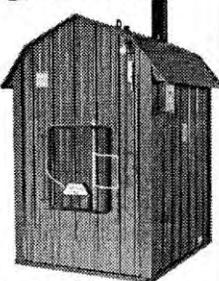
With the exception of gypsy moth (Forest Owner Nov.-Dec. '97) and fall webworm (Forest Owner Sept.-Oct. '93), rarely have forest owners in New York State experienced significant defoliation by tussock moths or tussock moth-like insects. When outbreaks do occur, they appear abruptly and disappear quickly. The caterpillars are large and attractive, however, and even a slight increase in populations makes them evident to an observant forest owner. ▲

This is the 53rd in the series of articles contributed by Dr. Allen, Professor of Entomology at SUNY-ESF. Reprints of this and the complete series are available from NYFOA. It is also possible to download this collection from the DEC Web page at: <http://www.dec.state.ny.us/dlf/privland/forprot/health/nyfo/index.html>.

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Figure 3 Whitemarked tussock moth caterpillar.



Figure 4 Caterpillar of the pale tussock moth.

PORTABLE SKIDDER BRIDGES

MARK W. GRENNAN

The Hudson Mohawk Resource Conservation and Development Council became interested in seeing portable skidder bridges utilized during logging operations to help reduce sediment loading of streams. Through the efforts of Jill Cornell, RC&D Forestry Committee Chairperson, a questionnaire was sent out to over 400 loggers and foresters throughout New York State. This effort helped to determine if there was an interest in the portable skidder bridge concept. After reviewing the responses, the RC&D Council believed there was a strong interest in skidder bridges.

The Council decided a workshop to highlight technical aspects of the bridge was the next step. The RC&D Council partnered with the Watershed Forestry Program, DEC and private industry to develop a training workshop. This past March marked the first time a workshop was pulled together to highlight the values of utilizing this portable bridge system to maintain water quality during timber harvesting operations. An important aspect of the program was the RC&D Council's initiative to obtain continuing education credits for loggers and foresters. The training session qualified for the education credits and provided an added incentive for participants to attend the session at Langes Groveside Resort in Greene County.

The program also provided a portable skidder bridge for participants to view with an open discussion on the best way to construct the bridge. The bridge can be placed on site utilizing a logging truck and moved into position through the use of a skidder. The portable skidder bridge can be built of local materials and range in sizes from 12

to 24 feet. The bridge usually has two 4 feet wide sections placed together to allow for skidders to pass. This process also assists in keeping the logs out of the streams, further reducing sediment, while providing a cleaner log for the timber harvesters to process.

The skidder bridges assist not only with water quality improvement but saves time in the harvesting process. The bridge also reduces wear on the chain because the harvesters are working with cleaner logs, which also helps reduce maintenance costs. The bridge is portable and can be used for years on numerous sites for a cost of about \$2,000.

This forestry Best Management Practice is expanding in popularity with numerous workshops taking place across the state. Additional information may be obtained by contacting the Hudson Mohawk RC&D Council at 518-828-4385. ▲

Mark Grennan is the Project Coordinator at the Hudson Mohawk RC&D.

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Woodlot Calendar

November 29, 2000 (Wednesday)

Best Management Practice (BMP) Workshop

A BMP Workshop focusing on maintaining water quality will be held from 8:30 am to 4:00 pm on Wednesday, November 29, 2000 at the Lennox Model Forest in Delhi, NY. The program is sponsored by the Hudson Mohawk RC&D Council, Inc. and the NYC Watershed Forestry Program.

The workshop will discuss a variety of practices designed to reduce erosion during a timber harvest. One of the topics will be the Portable Skidder Bridge which is a structural forestry BMP used for stream crossings.

Continuing Education Credits will be available for Loggers and Foresters.

The cost of the program is \$15.00 which includes coffee and refreshments, a sandwich buffet lunch, handouts and skidder bridge materials. For more information contact the Hudson Mohawk RC&D Council Inc. at (518) 828-4385 ext. 105.

February 24, 2001 (Saturday)

Ninth Annual Rural Landowners Workshop

CCE, USDA, NYFOA(AFC), and NYSDEC are sponsoring a Rural Landowners Workshop on February 24, 2001 at Pioneer Central High School in Arcade, NY.

The cost is \$15 and includes lunch and a copy of the proceedings. The public is invited but pre-registration is required. Contact any sponsor for a registration form (registration is limited to the first 350). A variety of topics will be covered at the workshop including Property Line Identification, Landowner Liability and Estate Planning, Natural Gardening, Timber Taxes, Where are the Songbirds, Pond Construction, Stocking your Fish Pond, Wildlife Photography and many more. For more information contact Charlie Mowatt at (716) 676-3617 or mowattc@darow.ischuavalley.net

March 25-27, 2001 (Sunday - Tuesday)

2001 Private Forestry Conference

Auburn University, The Society of American Foresters, the International Union of Forestry Research Organizations, the Center for Forest Sustainability, and the Sustainable Forestry Partnership are cosponsoring a conference on private forestry in Atlanta, GA on March 25-27, 2001. The conference will address issues of concern to private forest management, including certification, trade, local regulation of private forestry, and tax policies. For more information, contact Dr. Larry Teeter at (334) 844-1045, or visit www.forestry.auburn.edu/forestpolicycenter.

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Quality Deer Management (continued from page 9)

Fourth, can adequate hunter cooperation be achieved? A primary objective of QDM is to protect yearling and 2.5-year-old bucks so they become more mature and have time to grow large antlers that hunters desire. On good range, 3.5- or 4.5-year-old bucks can produce quality antlers that will provide hunters with trophy opportunities. It requires very ethical and committed hunters to make this investment in the future. QDM programs are doomed to failure unless there is sufficient buy-in and self-policing among cooperating hunters.

Fifth, although not absolutely required, careful record-keeping is a great way to measure progress over time. Recording the number of points, antler-beam diameters, and dressed weights of bucks harvested can provide valuable data to determine if a QDM program is working as it should. The total number of deer removed from an area by sex and age is also important. QDM cooperatives that have the best success rates and hunter satisfaction are those that maintain harvest records to fully document their impacts.

QDM requires changes in hunter behavior and cooperation with landowners to meet management goals. Sportsmen benefit by having the opportunity to take the trophy buck of a lifetime and experience a quality hunt. Landowners benefit by selecting more ethical and experienced hunters, lowering deer densities on their property, and ultimately reducing deer impacts to crops and forests. We all benefit from more healthy forests with a diversity of native bird, mammal, and plant species.

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Paul Curtis is an Assistant Professor in and Extension Wildlife Specialist in the Department of Natural Resources, at Cornell University.

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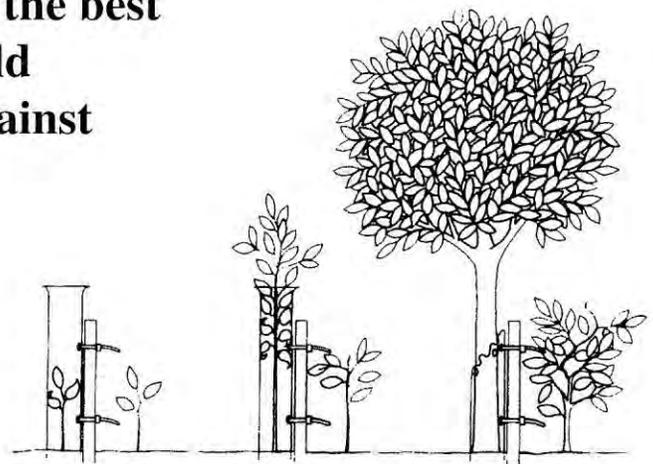
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