

AN ANALYSIS OF TIMBER TRESPASS AND THEFT ISSUES IN THE SOUTHERN APPALACHIAN REGION

Executive Summary

This study was performed in a 20 county region of the southern Appalachians during the fall and winter of 2002-2003. Law enforcement officers and prosecuting attorneys within the region were interviewed to ascertain their knowledge of timber theft and their current level of investigation and prosecution. Telephone interviews were also carried out with both industrial and non-industrial landowners in the study area to determine the extent of timber theft in the region. The objectives of the study were:

1. Develop an estimate of the amount of timber theft that is occurring in the Southern Appalachian region.
2. Document the current level of prosecution and conviction of timber theft cases in the Southern Appalachian region.
3. Ascertain the level of knowledge of prosecuting attorneys and law enforcement officials in the Southern Appalachian region regarding timber theft.
4. Develop recommendations that could ultimately help to reduce the occurrence of timber theft in the Southern Appalachian region.

Strong cooperation was obtained from prosecuting attorneys and industrial landowners (95 and 82% participation respectively). Law enforcement officers were more difficult to contact and on occasion were less willing to participate (58% participation). Non-industrial landowners were much less interested in participation in the study (16%), which effected the estimates of extent that were calculated.

Key Findings:

- Neither prosecuting attorneys nor law enforcement officers felt that timber theft was a significant problem in their areas.
- Both prosecuting attorneys and law enforcement officers are generally knowledgeable regarding timber theft and trespass. Results were similar between those individuals who had experience with the crime as well as those who did not.
- The severity of timber theft was ranked lower than auto theft, but higher than shoplifting by both groups. Attorneys, however, were equally likely to prosecute a shoplifting and a timber theft.

- Prosecuting attorneys and law enforcement officers both believe that timber theft should be handled as a civil violation. This perception was primarily a result of the boundary disputes which arise in many timber theft cases, and the difficulty of proving criminal intent.
- Boundary lines and property surveys are the two key pieces of evidence in timber theft cases, and if they are missing or suspect, attorneys are reluctant, or in some cases unwilling, to prosecute.
- The only topic on which attorneys and law enforcement officers disagreed was the sufficiency of current timber theft laws. Attorneys believed the current laws were sufficient at deterring theft, while law enforcement officers did not.
- The study found 22 convictions for timber theft out of 36 criminal cases in the past three years.
- Despite weaker statutes, Virginia had a significantly greater number of timber theft cases in the past three years than the other states in the study area.
- The extent of timber theft was conservatively estimated at 120 incidents per year, resulting in a loss of approximately \$300,000 per year within the study area.
- An extrapolation of this to the entire southern Appalachian region would mean over \$4 million per year lost to timber theft.
- The current statutes used to deal with timber theft are inadequate to provide prosecutors with the potential to convict most timber thieves because of the unique evidentiary requirements of a timber theft.
- Mandatory restitution should be incorporated into timber theft laws to encourage criminal prosecution.
- The state forestry agencies should be given responsibilities for investigating timber thefts.
- Civil statutes are inadequate in many states to provide landowners the opportunity to obtain a suitable civil judgment. Adopting a stricter civil statute, similar to the West Virginia timber trespass law, could help alleviate uncertainty in civil litigations and should be a stronger deterrent.
- Information needs to be disseminated to landowners, law enforcement officers, and prosecuting attorneys about the aspects of timber theft which

are most pertinent to them, and how the problem should be dealt with both before and after the theft.