

Forestry

Steve Milauskas, Forest Operations Specialist
WVU Extension Service/WVU Appalachian Hardwood Center

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Important Elements of Logging Contracts

A landowner who had just sold the timber on his 20-acre woodlot was sure he made a pretty nice deal. It had to be a good deal; otherwise why would the buyer, a local logger, raise the price three times to get him to make the deal? The third offer was too good to refuse. The landowner then signed a bare-bones contract with little in it except that the timber would be removed. No mention of Best Management Practices (BMPs), time limits, penalties, or what trees would be removed.

This actual case illustrates what can happen if woodlot owners make sales with inadequate information and knowledge. As it turned out, the timber in this sale was worth twice as much as the owner received. The timber buyer was simply doing his job, buying as low as he could in order to make a profit. However, the seller could have realized much greater income by doing a little homework or using a professional forester to manage the sale. Remember, those trees probably took 60 to 100 years to grow. Isn't it worth it to spend a little time properly planning your timber sale?

What's the timber worth?

One of the first questions landowners ask is how much money they can get for their timber. Many factors can affect price. Some of these are:

- Current market prices (stumpage) - locally, regionally nationally, and globally
- Amount of timber per acre - thousand board feet (sawtimber) and cords (pulpwood)
- Demand for the tree species present
- Timber quality (grade), size (diameter and

height), form (straightness)

- Access and operability-slope, roads, season, soil types, stream crossings
- Contract terms - strict contracts with many requirements can lower price

Current average market price ranges can be obtained from mill buyers, state and university stumpage price reports, and forestry consultants.

Sale planning

Woodlot owners will be much more satisfied and pleased with the results of well-planned sales. The first step is to have a professional forester write a stewardship or management plan. Know your boundaries and keep them marked. Have an operational plan that includes road locations, skid trails, stream crossings, landings, streamside management zone locations, and sale boundaries.

Landowners will benefit greatly from having a professional forester assist with their sale. Studies have shown that sales administered by professional foresters using competitive bidding receive significantly higher sale income. The forester can handle most aspects of the sale, especially the contract, timber description, bid solicitations, harvesting administration, and assuring compliance with West Virginia's Logging Sediment Control Act.

Key contract elements

Contracts are binding agreements between two parties that benefit both. Too many requirements or restrictions can affect prices paid for timber. Woodlot owners should use a professional forester to draw up a contract. More complex contracts require consultation with an attorney.

Contracts should include:

- Type of payment and amount - lump sum (recommended), pay-as-cut or delivered, or percentage
- Performance bond - amount and requirements
- Location and legal description of timber sale area
- Declaration of seller's ownership - protection from third-party claims
- Scaling and measurement methods if needed
- Timber description - volume, species, type of cut, if marked, etc.
- Projected start and completion dates
- Time period of contract and what happens if an extension is needed
- Penalties for cutting unmarked trees
- Who pays the 3.22% West Virginia timber severance tax
- Provisions for sale assignment to others by buyer
- Arbitration clause for seller and buyer
- Utilization standards - tops, cutoffs, and stump heights
- Ownership of on-site residues
- Rights of sale inspection, suspension, ingress, and egress
- Protection from workers' compensation claims, liability lawsuits, and property damage claims
- Compliance with all federal, state, and local laws and regulations

- Names, addresses, phone numbers, and signatures of parties

Many other items can be placed in a contract, but these are the main ones. Other than having a well-written contract, satisfaction with on-ground results is usually higher if the woodlot owner inspects the property periodically. These inspections keep landowners from being surprised by end results. Inspections should be made with the forester and logging contractor during and after the harvesting.

Close the Sale

Finally, after the timber has been removed, you and/or the forestry consultant should make sure all points in the contract have been met. If a bond was posted by the buyer or logger, it can be released after all payments have been made and on-ground requirements have been met. Make sure all BMPs have been performed and that there are no problems with streams becoming silted or muddy from roads, trails, stream crossings, landings, etc. Seek assistance from a professional forester if you have any questions about compliance with the West Virginia Logging Sediment Control Act or West Virginia's BMPs. Remember this formula: proper planning + careful operational monitoring = satisfaction with results!

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