

## Safeguard Your Forest

By: Bill Worrell, Virginia Cooperative Extension

Surprise! Surprise! Surprise! These were not the actual words I said when I realized that someone who was cutting timber on my neighbor's property appeared to also be cutting timber on my property. Since I was worried, I decided to hike up the mountain to take a closer look. And yes, I found a man cutting my trees. I immediately told him to stop cutting because my trees were not for sale! The man said he just worked for the logger as a timber cutter and he was told to keep cutting until he got to the flagging that marked the boundary line. The timber cutter suggested that I go down to the log landing and talk with the logger.

I found the logger at the bottom of the mountain, but he was not happy when I told him he was stealing my trees. The logger said he purchased the timber from my neighbor, who had marked the boundary line with flagging near the top of the ridge. I informed him that the line my neighbor marked was wrong. I told him that the property line was the fence that my grandpa had built on the mountain about sixty years ago. We both walked up the mountain in search of the old fence and I was surprised I could not find it. Of course, since it was not being used, it hadn't been repaired or maintained for years. We found the flagging my neighbor had used to mark the property line, but it was in the wrong place. I told the logger to stop cutting trees in this area until we could determine the actual property line. I also asked him when he would be paying me for my trees, but he did not have an answer.



*The nature and extent of timber theft varies. Timber theft may be a clearcut of hundreds of acres of pine; or timber theft may be the removal of a single high-value hardwood log. This photo shows the latter, where an individual cherry tree was stolen. Photo by: Bill Worrell, VCE.*

I returned to my house and called my neighbor to tell him the line he marked was wrong. Then I called the state forester's office for advice. The local county forester told me that my property line had to be clearly marked in order for me to prove that someone was cutting and stealing my timber. I told him that Grandpa had built a fence on the property line back in the late 50's and that was good enough to mark the boundary line. The county forester suggested I contact a consulting forester for more help with this timber theft case. After going through the list of consulting foresters, I finally found someone who was willing to visit with me and to look over my timber theft case.

My consultant told me the first thing we had to do was locate the legal property line to prove that trees were cut on my property. We read over the deed description of the property and looked around in the woods for a couple of hours, but were unable to locate the exact property boundary. My consultant suggested I contact a surveyor to make sure the property line was where I thought it should be. So once again, I found myself calling a professional to ask for help in this timber trespass dispute.

I found a surveyor who came out and surveyed the property lines, and his price was high. Once the line was marked, it was clear that my neighbor had incorrectly marked his boundary lines. My consultant proceeded to determine the volume and value of the trees that had been taken from me. I contacted the logger and my neighbor and asked them to pay me for my trees, the cost of the survey, and the cost of the consultant. They were not happy with the amount I was asking them for and told me that was way too much money. So my next step was to make a phone call to yet another professional, an attorney.

As it turns out, Virginia does have a timber theft law which was revised in 2004, making it easier for victims to win cases. Landowners who have had their timber stolen can file either criminal or civil charges. Criminal cases are more difficult to win, so most landowners pursue civil charges. Landowners who have their timber intentionally stolen are entitled to up to three times the stumpage value of the trees that were cut, plus reforestation costs (not to exceed \$450/acre) and the cost of hiring a consultant. However, even if a landowner wins the case, it is his or her responsibility to collect the money.

In my case, the timber theft wasn't malicious, but a result of poorly marked boundary lines, so my attorney's recommendation was to file a civil suit against my neighbor and the logger for the value of the timber stolen and additional damages to my property. I was not happy about having to pay a lawyer to fight these guys in court, so I decided to visit with my neighbor and the logger once more before filing suit. And that was a good move on my part because they finally decided to pay me for my trees once they saw I was going to take them to court.

So, in the end, I did receive payment for the value of my trees. But what did the entire process really cost me? Countless phone calls to foresters, consultants, surveyors, attorneys and to the logger and my neighbor, and months of my time. I wonder what it would have cost me to maintain the boundary lines over the years. If only I had painted trees along the fence that Grandpa built to maintain the property line, I might have been spared all this trouble and surely would have been spared the cost of that survey.

Fellow landowners, don't let this happen to you. In the next edition of the *Virginia Forest Landowner Update*, find out how to locate and mark your boundary lines to help protect your timber assets. But in the meantime, what do you do if you notice someone is cutting your timber illegally?

- Nicely ask them to stop cutting your trees. If they don't,
- talk to the owner of the logging operation. If that doesn't stop them,
- talk to the landowner that gave them permission to cut the trees. If that doesn't work,
- call the Sheriff's office to report theft. And if they are still cutting your trees,
- call your attorney.

For more information about timber theft:

- Dealing with Timber Theft: <http://pubs.ext.vt.edu/420/420-136/420-136.html>
- Prevent Timber Theft: <http://www.dof.virginia.gov/mgt/print/Prevent-Timber-Theft.pdf>
- Virginia Code: <http://leg1.state.va.us/000/src.htm> (click on Table of Contents, Title 55, Chapter 18, Sections 55-331, 55-332, 55-334, 55-334.1)

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