

Timber Theft

Paul Hetzler

Only the crunch of gravel mars the predawn quiet as a truck, headlights off, rolls to a stop. Working quickly, professional bandits round up your unsuspecting timber. As your herd of prized trees is prodded toward the tailgate ramp, their soft mewling is barely audible amidst the rustling...

While it does at times parallel cattle rustling – what with skilled thieves spiriting away a few exceptionally valuable trees in an early-morning or weekend raid – timber theft encompasses more than outright banditry. How much more, exactly, is a matter of debate.

There are certainly clear-cut (so to speak) instances of theft of valuable trees, as is happening at an ever-increasing pace on Vancouver Island's Crown land. At the other side of the spectrum, many foresters would say that every timber sale not conducted by an honest forester is theft. All agree, though, that this crime is a theft that keeps on taking: it can undo years of good management, and require decades for recovery.

Forest owners need to learn how to protect themselves against the many faces of timber theft. In a strict legal sense, timber theft is the removal of trees without the landowner's knowledge and consent, à là timber rustling. Breach of contract is also theft, although except in rare cases where the buyer uses an alias or knowingly passes a bad check, it's a matter for the civil courts.

If a timber buyer pays a fraction of the value to a landowner who doesn't know any better, it's only considered theft if the seller is compromised by age, illness or dementia. Again, it's usually a civil matter. Otherwise, deception is either an ethical and moral offense or good business practice, depending on one's point of view.

It seems fair to ask how a shoplifter can get nabbed for pocketing a pack of gum but a group of chainsaw-wielding crooks with heavy equipment can make off with thousands of board feet of timber without attracting attention. Timber theft is easier than most people imagine. The setting is nearly always rural, frequently remote, and the owners often live elsewhere. High-value hardwoods are especially enticing. Black cherry, sugar maple, red oak and walnut are among the most sought-after species out East.

The more valuable the goods are, the more they need watching. Store owners take inventory, but who's minding shop in our forests? Absentee owners need to be especially vigilant about marking boundaries, blocking access points, visiting often, and keeping in contact with owners of adjacent properties.

Sometimes thieves "tunnel" in from an adjacent property where they may have a harvest contract. The best protection against this type of stealth robbery is to have extremely well-marked boundaries. While it's hard to say how many trespass thefts are deliberate, the consensus among professionals is that most are not.

When dealing with theft, landowners should refuse payment for stolen timber. This may seem counterintuitive, but accepting *any* money will shift the issue from criminal to civil jurisdiction. It may even spoil the chances of a civil settlement as well. If a logger

approaches an absentee landowner with an apology and a check for “accidentally” cutting a few trees on his or her land, that logger can now go back and harvest the rest of that parcel with impunity. Victims of timber theft should immediately contact Law Enforcement.

When it comes to violating contracts, the police aren't going to help you resolve disputes over vague language in the contract. Unclear wording, removal of unmarked trees, failure to pay in full, and neglecting to put erosion controls in place following the sale are but a few of the ways landowners can be defrauded. It's best to proceed slowly, get input from professionals, and double-check communications. Hire a forester to look through the contract, as well as to manage your timber sale, to help avoid breach of contract.

That isn't to say that having a forester guarantees the desired outcome. When foresters work on a percentage basis, some will be tempted to forego best management practices in favor of value. Ideally, fees should be based on an acreage or hourly basis instead of a percentage of sales revenue.

Regarding deception, is it theft or good business practice? Almost any professional forester would say it's theft. An old forester told me years ago that forest owners and managers need to get back to silviculture and away from “silverculture,” or short-term gain at the expense of long-term productivity.

To prevent timber theft, we must challenge our complacency as landowners about our vulnerability, challenge public officials to be more responsive in pursuing theft, and challenge the short-sightedness of “good business practices” that undermine our long-term well being. And we need to get out in our woodlots more often, especially when the leaves are on, so we can listen to the gentle rustling.

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