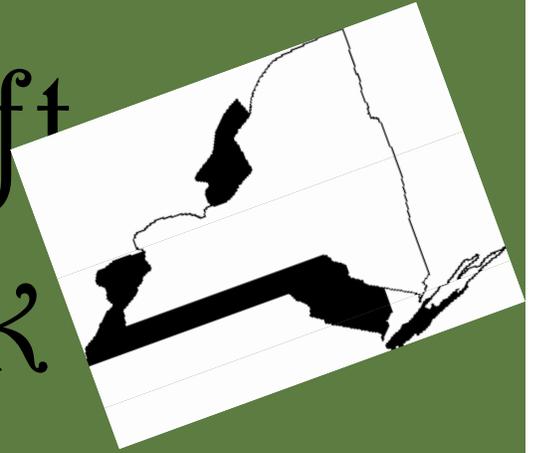


Timber Theft in New York



A Legislative Briefing



Final Report

Sponsored by the NYS Legislative Commission on Rural Resources

Senator George H. Winner, Jr., Chairman
Assemblyman David Roon, Vice-Chairman

2008

NYS Legislative Commission on Rural Resources

Senator George H. Winner, Jr., Chair

Legislative Office Building
Albany, NY 12247
Tel.: (518) 455-2544
Fax: (518) 426-6960
E-mail: ruralres@senate.state.ny.us

Senate Commission Members:

Mary Lou Rath
William T. Stachowski
David J. Valensky

Assemblyman David Koon, Vice-Chair

Agency Building 4, 12th Floor
Albany, NY 12248
Tel.: (518) 455-3999
Fax: (518) 455-4175

Assembly Commission Members:

Barbara S. Lifton
James Bacalles
Daniel J. Burling

Timber Theft in New York

Final Report on a
Legislative Briefing
held on April 14, 2008

Sponsored by the NYS Legislative Commission on
Rural Resources

Table of Contents

Foreword.....	Page i
Introduction.....	Page v
Legislative Actions.....	Page 1
Actions by Other States to Address Timber Theft.....	Page 4
Forum Findings.....	Page 5
Continue/Enhance Data Gathering on Timber Theft.....	Page 7
Training Needed.....	Page 7
Requirements Placed on Loggers, Mills, Brokers, Harvesters, and Land Owners.....	Page 8
Reporting/Publicizing Timber Theft and Victim Resources..	Page 9
Corrections or Updates to Current New York Law.....	Page 9
Protect the Timber Industry and Honest Loggers.....	Page 10
New Technologies and New Ideas.....	Page 10
Summary/Next Steps.....	Page 11
Appendices:	
A. List of Timber Theft Forum Participants.....	A-1
B. Summary of NYS Timber Theft Laws.....	B-1
C. Timber Theft Laws in Other States.....	C-1
D. Timber Theft Survey.....	D-1
E. Recent Timber Theft Newspaper Accounts.....	E-1

Foreword

Foreword

Recent changes in state timber theft laws have been beneficial and well received by the public, timber landowners, professional foresters, industry and government officials. Still, it is believed by many that further steps are needed, and that the newly enacted laws address only part of the problem, with timber theft continuing to plague our valuable timber



resource base, as recent high profile news media accounts and surveys of timber theft attest.

All major stakeholders – landowners, loggers, mills, law enforcement and judicial officials, associations, state agencies and the legislature – are invited to participate in identifying additional, innovative solutions to this problem. In many instances, law enforcement has failed to place a reasonable priority on timber theft. In others, landowners don't have well marked boundaries or solid contracts for the sale of timber. Loggers are not always bonded or mills and timber buyers do not always verify the legality of their gate wood.

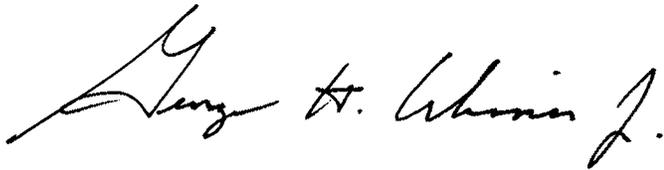
Timber organizations also share responsibility for helping combat timber theft. Such organizations have partnered in collecting information and informing their members of best practices to prevent timber trespass. Their participation in the legislative forum held in April 2008 demonstrates a desire to come together and address timber theft with workable solutions.

We wish to sincerely thank the following individuals and groups who have been invaluable in giving of their time and expertise to this issue: Senator Elizabeth O'C. Little, Assemblyman William Magee, the NYS Department of Environmental Conservation, the NY Association of Towns, and NY Association of Counties, the NY Planning Federation, New York Farm Bureau, Adirondack Council, Cornell Cooperative Extension, NY Forest Owners Association, Empire State Forest Products Association, Northeastern Loggers Association, the American Society of Professional Foresters, and numerous individual forest owners, loggers, foresters and mills.

Foreword

While it is unlikely solutions will be easily found, we remain committed to helping curb abuses of our valuable forest resources which are vital to New York's economy and environment, and invite the readers of this report to do the same.

We look forward to a productive collaboration with the groups mentioned above, and to a renewed commitment to making New York a leader in protecting our forest resources.



George H. Winner, Jr.
Chairman



David Koon
Vice Chairman



Introduction

Introduction

Introduction

On April 14, 2008, a legislative briefing to address timber theft in New York was held in the Legislative Office Building in Albany, New York. Sponsored by the New York State Legislative Commission on Rural Resources, the half-day forum brought together forest owners, loggers, mills, organizations, state agencies and legislators to discuss proposals to further curb timber theft. A full list of the participants is found in *Appendix A*.

The purpose of the forum was to review current timber theft laws in New York and in other states to recommend potential additional public and private actions that may be taken to assure owners of forest land, sellers, purchasers and processors that New York's timber resource will not be compromised by the actions of a few.

A survey was conducted in 2007 by a coalition of 16 different organizations on the issue of timber theft and the results were released in September of 2007. The purpose of the survey was to determine if timber theft remained a problem requiring additional attention and action. The survey found that timber theft continues as a serious problem, with victims rarely able to recover their losses. Those who commit timber theft are seldom required to make restitution, because law enforcement is inconsistent and frequently ineffective. Even when timber thieves are convicted, they often have no assets to attach.¹



¹ See the survey in *Appendix D*. Also note the "recent newspaper accounts" summary of timber theft cases in New York which was compiled by the Legislative Commission on Rural Resources and is shown in *Appendix E*.

Introduction

New York's valuable timber resources are well worth protecting. According to a publication from the North East Foresters Association from August 2007 (*"The Economic Importance and Wood Flows from New York's Forests"*):

- 18.46 million of New York's 30.22 million acres is forest land.
- The state's forest-based manufacturing economy provides employment for over 50,000 people and forest related recreation and tourism provides employment for over 14,000.
- New York landowners received estimated stumpage revenue of over \$300 million in 2005.
- In addition, our forests and trees provide biological diversity, natural communities, wildlife habitat, scenic landscapes and recreational opportunities.
- Timber continues to be of great value to our state as well as to individual owners.
- The mill price for a black cherry tree is currently \$850 per thousand board feet, for a sugar maple, \$475 per thousand board feet and for a red oak \$380 per thousand board feet.



Legislative Actions

Legislative Actions

Legislative Actions

Recent Legislative Actions to Address Timber Theft in New York:

The Legislative Commission on Rural Resources held a series of public hearings on timber theft in 2002 and that same year, formed an advisory group with representatives from landowners, loggers, mills, professional foresters, state and local agency officials and law enforcement professionals. The advisory group made several legislative recommendations to combat timber theft, most of which were included in bills introduced in the state legislature in 2003.

In 2003, legislation was passed (Chapter 602 of the Laws of 2003 sponsored by Senator Betty Little and Assemblyman Bill Parment) updating the penalties for timber theft which had not been updated in many cases since 1910. The 2003 legislation amended the real property actions and proceedings law, the environmental conservation law and the public lands law to make penalties for timber theft consistent at treble the stumpage value, \$250 per tree, or both, plus a requirement to restore lands damaged in the course of a timber theft.

Under the new law, if a defendant can establish by “clear and convincing evidence” that he had a good reason to believe he or she was properly on the land harvested, the defendant would have to pay single damages rather than treble damages, plus the legal and other costs to the victim of maintaining the action. The 2003 legislation also established timber theft as a class A misdemeanor, under the Environmental Conservation Law. The new law also contained a right to practice forestry component which allows DEC to comment on local laws and ordinances which might unreasonably restrict the practice of forestry. Essentially, the 2003 legislation shifted the responsibility from the victim to the defendant to prove that trespass was not intentional. The new law also included an educational and training component aimed at making judicial and law enforcement officials more aware of timber theft.

In 2007, Senator Winner was successful in getting \$30,000 included in the state budget to jump start an education program at DEC for the purpose of putting together a training curriculum and strategy to raise awareness among judicial and law enforcement officials of the importance of combating timber theft and putting it on an equal footing with other property related crimes. The Commission on Rural Resources also published a summary of New York state laws currently available to combat timber theft. That summary is contained in *Appendix B*.



Legislative Actions

Actions By Other States to Address Timber Theft:

The Legislative Commission on Rural Resources as well as other organizations interested in controlling timber theft, have researched related laws in other states that seem to have curbed timber theft (*See Appendix C*). At the April 2008 legislative forum, the laws of neighboring Massachusetts and Connecticut were specifically mentioned by participants who had experience with them, because of their proximity to New York. The states have forester/harvester licensing or certification processes which New York does not have.

Other notable actions by states that relate to forum discussions include Louisiana where the Department of Agriculture and Forestry maintains a central registry of information on timber theft. Florida, Ohio, Tennessee and Virginia allow for stamping, branding or trademarking logs. Timber buyers in Iowa are required to obtain surety bonds. In Minnesota, the state may offer a reward for information leading to the apprehension of timber trespassers on state land. Such state laws will continue to be examined in depth, along with other options that have been raised.



Forum Findings

Forum Findings

Forum Findings

Forum Attendees' Suggestions for Combating Timber Theft:

The legislative forum allowed for give and take and tapped a genuine desire on the part of all participants to prevent timber theft within the context of shared responsibility by major stakeholders; including landowners, loggers, mills, law enforcement officials, state and local agencies and elected officials.

Following is a list of what participants perceived to be the top suggestions or concerns expressed at the forum.

1. Need to Continue/Enhance Data Gathering on Timber Theft

- The 2007 Timber Theft Survey by a coalition of forest interests pointed out that timber theft in New York remains a problem despite recent legislation. (*See Appendix D.*) Efforts should be devoted to developing an ongoing, readily accessible data base on timber theft. (*See Louisiana's central registry of information relating to timber theft.*)

2. Training Needed

- Training for law enforcement officials on timber theft is critical if it is to be successfully prosecuted. Such efforts need to be stepped up. (Louisiana Department of Agriculture and Forestry assists all law enforcement agencies in timber theft investigations and violations.)

- Convince law enforcement to put timber theft on a level playing field with other types of crimes, in terms of how seriously it is treated. No other crime requires victims to conduct and even finance their own investigation. Although timber theft is a crime, district attorneys, law enforcement officials and judges don't always treat it this way.

- Landowners also need to be educated as to how to protect their valuable timber resources from trespass by properly marking their boundaries, getting to know their neighbors, developing "neighborhood watches" and otherwise safeguarding their timber lands. (Arkansas requires boundaries to be surveyed or a written agreement as to boundaries from adjoining landowners prior to any timber cutting.)

- Marking of trees to be harvested should be done routinely. (Several states allow for the branding or stamping of trees or logs as evidence of ownership.)

- Written contracts should be used so that landowners are protected and fewer errors occur. In the contract, both the landowner and the logger should acknowledge the sale area. The landowner would be liable for any errors in the marking of the boundary and the logger would be liable for any logging outside the designated or marked sales area. Draft model contracts should be developed. (See laws for Arkansas, Oklahoma, Tennessee and Texas.)

Forum Findings

2. Training Needed

- Land surveys are expensive. To encourage landowners to survey their property, make financial or other incentives available.
- Update cooperating harvester and consulting forester programs.

3. Additional Requirements Placed on Loggers, Mills, Brokers, Harvesters and Land Owners

- Logger registration, which is done in other states, would enhance the professionalism of loggers and help to keep the relatively small number of thieves out of the “logging business” in New York. (A logging license is required to practice forestry in Massachusetts and West Virginia.)
- Along with registration of loggers, log slips should be used consistently by timber brokers and mills. The slips should include the logger’s registration number and the number of the contract executed between the landowner and logger. (Georgia and South Carolina require wood load tickets prior to removal of timber from any property; Oklahoma requires harvesters to maintain written bills of sale and mill operators to maintain evidence of ownership for three years.)
- Require mills to get affidavits from sellers verifying that they own the logs they are selling. (Utah requires proof of ownership prior to harvesting or transporting forest products; Tennessee sawmill owners and other purchasers of timber must obtain and keep evidence of ownership from sellers for one year.)
- Require that a cutting plan be filed prior to any timber harvesting. (Required in California, New Hampshire and West Virginia, and a number of local governments in New York.)
- Require notification of adjoining landowners prior to any timber harvesting. (In Oklahoma, written notification to adjoining landowners must be made prior to any harvesting, unless the property line is clearly established.)
- Require mills to maintain a “bill of sale log book” for a specified period of time, which could provide at least a starting point for law enforcement in the event of a timber theft. (See laws for Georgia, South Carolina and Oklahoma.)

Forum Findings

4. Reporting and Publicizing of Timber Theft and Victim Resources Needed

- Educate the public on the roles of the DEC, the Attorney General, the state police and local law enforcement when a timber theft occurs. Many landowners and even law enforcement officials themselves do not know who to call or what to do in the event of a timber theft. Publicize DEC's enforcement number. (See Louisiana's central registry of information relating to timber theft that is maintained by its Department of Agriculture and Forestry.)
- The reporting of all timber theft must be encouraged. Timber thefts currently go unreported because of the feeling on the part of victims that nothing can be done. A standard form or system for the reporting of timber theft throughout the state needs to be developed so that the scope of the timber theft problem can be documented and tracked. Establish one place where victims of timber theft can report such theft events, which can serve as a clearing house for timber theft information. (South Carolina's Forestry Commission has a website with information and a number to call in the event of a timber theft).
- Publish or make known the names of "bad apples" in the timber industry. The same people continue to commit timber thefts because the consequences are small and their identities are unknown by unsuspecting victims or law enforcement officials. Publicize cases of successful prosecution of timber theft.
- Consider the possibility of an interdepartmental task force to address timber theft and coordinate solutions. (Louisiana's Department of Agriculture and Forestry assists law enforcement in the investigation of timber thefts.)

5. Corrections or Updates to Current New York Law Needed

- Explore whether there are impediments which restrict the prosecution of timber theft in New York.
- Timber theft laws are scattered into many different sections under New York law. Codifying the timber theft laws into one place would make for easier reference and understanding.
- Put timber theft in the New York criminal code.
- Allow for increased recovery of costs for victims of timber theft. (Note: Under current law, legal and other related costs are recoverable along with single damages in the case of the mistaken taking of trees, but not for the intentional theft of trees where treble damages are recoverable, since the treble damages are expected to cover such costs). (In Kentucky, property owners may recover three times the cost of damage to property as a result of a timber theft; in New Hampshire the penalty for timber theft is "no less than 3 and not more than 10 times the market value of the timber stolen.")

Forum Findings

6. Protect the Timber Industry and Honest Loggers

- Requirements for loggers should be enacted on a statewide level and not as a patchwork of local timber laws and ordinances, which can have a chilling effect on the industry. Strengthen right to practice forestry laws. The industry as a whole needs protection and support and honest loggers should not be made to pay for the crimes of a handful of thieves and repeat offenders. (In Connecticut, municipal regulation of forest practices are reviewed and approved by the state Department of Environmental Protection, and in Georgia, local timber ordinances must comply with certain state requirements.)
- The current laws in New York on timber theft are much improved, but are not being used consistently or effectively across the state. Be cautious about adding new requirements before giving existing statutes a chance to work.

7. New Technologies and New Ideas

- Look into modern technologies or the insurance industry to help prevent timber theft, obtain restitution for victims, or proof required to prosecute thieves, such as DNA.
- Continue to explore other states and examine successful methods in combating timber theft.

Summary

Summary

Next Steps:

Using the suggestions and perceived concerns expressed above as a starting point, the next step is to pull together a smaller group of participants from among those who attended the forum, and review alternative legislative and non legislative actions and strategies to curb timber theft. Options include the drafting of study bills or legislation and encouraging forest resource organizations and agencies to address non legislative actions.

Timber theft continues to plague New York's forest owners and won't go away easily. With a group of dedicated participants working on the problem however, strategies and solutions to curb this frequently neglected crime can be found. Organizations including the New York Forest Owners Association, Empire State Forest Products Association, New York Society of American Foresters, and the New York State Timber Producers, New York Farm Bureau and Northeastern Loggers Association have a responsibility to educate members and support steps to curb timber theft. State and local government agencies have the responsibility to pursue timber thieves as they do other criminals, giving timber theft crimes a much higher priority.



Appendix A

List of Timber Theft Forum
Participants

NYS Legislative Commission on Rural Resources Forum Addressing Timber Theft in New York List of Participants, April 2008

Senator George H. Winner, Jr., Chair, NYS Legislative Commission on Rural Resources
Assemblyman David Koon, Vice Chair, NYS Legislative Commission on Rural Resources

Moderator: Eric Johnson, Editor, Northern Logger magazine

Presenters: Sam Creech, NY Timber Producers Association
Jonathan Follender, Esq.
David Gaskell, NY Forest Owners Association
Mike Hanlon, Cotton-Hanlon, Inc.

Legislative Staff:

Teresa Rossi, Senator Winner's Office
Rebecca Marino, Senator Little's Office
Cristina Nowak, Assemblyman Magee's Office

Legislative Commission on Rural Resources Staff:

Ron Brach, Sheila O'Sullivan, Bob Stern, Don Walsh, and Christina Williams

DEC Staff:

Jerry Andritz, Christian Ballantyne, Ken Bruno, McCrea Burnam, Maureen Coleman, Ken Hamm, Anthony London, and Bruce Williamson

Association Staff:

Corey Auerbach, Association of Towns
Tom Bodden, NY Planning Federation
Matt Hobart, NY Farm Bureau
Scott Lorey, Adirondack Council
Peter Savage, NYS Association of Counties

Industry Representatives:

G. Robert Baker, G. Robert Baker
Hugh Canham, Professor emeritus, SUNY ESF
Walter Chandler, Walter Chandler Forestry Services
Tom Gerow, Wagner Lumber Company
Michael Greason, Consulting forester
Rynard Gundrum, Gundrum Lumber
Mark Mowrey, Baillie Lumber, Co.
Ron Pedersen, NY Forest Owners Association
John Sullivan, NY Forest Owners Association
Marilyn Wyman, Cornell Cooperative Extension, Agriforestry Resource Center

Appendix B

Summary of NYS Timber
Theft Laws

SUMMARY OF NEW YORK'S TIMBER TRESPASS LAWS

A. Real Property Actions and Proceedings Law

§861. Action for cutting, removing, injuring or destroying trees or timber and damaging lands thereon.

1. If any person, without the consent of the owner thereof, cuts, removes, injures or destroys, or causes to be cut, removed, injured or destroyed, any underwood, tree or timber on the land of another or on the common or other land of a city, village, town or county, or damages the land in the course thereof, an action may be maintained against such person for treble the stumpage value of the tree or timber or two hundred and fifty dollars per tree, or both, and for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.

2. In any action brought pursuant to subdivision one of this section, if the defendant establishes by clear and convincing evidence, that when the defendant committed the violation, he or she had cause to believe the land was his or her own, or that he or she had an easement or right of way across such land which permitted such action, or he or she had a legal right to harvest such land, then he or she shall be liable for the stumpage value or two hundred and fifty dollars per tree, or both and reasonable costs associated with maintaining an action pursuant to this section. In such case, the defendant shall also be liable for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.

This section allows for a civil action for the taking of trees from forest lands, and for damages of treble the stumpage value or \$250 or both. Also requires restoration of lands damaged by the theft.

If defendant proves by “clear and convincing evidence” that defendant believed he or she was on defendant’s own land or had an easement or other legal right to the timber, then damages limited to stumpage value or \$250 or both as well as recovery for damage to the land and reasonable cost.

Appendix B

A. Real Property Actions and Proceedings Law

3. For the purposes of this section “stumpage value” shall mean the current market value of a tree as it stands prior to the time of sale, cutting, or removal. Stumpage value shall be determined by one or more of the following methods: the sale price of the tree in an arm’s-length sale, a review of solicited bids, the stumpage price report prepared by the department of environmental conservation, comparison with like sales on trees on state or private lands, or other appropriate means to assure that a fair market value is established within an acceptable range based on the appropriate geographic area.

“Stumpage value” is defined in the statute.

B. Environmental Conservation Law

§9-0303. *Restrictions on use of state lands.*

In order to protect the state lands described in this article the following provisions shall apply:

1. Trees or timber. Except as provided in subdivision 2 of section 9-0107 and in sections 9-0501 through 9-0507 of this article no person shall cut, remove, injure, destroy or cause to be cut, removed, injured or destroyed any trees or timber or other property thereon or enter upon such lands with intent to do so.

Provides protection for trees on state lands.

§9-1501. *Removal of trees.*

No person shall cut, pull or dig up for the purpose of removal, injure or destroy or cause to be so removed, injured or destroyed, any tree on the lands of another without consent of the owner. Any peace officer, acting pursuant to his or her special duties, or police officer may enforce the provisions of this section.

Protection for trees on private lands under the Environmental Conservation law.

§71-0703. *Penalties.*

In order to secure the enforcement of the several sections of article 9 the following fines and civil penalties are provided:

5. In addition to any prosecution as provided under article one hundred fifty-five of the penal law, any person who violates subdivision 1 of section 9-0303 or section 9-1501 of this chapter except where the lawful exercise of an easement or right of way on land not owned by the state is involved shall be guilty of a class A misdemeanor. Upon conviction, such person shall be sentenced to a fine and/or imprisonment as provided in the penal law.

This section provides the civil penalty for removal of trees under the Environmental Conservation law. Parallels the penalties provided under §861 of the Real Property Actions and Proceedings law, and also provides a class A misdemeanor criminal penalty.

B. Environmental Conservation Law

6. (a) In addition to any other penalty provided by law, any person who violates subdivision 1 of section 9-0303 of this chapter shall be liable to a civil penalty of two hundred fifty dollars per tree or treble damages, based on the stumpage value of such tree or both. Where the order or decision finds that the defendant established by clear and convincing evidence, that when such defendant committed the violation, he or she had cause to believe that the land was his or her own, or that he or she had an easement or right of way across such land which permitted such action, damages shall be awarded on the basis of the stumpage value of such tree or trees in the market as if they were privately owned. Notwithstanding the foregoing, this section shall not be construed to authorize the cutting of timber or removal of trees where such action would otherwise be violative of any provision of the state constitution or law.

(b) In addition to any other penalty provided by law, a person who violates section 9-1501 of this chapter shall be liable for a civil penalty of two hundred fifty dollars per tree or treble damages or both, based on the stumpage value of such tree or trees. Where the order or decision finds that the defendant established by clear and convincing evidence, that when such defendant committed the violation, he or she had cause to believe that the land was his or her own or that he or she had an easement or right of way across such land which permitted such action, damages shall be awarded on the basis of the stumpage value of such tree or trees. Notwithstanding the foregoing, this section shall not be construed to authorize the cutting of timber or removal of trees where such action would otherwise be violative of any provision of the state constitution or law.

(c) For purposes of this subdivision, "stumpage value" shall mean the current market value of a tree as it stands prior to the time of sale, cutting, or removal. Stumpage value shall be determined by one or more of the following methods: the sale of the tree in an arm's-length sale, a review of solicited bids, the stumpage price report prepared by the department of environmental conservation, comparison with like sales on trees on state or private lands, or other appropriate means to assure that a fair market value is established within an acceptable range based on an appropriate geographic area.

Defines stumpage value in the Environmental Conservation law and is identical to the definition in the Real Property Actions and Proceedings law.

Appendix B

B. Environmental Conservation Law

7. In addition to the penalties otherwise provided, any person who violates any of the provisions of subdivision 1 of section 9-0303 or section 9-1501 of this chapter may be ordered by the commissioner or the court to make reparations for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of a monetary payment to make such restoration.

C. Public Lands Law

§9. *Penalty for trespass.*

Every person who shall trespass upon Indian lands or any lands belonging to the state or under the general care and superintendence of the commissioner of general services, any lands belonging to the state which are under the jurisdiction of any other state agency, department, board, officer, commission, institution, public authority, public benefit corporation, or bi-state agency, by cutting, removing, injuring or destroying trees growing thereupon, shall, for every such offense, forfeit to the people of the state the sum of two hundred fifty dollars per tree or treble damages or both, based on the stumpage value, as defined in paragraph (c) of subdivision six of section 71-0703 of the environmental conservation law, of such tree or trees, and shall be liable for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.

The Attorney General may enforce this provision making a defendant liable for \$250 per tree or treble damages or both, and for restoration of damaged land, for trees taken from Indian lands or lands under the jurisdiction of the state. Parallels language in both the Real Property Actions and Proceedings law and the Environmental Conservation law.

D. Penal Law

§155.05. Larceny; defined.

1. A person steals property and commits larceny when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof.

§60.27. Restitution and reparation.

12. If the offense of which a person is convicted is defined in section 155.25, 155.30, 155.35, 155.40 or 155.42 of this chapter, and the property taken is timber, the court may upon conviction, in addition to any other sentence, direct the defendant to pay the rightful owner of such timber an amount equal to treble the stumpage value of the timber stolen as defined in section 71-0703 of the environmental conservation law and for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.

Local District Attorneys may prosecute a timber thief for larceny under the Penal law, but must prove the defendant was intentionally on land not his own and was not simply mistaken as to a boundary or as to who owned the trees taken.

Penal Law:

§155.25: larceny of any property
(class A misdemeanor)

§155.30: larceny of property over \$1,000
(class E felony)

§155.35: larceny of property over \$3,000
(class D felony)

§155.40: larceny of property over \$50,000
(class C felony)

§155.42: larceny of property over one million dollars (class B felony)

When timber is taken the defendant may also be required to pay treble the stumpage value and reparations for damage to the land. Makes the penalties under the Penal law identical to those under the Real Property Actions and Proceedings law and the Environmental Conservation law.

Appendix C

Timber Theft Laws in Other
States

Appendix C

ARKANSAS CODE	Boundary must be surveyed, or written agreement from adjoining landowners indicating location of boundary obtained, prior to any timber cutting; violation is a misdemeanor punishable by up to 6 months in jail and \$25 to \$300 per offense.
CALIFORNIA CODE	Timber harvesting plan required prior to any timber cutting. Timber operator's licenses required.
CONNECTICUT CODE	Mandatory certification process for foresters; \$5,000 fine for violations of certification law. Municipal regulation of forest practices are reviewed and approved by the state Department of Environmental Protection
FLORIDA STATUTES	Allows use of stamp or brand on logs which is prima facie evidence of ownership.
GEORGIA CODE	Wood load tickets required before any harvested timber removed; failure to comply is a misdemeanor. Local timber ordinances must comply with certain state requirements. Local ordinances may require a bond prior to a timber harvest. Requirements for the sale of timber marking paint.
IDAHO STATUTES	Receiving stolen lumber is a misdemeanor. (It may be a felony under New York penal law depending on the value of the timber.) Special timber license plates available; portion of proceeds may be used by the state board of land commissioners to raise awareness of forest resources and need for conservation.
ILLINOIS COMPILED STATUTES	Proof of ownership needed to transport logs.
IOWA CODE	Timber buyers must have surety bonds; Bond may be forfeited if timber is transported without written proof of ownership.
KENTUCKY REVISED STATUTES	If there is property damage as a result of a timber theft, property owner may recover three times the cost of the damage to the property.
LOUISIANA REVISED STATUTES	Department of Agriculture and Forestry maintains central registry of information relating to timber theft and assists all law enforcement agencies in investigations and violations. Must maintain records of origin and ownership prior to transporting or receiving forest products; civil penalty of not more than \$5,000 per day.
MAINE REVISED STATUTES	License required to practice forestry.

Appendix C

GENERAL LAWS OF MASSACHUSETTS	License required to practice forestry; fine of \$500-\$1,000 for practicing forestry without a license. Certified mail or hand delivered written notice to abutters required prior to beginning any cutting operation. Division of Forests and Parks issues work orders which must be posted on harvest sites; \$100 fine for violations.
MINNESOTA STATUTES	State may offer a reward for information leading to the apprehension of timber trespassers on state lands. Reward is limited to \$100 or ten percent of the stumpsage value of any timber cut or removed.
NEW HAMPSHIRE REVISED STATUTES	Notice of intent to cut must be filed prior to timber harvesting. Penalty for timber theft is no less than 3 and not more than 10 times the market value of the timber stolen. Timber trespass is a class B felony if the loss of timber is greater than \$1,000. Must be licensed to practice forestry for compensation. Education, promotion and planning program regarding the state's forest resources includes the designation of a yearly, forest conservation week.
OHIO LAWS AND RULES	Timber dealers may adopt a trademark which may be stamped on timber as evidence of ownership; penalties for fraudulent or unauthorized use of a trademark or defacing of a trademark.
OKLAHOMA STATUTES	Written notification to adjoining landowners must be made prior to harvesting unless property line is clearly established; failure to comply is a misdemeanor. Harvesters must maintain written bills of sale, contracts or deeds; mill operators and purchasers must maintain evidence of ownership for 3 years.
SOUTH CAROLINA CODE OF LAWS	Wood load tickets required prior to removal of timber from any property. Misdemeanor penalty for failure to follow this section. Forestry Commission web site with tips on avoiding "timber transaction crime" and a number to call in the event of a timber theft. For timber thefts in excess of \$5,000, equipment used in a theft and owned by the thief, may be confiscated and forfeited to the jurisdiction where the theft occurred. After a hearing and upon conviction, equipment may be sold with proceeds given to victim(s), subject to any liens or encumbrances. (NY forfeiture laws more severe).

Appendix C

TENNESSEE CODE UNANNOTATED	<p>Allows for timber branding, and makes it unlawful to obliterate or destroy a brand.</p> <p>Landowners who allow timber harvesting on their property, may be jointly liable for damages for timber theft if they incorrectly marked or designated a boundary.</p> <p>Sawmill owners and other purchasers of timber must obtain evidence of ownership from sellers; such evidence must be kept for one year.</p>
TEXAS CODE	<p>Bill of sale required before trees or timber may be purchased; failure to do so is a misdemeanor.</p> <p>Landowners allowing timber harvesting may be jointly liable for timber theft, along with harvesters, if timber is taken from another landowner without permission.</p>
UTAH CODE	<p>Proof of ownership is required prior to harvesting or transporting forest products.</p> <p>Law enforcement officers may seize timber when ownership cannot be proven.</p>
CODE OF VIRGINIA	<p>Use of brand on timber is evidence of ownership.</p>
WEST VIRGINIA CODE	<p>Timbering licenses required before any person may conduct timbering operations (exceptions for removal of trees from one's own land and for removal of trees in any one year with a value under \$1,528); Timber harvesting notification to the Department of Agriculture required prior to cutting. civil and criminal penalties for failure to comply.</p> <p>Timbering operations enforcement fund used to enforce licensing and notification requirements.</p> <p>State officials have right of entry on any property to make inspections and ensure timber licensing and prior notification requirements are complied with.</p>

*This summary was prepared by the Legislative Commission on Rural Resources and includes a sample of statutory provisions to control timber theft in the laws of states outside New York. Commission staff found considerable overlap among states in regard to some provisions. However, except in a few instances, the sample list only mentions a statutory provision once, even though it may have been included in the codes of more than one state.

Appendix D

Timber Theft Survey

Timber Theft in New York Findings from Questionnaires and Suggested Further Actions

OVERVIEW:

The illegal harvesting of trees in New York is a serious issue. Returns from a questionnaire distributed by the partnering organization listed below and informal interviews underscore the continuing landowner and societal damage wrought by timber thieves. Landowners are damaged, the majority of loggers are tarnished by the few, sawmills are at risk of accepting stolen goods, and the forest resource of New York suffers from unplanned harvests which ignore prudent management, sustainability, and environmental safeguards.

In examining timber trespass and theft, it is clear that thieves often enter a victim's property by way of a neighbor's land, target absentee owners, and cut only the best trees, diminishing the productivity of the woodlot for generations to come. Others may offer a vague contract to an owner, but then cut more trees than agreed upon, pay less than agreed, or in some cases, not pay at all.

Victims report that they are rarely made whole following a theft. Law enforcement is inconsistent and often ineffective, despite the efforts of enforcement agencies and the courts. The identity of the thief may never be known, and even if caught, brought to trial and found guilty, may well be "judgment proof" with no assets for the court to attach for fines or restitution.

Suggestions are offered to seriously limit timber thefts, some involving regulation, several pointing to increased education and understanding. No single action is seen as a panacea, nor is only one party at fault. Landowners, timber buyers and harvesters, enforcement and judicial personnel, foresters, lawyers and surveyors, as well as government and non-government organizations must play a role in arresting timber theft.

New York Society of American Foresters
New York Forest Owners Association
Audubon New York
NYS Timber Producers Association
Empire State Forest Products Assoc.
Catskill Landowners Association
NY Institute of Consulting Foresters
Watershed Agricultural Council
Catskill Forest Association
Tug Hill Resources Investment for the Future
Adirondaek Landowners Association
Northwestern Loggers Association
New York Farm Bureau
NYS Legislative Commission on Rural
Resources
New York Tree Farm System
NYS Department of Environmental
Conservation

Appendix D

BACKGROUND:

Timber theft has long been a problem in New York and elsewhere in the United States. Until recently, New York State did not focus much attention on this crime. However legislation in 1966 made clear that cutting any trees without permission was illegal under the Environmental Conservation Law, whereas the previous law had applied only to evergreens. The new law also authorized environmental conservation officers to investigate timber theft on private lands where previously they could only investigate fish and wildlife violations.

In 2000 the New York State Legislative Commission on Rural Resources appointed a task force to study timber theft and recommend new legislation. Based on victims' testimonies and evidence of theft as reported by consulting foresters, state agencies, timber harvesters and others, legislation was passed in 2003 increasing penalties and authorizing landowner education and training for judicial and law enforcement personnel.

It became apparent, however, that further steps were needed to curb timber theft.

QUESTIONNAIRES DISTRIBUTED/ INTERVIEWS CONDUCTED:

A survey questionnaire was prepared for use by partnering organizations to collect information on cases of timber theft. For this study, timber theft was defined as the cutting of trees without the explicit permission of the owner or failure to pay for timber harvested whether or not a contract existed. This approach encompassed three categories of crime: theft of timber, trespass for the purposes of illegal cutting of trees, and breach of contract. All three parts constitute the illegal taking of trees and in the eyes of forest landowners are considered theft.

In addition to the questionnaires, informal interviews have been held with both active and retired foresters and environmental conservation officers of the Department of Environmental Conservation, New York State troopers, attorneys and judges familiar with timber theft, and with loggers and log buyers. These interviews were without attribution or identification, and were intended to better understand the process and the views of those directly involved.

RESPONSES AND FINDINGS:

Through the partnering organizations' newsletters and magazines, the questionnaire and notice of its availability were to be distributed to its members. The seventy-three questionnaires returned provide useful insights into the details of how the thefts occurred, what actions were taken by owners and their agents, and the outcome of the cases. Among responses beyond the written questionnaires, one consultant advised of knowing of "probably 300 cases of timber theft in the last three years". About one-third of the reported cases came directly from the affected landowners, one-third from consulting foresters who mainly had been called in to estimate damages, and the remainder reported by Department of Environmental Conservation foresters, forest rangers or environmental conservation officers.

1. Timber Theft Occurs Across the State:

Questionnaires were returned from the Hudson Valley, the Capital region, central and western New York, the Adirondacks, and the Tug Hill region. The reports showed that thefts occurred mainly on privately owned forest land. This might be expected since approximately 85% of the forest land in New York is in private ownerships: individuals, families and other non-industrial ownerships.

On 40 percent of the cases discovery was immediate. However, for the remaining 60 percent, discovery ranged from a few weeks to months and in some cases to over a year. These cases were usually on lands held by owners who were unable to inspect their properties due to living a great distance from the land, being physically limited, or owning several parcels in remote areas.

About one-third of the reported thefts occurred on lands owned by seasonal or absentee owners. The cases reported span several years; most occurred within the last five years, but some date back to the 1990s.

2. Substantial Amounts Stolen and Forests Damaged:

Estimates of the amount of timber reported stolen range from less than one thousand board feet (probably just a few trees) to well over 50,000 board feet (perhaps as many as 400 trees) with an average of 16,738 board feet. The estimated market value of the illegally removed trees (the amount an owner might receive for the trees when they are still standing) ranged from less than one thousand dollars to \$70,000 with an average value of \$10,650. This amount, given the volume of timber taken, may be higher than some might expect, but it points to the fact that thieves only remove the highest value trees - a practice often referred to as "highgrading."

Illegal cutting does not follow good management and harvesting practices. Cutting only the trees with a high market price whether mature or not fully grown, means the owner is losing not only mature trees, but also those trees that would become increasingly valuable if allowed to grow another ten or twenty years. Highgrading also removes from the woodlot the seed sources and genetic strains best suited for that site, leading to losses that may take generations to overcome.

Many cases reported damages to streams, rutted logging roads, and incorrect disposal of tops and other residues. Beyond the financial loss and environmental damage, there is the emotional loss that occurs with any invasion of one's property and a theft. A thief does not take any extra care when committing a crime, does not worry about best management practices, erosion control, or an owner's feelings or legacy.

Appendix D

RESPONSES AND FINDINGS:

3. Several Factors Contribute to Thefts:

Lack of identifiable property boundaries was often brought up as a reason for timber theft. However, in almost two-thirds of the reported cases the property boundaries were reported as being “clearly marked”. It is apparent, however, that either the boundary line was ignored or was not self-evident to the harvester, underscoring the need to physically review boundaries with the harvester before work begins.

On 40 percent of the cases, trees on the boundary line were cut.

In over two-thirds of the reported thefts the neighboring property was used for access and to remove the stolen timber. On half of those reported cases, the neighboring owner had a contract with a timber harvester. Apparently, however, those contracts did not protect the neighbor from becoming a victim of theft, nor protect the owner from possible responsibility for dishonest activity by the logger.

In 20 percent of the reported cases losses occurred because the person removing the trees failed to pay for all the timber removed, even though the landowner had a contract with the harvester. While technically a breach of contract, for the injured landowners it constituted a theft. A sound contract that would stand up in court might have precluded losses of this kind.

In other cases harvesters removed trees in addition to those designated for the harvest with paint, even when a forester had helped to plan and execute the sale. These situations accounted for 5 to 8 percent of the reported theft cases. Careful monitoring of these harvests either by the landowners or their agents might have prevented loss of the extra trees.

4. Thief's Identity Often Unknown:

On only one-third of the reported cases was the identity of the persons doing the cutting readily known. On most of those cases the landowners or their agents contacted the responsible persons, and on 11 percent of the cases a satisfactory resolution was reached. For the others, law enforcement intervention was needed. It can be argued that law enforcement intervention should be enlisted on all complaints as a means to discourage repeated illegal activity.

For those cases for which the identity of the perpetrator was not readily known, the opportunity for timely follow-up and effective prosecution was very limited and often impossible.

Theft cases were reported to either the Department of Environmental Conservation (DEC) Forest Ranger (38%), DEC Conservation Officer (38%), other DEC persons (26%), county sheriff's department (22%), or state police (15%). On 30 percent of the cases the owners sought advice from an attorney and on 42 percent they sought advice from a consulting forester.

RESPONSES AND FINDINGS:

4. Thief's Identity Often Unknown:

Monetary damages were sought on some cases and judgments obtained against the perpetrators. For other victims, it appeared too costly to pursue monetary damages or they believed it highly unlikely that the case would be successfully completed. Reasons cited included legal fees, time required to pursue a claim, and even if successful in court, difficulty in obtaining payment due to the "judgment proof" character of the thief.

On 22 percent of the cases the District Attorney brought criminal charges against the thieves.

On 16 percent of all cases reported, the person reporting the case felt that timber theft as a crime is not taken seriously. However, it may be that in some instances District Attorneys do not pursue a case because there is insufficient evidence to warrant criminal charges. Many victims might not understand what it takes to prove a criminal case.

5. Insightful Comments from Questionnaires:

Some of the additional comments offered by those completing the survey are useful to note as shown below. They are grouped by category:

Owner issues:

The owner could have more closely monitored the sale and stopped progress until paid.
Owner's absentee neighbor was having a harvest; logger crossed to victim's land.
Success in finding out theft due to neighbor who noticed cutting.
Neighbor claimed trees were on his property, survey showed they were on mine.

Logger issues:

The logger was involved in other thefts and seemed judgment proof.
Logger had asked owner to sell timber, owner declined but then logger went ahead and stole timber.
Logger knew he cut wrong trees and paid right away.
Logger had a bad reputation, owner settled for just stumps value.

Sawmill issues:

Could not get restitution, logs already sawn by mill.
Thefts will not stop until liability for taking illegal trees is extended to sawmills.
Local loggers and sawmills very helpful in identifying thieves.

Enforcement issues:

DA could have pursued case more aggressively.
Confusion over who was owner of land.
Case stalled in law enforcement hands.

Appendix D

CURBING TIMBER THEFT - SUGGESTED STEPS:

Many suggestions came from questionnaire participants and those interviewed in recent months regarding actions which could and should help curb timber theft. The common theme of many suggestions was that each party must fully accept responsibility for its actions. While many of the suggestions need to be more fully developed, all demonstrate a depth of concern and a willingness to think “out of the box” to find policies or approaches that realistically can be expected to help.

No single action is a panacea for eliminating timber theft. Several actions, some possibly involving regulation and others aimed at education will be needed to seriously limit the various forms of timber theft. Suggestions have been summarized under five headings: landowners, woods products industry, law enforcement, other professional support, and education. There is overlap and shared responsibilities among and between the parties.

Landowners:

1. Property boundaries and particularly boundaries of timber sale areas should be clearly marked. Make the land owner liable if a timber sale area is incorrectly delineated to encompass a neighboring property.
2. Landowners need to interact with owners of neighboring properties, especially when contemplating a timber harvest.
3. Timber harvests should always be planned, never decided on the spur of the moment. Trees for sale should be marked - in most cases done by a consulting forester, in contrast to letting buyers select trees they wish to cut.
4. Understand the role of attorneys in developing contracts. Key elements include payment terms, clean up and erosion control, bonding and insurance, and on-site acknowledging of boundaries.
5. Choose loggers carefully - in most cases with the help of a consulting forester. Check references; insist on a sound contract; provide for monitoring. Make harvesters liable for activity outside of the designated sale area.

Wood Products Industry:

1. Harvesters should work closely with landowners so terms and conditions of the harvest are mutually understood. Sale area boundaries should be walked with the owner and access and landings agreed upon.
2. Solid contracts should always be used to protect harvesters and their own interests, as well as those of the forest owner.
3. Adjoining owners should be notified before cutting begins. Some loggers do this now; it is good protection and a good business practice.
4. Harvesters and buyers should report illegal tree cutting or suspicious activity to DEC Environmental Conservation Officers or the State Police and alert the affected landowners.
5. Sawmills should know the source of purchased logs (often referred to as “gate wood”) and refuse to deal with known timber thieves.

CURBING TIMBER THEFT - SUGGESTED STEPS:

Law Enforcement:

1. State and local law enforcement personnel should be sufficiently familiar with wood products industry operations and the applicable laws.
2. Law enforcement should work with all parties from stump to mill on ways to demonstrate legality of the product being handled.
3. All provisions of law relating to timber trespass and theft should be consolidated into a single penal law section to aid enforcement and judicial personnel.
4. Enforcement personnel should be required to file a report on all timber theft inquiries or actions as a public record. A pre printed complaint form would be helpful, as used in other areas of enforcement.
5. The Department of Environmental Conservation should make widely known that it provides victims contemplating criminal action an approximation of their loss, when requested by a law enforcement officer. This service can help landowners understand possible next steps.

Other Professional Support:

1. Foresters, surveyors and lawyers should clearly explain their role in serving and protecting forest owners and those in the wood products industry.
2. Ways should be found to provide all forest owners with (at least) a simple management plan so they better understand potential benefits and possible pitfalls of owning and managing their land.
3. Model contracts should be available in plain language, so that all key points are considered, even though circumstances may call for modifications.

Education and Outreach:

1. All parties of interest should share responsibility for a strong, ongoing forest landowner, wood products industry and law enforcement education program.
2. These organizations should provide outreach leadership: the New York Forest Owners Association, Empire State Forest Products Association, New York Society of American Foresters, New York State Timber Producers Association, Cornell Cooperative Extension, and State agencies such as the Consumer Protection Board and the Departments of Law, Agriculture and Markets, and Environmental Conservation.
3. Expanded relationships and programming should be developed by the SUNY College of Environmental Science and Forestry, Cornell University College of Agricultural and Life Sciences, and New York's county cooperative extension offices to deliver education and information on timber theft prevention and prosecution, drawing on the resources of the organizations named above.

This report compiled by Dr. Hugh O. Canham, professor emeritus SUNY College of Environmental Science and Forestry, and Ronald W. Pedersen, past president, New York Forest Owners Association. September 2007

Appendix E

Recent Timber Theft
Newspaper Accounts

Newspaper Accounts of Timber Theft Cases in New York

April 9, 2008: A Stratford, Fulton County man who admitted last year to stealing timber was charged last week by state Department of Environmental Conservation police with again stealing timber, as well as destroying property and damaging trees. DEC police said Jaime Cool, 32, took timber valued at \$3,289 off property in the town of Oppenheim in March 2007 without the knowledge of the landowners. Cool is also alleged to have caused more than \$1,500 in damage to the property and injured or destroyed 12 trees with his logging equipment. The investigation arose from information gathered during a probe of a timber theft by Cool in the town of Stratford, DEC police said. Cool was charged with grand larceny in April 2007 and later pleaded guilty, DEC police said, but failed to appear in Stratford Town Court for sentencing and a bench warrant was issued in March. Cool was arraigned in the Caroga Town Court on the new charges and the bench warrant and was sent to the Fulton County jail on \$10,000 cash bail or \$20,000 bond.

April, 9 2008: Oswego County is continuing its attempt to collect the \$90,000 it is owed in a 20-year timber-theft case that has brought almost nothing to date in reimbursement. Former county Department of Public Works employee Brian Horning was ordered to pay back approximately \$90,000 after being caught logging county-owned land. The county has received less than \$20 from Horning to date. In 1988, Horning was ordered by the court to pay the \$90,000 after he admitted stealing approximately 1,500 trees from county land in Parish. He also received five-years probation as a part of a plea-agreement. Horning pleaded guilty to a charge of fourth-degree grand larceny, a felony, reduced from his original charge of second-degree grand larceny. The county placed a judgment against Horning for the money owed. That judgment was due to expire and the county received an extension in court last week, Legislature Chairman Barry Leemann said. The county has little chance of collecting any of the money despite the renewed judgment. County officials claim Horning's assets are in the name of his girlfriend, Maryanne Pelkey, and those assets cannot be seized.

December 2007: Fort Ann resident, Kevin Austin, 42, stole more than \$3,000 worth of timber from a Fort Ann, Washington County site being cleared for a housing development. Two large piles of logs were taken, cut, and believed to have been sold for firewood.

November 27, 2007: Two individuals were charged with felony Grand Larceny for the alleged theft of \$21,000 worth of timber from property in the town of Worcester, Otsego County. Floyd S. Moseman, 42, of Stamford and Joseph D. Roberts, 32, of Hobart were both charged with Grand Larceny in the 3rd degree, a Class D Felony, for the alleged theft of standing timber. The men were arraigned in the Worcester town court on November 27 and remanded to the Otsego County Jail. Bail was set for Moseman at \$2,500, and \$5,000 for Roberts. The case is being prosecuted by the Otsego County District Attorney's Office. The maximum penalty for a Class D Felony is seven years in prison and/or a fine up to twice the amount of the defendant's gain from the commission of the crime. The timber was stolen between December 2005 and April 2006 from the Worcester property owned by Robert and William Wilcox of Iowa. DEC Investigator Mike Dangler and Environmental Conservation Officer Mark Vencak investigated the case over a 16-month period. DEC often investigates timber theft cases because of their complex nature and the specialized expertise that exists within DEC to conduct these often long-term investigations.

Appendix E

Newspaper Accounts of Timber Theft Cases in New York

April 14, 2006: The New York State Department of Environmental Conservation indicted six people involved in a timber theft ring. The arrests are the culmination of a two and half year investigation that was initiated and led by DEC Environmental Conservation Investigators and Officers. The six people were indicted on a total of 125 felony charges including scheming to defraud, grand larceny, possession of forged instruments, falsifying business records and forgery. Indicted were Denise Dickinson, 25, of Hudson Falls, NY, with 31 counts; Ronald Sharrow, Jr., 44, currently residing in the Warren County Jail, with 28 counts; and Anthony Morse, 25, of Lancaster, NH, with 19 counts. The remaining three sealed indictments are currently being sought. The investigation into the alleged timber thefts, which occurred on properties in Washington, Warren, Saratoga and Dutchess Counties, began after DEC received a complaint from a landowner. Over the course of the investigation it was documented that 8 separate landowners in were cheated out of approximately \$77,000 from the sale of timber from their lands. Most of the victims were absentee landowners. The defendants allegedly would log a parcel of land and provide the landowner with false information on the amount and value of the timber removed. The defendants allegedly would also provide false personal names, false business names, false references and false insurance documents.

2004: A court in Steuben County has ordered a woodland owner to make restitution of \$42,561.96 to his neighbor for the theft of approximately 173 trees having a fair market appraised stumpage value of \$14,187.32.

2004: A Binghamton man who stole 94 trees from private property was recently sentenced to a maximum of eight years in prison and ordered to pay \$25,150 restitution.

September, 2004: Southern Tier Man Illegally Felled 19 Prized Black Cherry Trees. A Broome County man pled guilty to a felony charge of stealing trees from state land. Robert Stanton pleaded guilty today in Delaware County Court to a charge of Criminal Mischief in the Third Degree, a Class E felony. As a condition of a plea agreement, Stanton, 35, of 116 East Second Street, Deposit, is expected to be sentenced to one-and-one half to three years in state prison and will be ordered to pay restitution to the state of \$5,600. He is being held in Broome County jail on unrelated charges pending sentencing which is scheduled for November 8. An investigation conducted by the state Department of Environmental Conservation (DEC) revealed that between September 23, 2003 and October 10, 2003, Stanton sold logs from black cherry trees that he had cut down from New York State land located off Steam Mill Road in the Town of Masonville. The stolen trees, valued at \$5,600, are highly prized for furniture making.

April 2000: An Oswego County man was convicted of illegally cutting 477 trees from private property in Pompey, Onondaga County and with polluting a nearby brook. County Judge Joseph Fahey found Jeffrey Isabell guilty of second-degree grand larceny, third degree criminal trespass and discharge of organic matter into the water of the state in violation of state Environmental Conservation law. The trees cut down were 80 to 100 years old and the property owner's boundaries were well marked.

Newspaper Accounts of Timber Theft Cases in New York

April 2, 1999: A Broome County man has paid \$20,000 in partial restitution for swindling four landowners in a tree logging scam. The payment was ordered and collected on April 1 by Tioga County Court Judge Vincent Sgueglia as part of John Finch's sentence for pleading guilty on February 1 to Grand Larceny in the Third Degree. Finch, 52, of Powderhouse Road, Binghamton, must also serve five years probation and pay an additional \$20,000 in restitution to the landowners he defrauded. In 1995 and 1996, Finch contracted with four landowners in the Town of Richmond, Tioga County - one of them an 82-year old widow in a nursing home - to cut timber from their property, sell the wood to local sawmills and then share the proceeds with them. In fact, Finch never paid the property owners for the trees he cut on their land. After an investigation by the Department of Environmental Conservation, Finch was charged with four counts of Grand Larceny in the Third Degree and one count of Scheme to Defraud. Finch faced up to 10 years in prison if convicted of all the charges. Rather than face trial, Finch pled guilty to a single count of Third Degree Grand Larceny. At his April 1 sentencing before Judge Sgueglia, Finch was ordered to pay \$40,000 in restitution to his victims - \$20,000 of which he paid immediately - and serve five years probation. Finch must pay the remaining \$20,000 in restitution during his probation.

March 9, 1999: Felony charges were lodged against a Hamden man for stealing \$15,000-worth of prime hardwood trees from the woodlot of an unsuspecting neighbor. Wayne E. Sparling, of MacGibbon Hollow road in Hamden, was charged Monday in Delaware County Court with one count of Third Degree Grand Larceny, a felony, and one count of Fourth Degree Criminal Solicitation, a misdemeanor. Sparling faces 2 & 1/3 to 7 years in prison if convicted. Sparling, 49, is alleged to have duped a local logger into believing that he owned land that in fact belonged to a neighbor who lived out-of-state. Under instructions from Sparling, the logger felled 145 trees from the land in September and October 1994. Much of the stolen timber was high-value furniture-grade black cherry, red oak, maple, ash and birch. The trees were taken to a sawmill in Livingston Manor, Sullivan County. The Attorney General's office is cooperating in this prosecution with investigators from the Delaware County Sheriff's Department.

February 23, 1999: A Greene County judge sentenced Shannon Dickenson, of Queensbury, Washington County, to 2 & 1/3 to 7 years in prison for illegally cutting 600 hardwood trees from state land in the Catskill Forest Preserve in the Town of Halcott.

February 1, 1999: John Finch, of Binghamton, pled guilty to illegally cutting some \$40,000-worth of trees from the land of four property owners in the Town of Richmond, Tioga County.

Indiana 2005: DNA was used to Catch a Timber Thief. DNA was used to identify two stumps on an Indiana landowner's lot to establish positive identification of contraband logs at a sawmill 60 miles away. The stolen logs were tracked down by standard police work. A tentative identification was made by examining tree rings. However, it took a DNA test, conducted at Purdue University's Hardwood Tree Improvement and Regeneration Center, to make a positive identification acceptable to a legal standard of proof.

Working to Prevent Timber Theft

