

Conducting a Successful Timber Sale

A primer for landowners



Timber harvesting is an important management tool. Done with care and good planning, it allows owners to manipulate forests to meet their objectives. Landowners choose to cut timber for a variety of reasons. The decision may be due to a recommended action under a forest management plan. It may also be an unexpected one. For example, a violent wind-storm or pest infestation may require harvesting to salvage or protect the forest from further harm. An immediate financial need may require the owner to cut trees to pay bills, or the harvest might be the result of a logger knocking at the door and offering a “big” check for the timber.

Regardless of the reason, timber harvesting begins with a forest management plan. By looking at the entire property and working with a forester, timber harvesting and its impacts can be put into perspective. Harvesting is not a process to enter lightly. A timber harvest is a complex interaction of ecology, forest operations, business, law, taxes, marketing, and negotiations. It has both short and long term consequences for the land and the landowner. This publication is a first step in helping landowners understand some of those consequences and how they can ensure a careful timber harvest. The purpose of this publication is to aid landowners in understanding the timber sale process. However, this publication is not a “how to” guide for landowners: Too much of the process is dependent on specific situations and individuals.

Anyone entering this process should seek assistance from a forestry professional (see sidebar on facing page). Numerous studies have shown that landowners who work with a forester in planning a timber harvest report greater satisfaction, greater revenue from the sale of timber, and healthier and more valuable forests following harvest.

A timber harvest is a complex interaction of ecology, forest operations, business, taxes, law, marketing, and negotiations.



SEVEN STEPS TO A SUCCESSFUL TIMBER HARVEST

Once a landowner has a management plan and decides to harvest timber, further planning is essential. A successful timber sale consists of the following steps:

- STEP 1** **Mark boundaries and identify trees to be cut**
- STEP 2** **Appraise the value**
- STEP 3** **Locate roads, trails, and landings**
- STEP 4** **Solicit bids and select winning bid**
- STEP 5** **Prepare timber sale contract**
- STEP 6** **Monitor the sale**
- STEP 7** **Complete post-harvest administration and activities**

Why a forester?

Many landowners are skeptical of the idea of employing a professional forester. They believe that using a forester does not add value or that any value it might add is lost in paying the forester. However, unless a landowner is well versed in many of the issues raised by this publication, the services of a professional forester are invaluable. Here are some ways in which a forester can help you meet your objectives and get a fair price:

Forestry expertise. First, foresters are trained and experienced in managing forests. They can bring that expertise to help you decide what management options are possible, and what their likely future effects will be. Even if you decide to do something different, a forester can let you know the likely outcomes.

Market knowledge. A good forester brings an invaluable skill to a timber sale – knowledge of the local timber market. Unlike a landowner who rarely sells timber, a forester knows which mills are buying, which mills are paying good prices, and which mills are desperate for logs. They can help landowners get the most money for their timber.

Experience with loggers. Along with their familiarity with local markets, foresters are also knowledgeable about the loggers that work in a particular area. They can help select the right logger for a particular job.

Sale oversight. Foresters understand timber harvesting operations. They periodically check on the progress of the harvest and monitor compliance with the contract, erosion control and other Best Management Practices (BMPs), and address any problems before they become serious. Research has shown that BMP compliance is highest when a forester is involved in the sale.

Coordinating several sales. Since foresters can work with many different clients in an area, they may have several landowners wanting to sell timber at the same time. In this situation, the forester can market the sales together and get all the landowners a better price.

For more information see: [Hiring a Consulting Forester – FEM Forestry Fact Sheet #75](#), and [Directory of Foresters – WDNR Publication-FR-021](#) (ask for the most recent version)

Throughout the entire process, it is important to keep good records. For example, if the landowner asks the operator to adjust the harvesting operation to comply with the contract, write down what is said and why the operator was out of compliance. Retain a copy for your records and send a copy to the logger as a written record.

Documenting what was done and why during the entire process will be essential for resolving disputes, dealing with tax issues, and planning future activities.



Unless a landowner is well versed in many of the issues raised by this publication, the services of a professional forester are invaluable.



STEP 1 Mark boundaries and identify trees to be cut

Loggers, also called timber operators, will be unfamiliar with a landowner's property and goals for the land. Anything you can do to assist them will likely lead to a harvest that meets your goals and expectations. Well-marked property and timber sale boundaries let the logger know where he/she is on the site. Identifying the property lines will help prevent cutting trees that belong to someone else, commonly referred to as timber trespass.

Timber trespass is not a minor offense [see WI Statute 26.09(3)]. Courts can award monetary damages up to four times the stumpage or two times the fair market value of the trees illegally cut along with other reasonable and necessary costs. It is essential to work with neighboring landowners in locating the property line.

The sale boundaries are also important. Sale boundaries, whether they coincide with property lines or not, define the scope of the harvesting operation. Timber harvesting prescriptions, prepared by a forester, are tailored to the specific conditions of the site. Sale boundaries can also protect special ecological or personal areas on the property. For example, sale boundaries can exclude wetlands or a favorite deer stand that are close to the harvest site.

For harvests that do not remove all the trees, individual "cut" and "leave" trees should be marked. This will ensure that only those trees that are supposed to be removed are removed during the timber sale. Typically, trees are marked with paint at breast height as well as near the ground below where the tree will be cut. Selecting which trees to harvest is complex

and must balance the desired future condition of the forest (e.g., regeneration) with market and operational realities.

Familiarity with the capabilities of different harvest systems can aid in marking sales that balance landowner objectives with the desires to maximize return and minimize damage to the site.

In some cases, particularly stands with trees of low market

value, individual trees will not always be marked, but designated by size and species. Marking individual trees requires a great deal of time. In low value stands, this process can greatly increase the cost of sale preparation compared to the income. For example, the forester may prescribe and include in the contract, "All merchantable red maple less than 12 inches in diameter at breast height (DBH) shall be removed." In these situations, sale oversight requires greater care to ensure that the cutting instructions are followed correctly.



Selecting which trees to harvest is complex and must balance the desired future condition of the forest with market and operational realities.

Talking to the neighbors

In planning a timber harvest, talking to the neighbors is a valuable step that could avoid problems down the road. It could also bring additional benefits by either increasing the price for your timber, reducing the cost of removing it, or both. Here are some items to discuss with the neighbors.

Property boundaries. Timber trespass can be a serious offense, but once a tree falls on a neighbor's property it is a little late to discuss property boundaries. By discussing and verifying the location of the property boundaries, both you and your neighbors can avoid unwanted conflict and, potentially, litigation. If the property line is uncertain, surveying the line is the safest choice to verify its location. However, it may not be necessary if neighbors can locate and document the property line for the purposes of selling timber. For example, an old fence may be close to the real property line. If both neighbors agree, the old fence can serve as the timber sale property line without knowing the exact location of the actual survey line. This agreement should be documented in writing and signed by both neighbors.

Sale coordination. Since your neighbors' woodlots might look very much like yours, their woodlots might also benefit from timber management. If that is the case, both you and your neighbor could have a combined sale and improve the financial return for both.

Access. Even if the sale isn't located near a property boundary, talking to the neighbors may make the sale easier. Roads on neighboring property may be available that would make hauling easier and less costly. This could increase your profit from the sale and make life easier for the logger. Be prepared to pay your neighbor a fair price for access across their land.

Sharing information. It's possible the neighbors have some valuable experiences to share. They may be able to share insights into timber sales that they have conducted, and may also be able to recommend foresters and loggers that did a good job for them.

Another exception to individual tree marking is the case of clearcutting. Clearcuts regenerate the harvest site by removing all the trees to be followed by either planting (e.g., red pine) or natural regeneration (e.g., aspen). In clearcuts, sale boundaries become even more important.

With all marking, it is not enough to simply put paint on trees and draw maps hoping that the logger will know what they mean. Both the landowner and the forester must convey this information to the logger verbally and in writing (usually in the contract). Clear communication about marking can do much to avoid problems on the ground.



Neighbors may be able to share insights into timber sales that they have conducted, and may also be able to recommend foresters and loggers.



STEP 2 Appraise the value

In selling anything, it is wise to know its value. In forestry, several factors determine the value of timber. The species, potential products, and volumes of the trees to be removed are important. Equally important are the operability and accessibility of the harvest site and the local

market conditions. Once again, foresters are experienced at “cruising timber” (i.e. measuring sale volume) and determining market value. Estimating the volume of timber is important in writing the prospectus. The market value is useful in deciding which bid, if any, to accept.

STEP 3 Locate roads, trails, and landings

Roads, trails, and landings are the transportation network that allows the logger to get the logs to the mill (see illustration on facing page). Loggers move harvested trees on trails to a central location called a landing, where logs are loaded onto trucks. The trucks then use the on-property road network to access public roads.

For a logger, the best way out is the fastest one. Since time is money, a fast route may even allow them to offer more money for the sale. However, the fastest way may not be the best for the landowner from an ecological, recreational, or aesthetic perspective. An important question for you to consider is, “How will roads, trails, and landings be used in the future?”

The transportation network may aid you in meeting objectives in the forest management plan. For example, roads and trails can provide future hunting access or places for recreational activities like skiing or snowmobiling. The network should

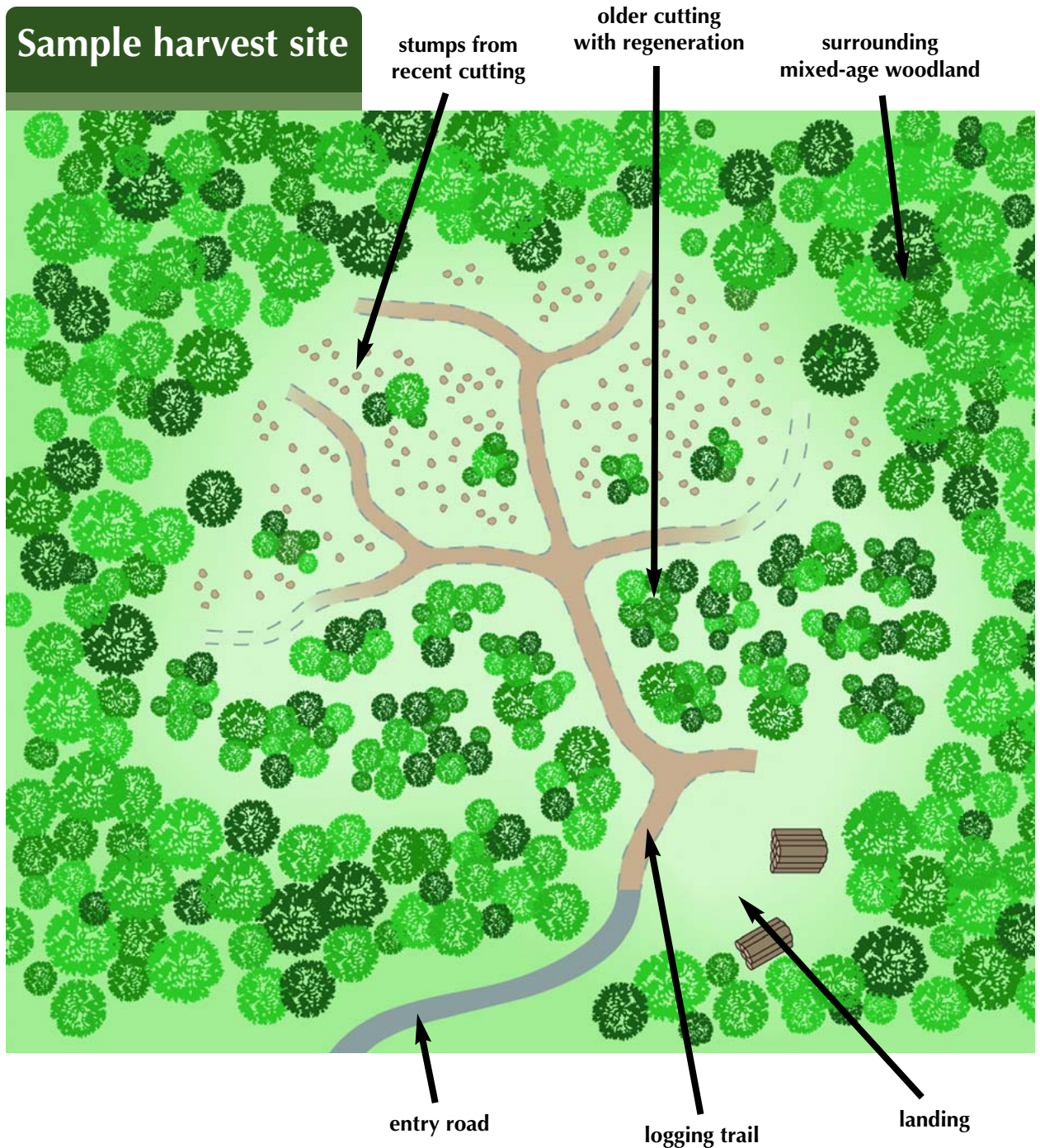
also minimize the ecological impacts. Different soils and slopes tolerate harvesting equipment differently. Roads, trails, and landings near or crossing streams or wetlands require additional special consideration. Follow Wisconsin’s Best Management Practices for water quality to minimize ecological impacts.

Above all, be flexible in planning the transportation network. Different operators and harvest systems have different capabilities. Forcing a “one-size fits all” approach may result in greater site damage and lower income. In some cases, roads, trails, and landings are identified after the contract is awarded when the bidder and the requirements of his/her harvest equipment is known. Again, it is essential for the landowner and the forester to work with the logger.



The transportation network may provide future hunting access or places for recreational activities like skiing or snowmobiling.

Sample harvest site



Wisconsin's Forest Management Practices for Water Quality provides recommended guidelines for road design, wetland protection, riparian management zones, and other practices that minimize impacts on water quality. It also identifies various permit requirements and the responsible agencies. This publication is available from all WDNR Service Centers, on the Internet at <http://www.dnr.state.wi.us/org/land/forestry/Usesof/bmp/bmpfieldmanual.htm> or by calling 608/267-7494.

Lump sum versus scaled product sales

Private landowners typically use one of two methods in selling timber – the lump sum sale or the scaled product sale. Which method to use depends on several factors, but an important tax consideration is the owner's previous and future harvesting intentions. When selling timber, landowners receive two tax benefits if they qualify for capital gains treatments: (1) the owner does not pay federal self-employment tax (15.3%) and (2) the first 60% of capital gains is excludable for Wisconsin's income tax.

Lump sum sale. Lump sum sales are the simplest way to sell timber. The sale is put up to bid and each potential buyer submits one bid for all designated stumpage. The buyers have the responsibility of determining the volume and quality. The winning bidder may make a single lump sum payment or several partial payments. Generally, payments are made before the removal of timber. Lump sum sales are easy to administer, but require accurate volume estimations to establish a fair price. To qualify for capital gains treatment, landowners must sell lump sum timber infrequently. If an owner sells timber more frequently, the Internal Revenue Service views timber as a commodity held primarily for sale by a business and not eligible for capital gains treatment when sold lump sum.

Scaled product sale. Scaled product sales are more complicated and require greater diligence. Usually, a forester administers scaled product sales on behalf of the landowner. Bids are based on prices per unit volume by species, product, and/or grade. For example, a bid might offer "\$300 per thousand board feet (MBF) of red oak sawlogs and \$18 per cord of hardwood pulpwood." In the most common scaled product sale system, prices are bid and paid by volume and species regardless of quality or final product. Landowners who sell timber frequently and use scaled products sales retain economic interest and qualify for capital gains treatment.

Most private landowners use sealed bids. Under this approach, bidders develop their estimates of the volume of timber and its value (usually by visiting the site), subtract their costs, and formulate a bid.



STEP 4 Solicit bids and select winning bid

Advertising the sale of timber is done through a prospectus. This document describes what is for sale and where and when it will be available.

The prospectus includes all the necessary information needed to allow a bidder to make an informed bid. Typically this includes species to be removed, estimated volume to be removed, estimation of the sizes of trees to be removed, total acreage of the sale, location of the sale, sale type (see previous page), date by which sealed bids are to arrive, and date by which bidders will be informed of the owner's decision.

Additional information that might affect a bid should be included. For example, a prospectus should include road-building requirements since they can greatly increase the costs of harvesting. If only certain equipment is allowed on the site, the prospectus should reflect it. Finally, the prospectus should include a clause allowing the seller the right to refuse any and all bids. If there are too few bids or all the bids are below what the owner feels the timber is worth, this clause allows the owner to easily withdraw the timber from sale.

The prospectus should include a "bid bond clause," which requires a bidder to include earnest money along with their bid. This ensures that the bidder is serious and will follow through with the sale, if selected. When the owner selects the winning bid, the bid bonds of the other operators are returned.

Foresters maintain a list of potential buyers and mail the prospectus to those individuals. While sales may also be advertised in newspapers and trade journals, direct mailings work the best.

Most private landowners use sealed bids. Under this approach, bidders develop their

estimates of the volume of timber and its value (usually by visiting the site), subtract their costs, and formulate a bid. They submit the bid to the owner or the owner's forester.

Based on the owner's appraisal of the bids presented, an owner selects one bidder or refuses all. While the highest bid may be most tempting, it is important to consider whether the highest bid will meet all your objectives. In selecting the winning bid, the operator's skill and professionalism are as important as the dollar amount. Long after the money is put to good use, you will have to live with how the property looks.

Keep in mind that bids can differ significantly. Different bidders have different markets and needs for wood. These factors may make their bids very different for the same sale.





Selecting a professional and careful operator

One of the most important decisions the landowner makes in the timber harvesting process is the selection of a logger. As a landowner, you need a careful, skilled, professional logger that understands your objectives. Things to look for include:

Training and education. Through organizations like the Forest Industry Safety and Training Alliance (FISTA), the Wisconsin Professional Loggers Association (WPLA), and the Sustainable Forestry Initiative (SFI) program, loggers learn the latest skills and techniques that make timber harvesting safer, more efficient and environmentally sound. Trained loggers bring that knowledge to a job.

Experience. Different forest types, harvest systems, and equipment require different sets of knowledge and skills. In selecting a logger, be sure to find one that is familiar with the forest type, harvest system, and equipment that will work best for the particular sale.

References. Be sure that a prospective logger provides you with references for previous jobs. Whenever possible, talk to the landowner and visit the harvest site. Get a clear picture of how the logger treats the owner as well as the land.

Proof of insurance. Even though a good timber sale contract offers the landowner protection from liability claims, make sure that the logger has sufficient insurance to cover themselves and those with whom they work. The logger should demonstrate both workers' compensation and public liability coverage that covers the full term of the contract or that notification will be received of renewal of the current policies. Many harvest operations include a number of subcontractors, so make sure that the logger's insurance covers everything if something should happen.

STEP 5 Prepare the contract

A timber sale contract is an essential part of any timber transaction. It is a legally binding document that outlines the relationship between the seller and the buyer. Key elements of a contract include:

- Liability and responsibility
- Type, terms, and dates of sale
- Property and sale descriptions
- Terms of payment
- Utilizations standards
- Notification and permit responsibility (see next page)
- Bond requirements
- End of sale requirements

To receive a sample timber sale contract, stop by your local DNR Service Center, call WWOA (715-346-4798) or UWEX Department of Forest Ecology and Management (608-262-9975), or via the Internet at <http://forest.wisc.edu/extension/publications/94.pdf>

Timber sale contracts are complex. Even using the sample timber sale contract, a landowner should consider consulting both a forester and an attorney to cover both aspects of a contract. Lawyers are not always familiar with timber sale contracts and foresters are not always aware of all the legal and liability concerns.





Permits and notifications

To avoid potential regulatory or legal problems, all permits and notifications must be filed correctly and on time. The types of permits or notifications required depend on the type of activities included in the sale. In all cases, when in doubt about the need for notification or a permit, ask before proceeding with the harvest! Under state law, anyone harvesting timber (even for personal use except for firewood, boughs, or up to five Christmas trees) is required to file a cutting notice with the County Clerk 14 days before harvesting begins. These notices to the County Clerk must be filed annually. In addition, participants in the Managed Forest Law (MFL) program must also notify the Wisconsin DNR before harvesting. Common situations requiring a permit include:

Stream crossings. If the harvesting activities require crossing a stream, a DNR permit is required. If crossing streams, permits for soil disturbance near water and activities in wetlands and floodplains may also apply (see below).

Soil disturbance near water. If the harvesting situation requires that soil be moved in or near streams, lakes or other bodies of water, a permit is required from the DNR and possibly the county zoning board. Contact them for further information.

Wetlands and floodplains. Activities in and around wetlands and flood plains are subject to regulations and may require permits at some level of government. Contact the county zoning board, DNR, and U.S. Army Corps of Engineers to determine what regulations or permit requirements apply.

Burn permits. While usually not part of the harvesting operations, burning may play a role in site preparation for the next stand. Contact the DNR or the local fire department for information.

Road hauling permits. Some municipalities require trucks hauling load above a specified weight to have a permit to use local roads. Contact your local municipality to determine if this applies to your situation.

STEP 6 Monitor the sale

Simply having a signed contract does not ensure that everything will go smoothly. It is a good idea to meet with the winning bidder on site before harvesting begins to review the terms of the contract. Often the logging crew working on the harvest site is not aware of all the terms of the contract.

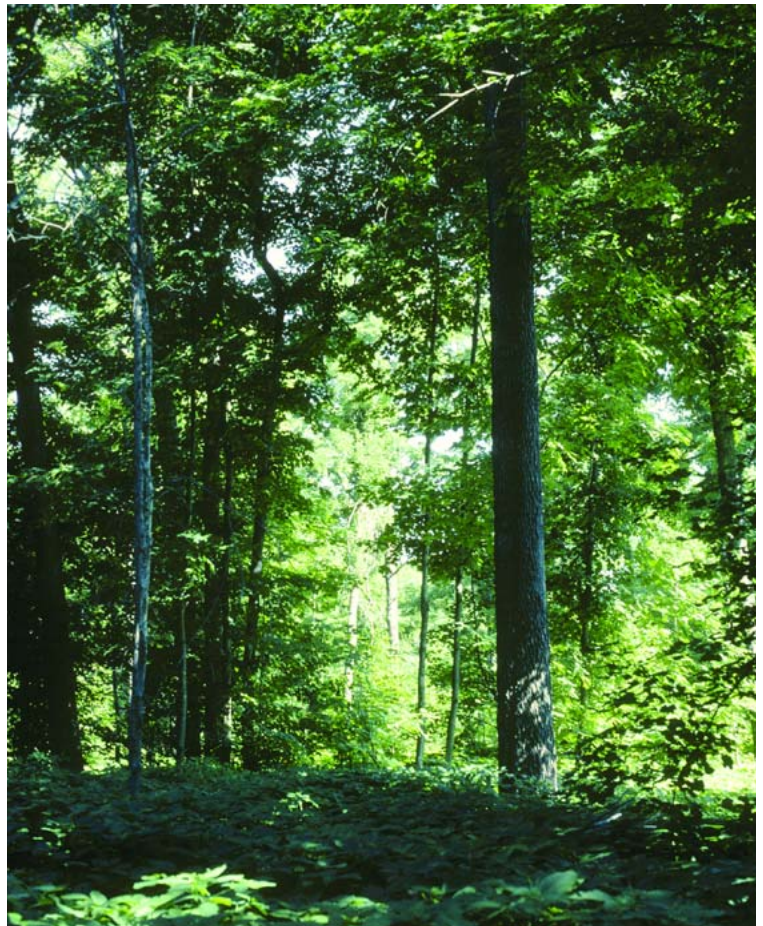
Both the owner and the forester should visit the harvest site regularly. By seeing how the harvest is proceeding, the landowner or forester can address questions early before they become something more serious. Visiting the site often

and talking with the logger has an added bonus. The operator will see that you care about what is going on, and likely think of you as someone interested in more than a check.

When visiting the site, check for compliance with the contract and ask for feedback from the logger, who may have some suggestions that could expedite the process. While the owner and forester should work cooperatively with the logger, they should not feel obligated to give in to requests to change the terms of the contract.



By seeing how the harvest is proceeding, the landowner or forester can address questions early before they become something more serious.



STEP 7 Complete post-harvest administration and activities

When harvesting is complete, it is time to retire the site and complete any post-harvest regeneration activities. Sites are most vulnerable to erosion right after harvesting is complete. Proper erosion control practices are essential if the site is to be productive in the future and water pollution problems are to be avoided. Post-harvest BMPs include seeding the trails, roads and landing to stabilize the soil or installing other erosion control practices. In most contracts, the logger is responsible for these activities.

When retiring the site, it is also time to complete any activities that will assist in regenerating the

site. Again, the management plan should be a guide to regeneration efforts. If the plan is to plant new trees, this will include slash disposal and site preparation along with the actual planting.

Once the harvest is complete and the logger has completed the contract, the owner or

forester should release the logger from further obligation. If a performance bond was provided, it should be returned.



Post-harvest Best Management Practices, or BMPs, may include seeding the trails, roads and the landing to stabilize the soil.



CONCLUSIONS

A good harvest is no accident! It is the result of thoughtful planning and hard work. Most landowners harvest timber a few times in their life, this planning is critical since owners have limited opportunity to learn from their experiences. As with most endeavors, selecting the right people can make all the difference. Select a careful and conscientious logger and a forester that understands your goals and objectives to ensure a successful timber sale.

After the sale revenue has been used to pay bills, college tuition, or vacation expenses, the owner will live with and, in some cases, be judged by what is left behind, not by what was taken.

ADDITIONAL SOURCES OF INFORMATION

Preparing a contract

To help private owners prepare a contract, the DNR, UW-Extension and the Wisconsin Woodland Owners Association (WWOA) have created a sample timber sale contract. To receive a copy, stop by any DNR Service Center, call WWOA (715-346-4798) or UWEX Department of Forest Ecology and Management (608-262-9975), or check the Internet (at <http://forest.wisc.edu/extension/publication/94.pdf>). Landowners can use the sections of the sample contract relevant to their situation.

Water quality practices

Wisconsin's Forest Management Practices for Water Quality provides recommended guidelines for road design, wetland protection, riparian management zones, and other practices that minimize impacts on water quality. It also identifies various permit requirements and the responsible agencies. This publication is available from all WDNR Service Centers, on the Internet (at <http://www.dnr.state.wi.us/org/land/forestry/Usesof/bmp/bmpfieldmanual.htm>) or by calling 608/267-7494.

Selecting a consulting forester

Hiring a Consulting Forester – FEM Forestry Fact Sheet #75
<http://forest.wisc.edu/extension/publications/75.pdf>

Also available by calling 608/262-9975

Directory of Private Consulting Foresters and Industrial Foresters –
WDNR Publication-FR-021 (ask for the most recent version)

<http://www.dnr.state.wi.us/org/land/forestry/Private/Assist/privfor.htm>

Also available by contacting your local DNR Service Center or calling 608/267-7494



Conducting a Successful Timber Sale

Prior to conducting a timber sale, review the state's Best Management Practices for Water Quality and the newly released statewide Forest Management Guidelines. These documents contain more specific information that will aid you and your forester in conducting a timber sale. Both are available from your local DNR Service Center, or by calling 608-267-7494.

By Mark G. Rickenbach
University of Wisconsin–Madison
Department of Forest Ecology and Management

The purpose of this publication is to inform, not to advise. Your decisions or legal actions should be based on advice from an attorney and other experts familiar with the specific facts relating to your property.

This publication is available from county UW-Extension offices, Cooperative Extension Publications 1-877-947-7827, and from DNR Service Centers.

This publication can also be view or printed from pdf format available on the web at clean-water.uwex.edu/pubs/timbersale



UWEX Publication GWQ036 DNR Publication PUB-FR-254 2003
I-06-03-6M-000-S

Copyright 2003 by the Board of Regents of the University of Wisconsin System. University of Wisconsin–Extension is an EEO/Affirmative Action employer and provides equal opportunities in employment and programming, including Title IX and ADA requirements.

Graphics design/production by Jeffrey Strobel, and editorial assistance by Bruce Webendorfer, UW-Extension Environmental Resources Center

Photos courtesy of USDA Natural Resources Conservation Service, WDNR, UW-Department of Forest Ecology, Marvin Meier, and Jeffrey Strobel