

PENNSYLVANIA COUNCIL OF PROFESSIONAL FORESTERS

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December 17, 2004

Hon. Mary Joe White, Chair
Environmental Resources and
Energy Committee
Senate of Pennsylvania
Room 169 Main Capitol Building
Harrisburg, PA 17110

Hon. Raphael Musto, Minority Chair
Environmental Resources and
Energy Committee
Senate of Pennsylvania
Room 17 Capitol East Wing
Harrisburg, PA 17110

Dear Senators White and Musto:

We are writing to commend the Committee for holding a hearing on the issue of timber theft. Timber theft and timber fraud are serious and growing problems in Pennsylvania and new strategies must be put in place to deal with them. We would like to comment on some of the suggestions that were made during the hearing and to offer some additional observations.

The Pennsylvania Council of Professional Foresters (PCPF) is an organization of consulting, industrial, academic, and government foresters. PCPF was formed by the Pennsylvania Division of the Allegheny Chapter of the Society of American Foresters (SAF) and is the second largest organization of professional foresters in the Commonwealth (only SAF is larger). Although PCPF was principally established to pursue enactment of forester licensing legislation, we also comment on other issues affecting Pennsylvania's forests, forest landowners, the forest products industry, and the profession of forestry.

Based on our experience, timber theft and fraudulent actions by those who purchase timber is not limited to a few rogue operators, as was suggested during the hearing. This is a serious problem, and as a result, we believe greater protections should be put in place to protect the interests of forest landowners.

Forester and forest landowner education. We believe a focus must be placed on better educating foresters and forest landowners. This is essential because hundreds of foresters currently work in Pennsylvania and the Commonwealth has over a half million private forest landowners. Foresters educated in the ethics, responsibilities, and legalities of contracts and fraudulent practices can better serve landowners. Forest landowners who are knowledgeable about timber contracts can protect their interests. In addition, because of concerns over regeneration of our valuable forests and the importance of this to the vitality and viability of our forest products industry, we must do a better job of creating a business environment that advances both the economics and ecology of

proper woodlot management. The DCNR Bureau of Forestry, Penn State's School of Forest Resources and Extension Service, and organizations of landowners, foresters, and the forest products industry must join together to get this job done. In the long run, retaining professional foresters when managing forests and selling timber will help forest landowners obtain greater value for their timber and ensure that their legal rights will be protected.

Enhancing the practice of forestry. We believe the practice of forestry in Pennsylvania should be enhanced by enacting legislation to license foresters. Such legislation should include minimum educational, experience, and continuing education standards for individuals who seek to be licensed to practice forestry in the Commonwealth. Licensing foresters would provide a state-wide mechanism to educate foresters on new and best management practices and hold them accountable to those practices. Licensing foresters would also better protect landowners' interests by allowing them to file complaints with a state professional licensing board if they feel a forester they retained has acted improperly. Currently in Pennsylvania, anyone – regardless of their education, experience, or knowledge – can represent themselves as being a "forester." Licensing foresters would also enhance their status to appear before courts and other public bodies as expert witnesses. Such sister professions as engineering, land surveying, and geology currently have this status. No profession is currently recognized in Pennsylvania to provide expert testimony on forestry-related matters. In light of changes to the Municipalities Planning Code related to right of local jurisdictions to enact ordinances to regulate forestry, this expertise at the state and local government levels is sorely needed *now*.

Turning to the suggestions that were made during your hearing:

Timber sale contracts. We strongly support mandating that contracts be required for timber sales, just as they currently are required for real estate transactions. Such contracts should clearly indicate who the owner of the timber is, who the purchaser is, the specific boundaries of the area where timber is to be harvested and how they are to be marked, the amount the seller is to receive for their timber and how the value of the timber was determined, any limitations on harvesting techniques *required* to protect environmentally sensitive areas or the general health of the forest, and other factors that would protect both the seller and buyer. We also believe such contracts should limit the liability sellers and buyers from damages caused by their agents and intermediaries.

Timber manifests. We would caution the Committee against requiring timber manifests in all sales. While this might be a good idea for smaller sales, particularly of especially valuable trees, we are concerned that such a mandate could be burdensome in larger timber sales. We would be pleased to discuss with you how provisions in the timber sale contract could address the value and amount of timber sold.

Notification of adjoining landowners. While requiring that owners of property adjoining the parcel where a timber sale is going to take place be notified of the sale seems at first blush to be a good idea, we are concerned that it could be a burdensome requirement in many situations. Needless to say, such a mandate could require substantial research to identify current owners of adjoining property. This situation is complicated by the large number of absentee landowners in rural areas. Another complication is the challenge of transferring information gleaned from tax maps or other official documents to the forest. A substantial number of properties in Pennsylvania have not been surveyed in recent years so property lines and corners are not adequately and obviously marked. The interests of adjacent owners should be protected during sales of timber as they are during sales of timberland and perhaps are connected. We would be pleased to explore this aspect with you.

Law enforcement and penalties. We strongly agree that law enforcement activities related to timber theft and timber fraud must be substantially expanded. As was correctly pointed out during the hearing, local and state police, district attorneys, and other local law enforcement agencies currently do not have the resources to effectively investigate and, where appropriate, prosecute cases of timber theft and fraud. As a result, in too many cases, landowners who have suffered a loss have no alternative but to pursue a remedy in civil court, which is a drawn out and costly process. We agree that there could be a role for a special unit within the office of the Attorney General. We also agree that the penalties for those found guilty of timber theft and timber fraud should be substantially increased. This might require adding new classes of offenses to Pennsylvania's criminal statutes.

In conclusion, let us repeat that because of theft and fraud currently occurring in the forest products industry, better protections should be put in place to secure landowners' interests. In order to diminish incidents of timber theft and timber fraud, we support a multi-faceted approach: better educated forest landowners can protect their own interests, positively affect management of their woodlots, and receive greater value for the timber they sell; and enactment of forester licensing in Pennsylvania would raise the bar of forestry professionals in the state and promote a fair and honest environment in which market forces can operate.

We look forward to providing whatever assistance we can as you explore options to address the problems of timber theft and timber fraud in the Commonwealth. Please do not hesitate to contact us when we can be helpful.

Sincerely yours,

Pennsylvania Council of Professional Foresters
Joe Destro
President

cc: Committee members

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