

THE TOP TEN FAMILY FORESTRY ISSUES FOR 2010

NWOA is the only national organization that conducts an annual survey of our affiliated state forest and woodland owner associations for the purpose of describing and ranking the top ten private forestry issues affecting private landowners.

Considerable Diversity in Opinions

The results of the survey reveal the tremendous diversity among private woodland owners throughout the U.S. This can be seen in the range in rankings listed for each position. A look at the Ranking Range reveals large differences of opinion among the state affiliates. Still, all the issues are quite closely grouped, which is an indication that even with diversity there is common agreement among landowners throughout the United States over what concerns them the most. Markets and Taxes are without question the two greatest concerns. New this year is an issue entitled: "Keeping Forests as Forests," which also includes our issues with water quality and promotion of Best Management Practices.

In the next issue of *National Woodlands* (Winter, 2010), we will publish the Annual Report Card of the Top Ten Private Forestry Issues fared in 2009. Each will receive a grade ranging from A to F, depending on how well related programs performed.

1.) Timber Markets, Biomass & Fair Trade *Ranking Range: 1 to 3*

Over the years, concern over availability of markets has risen

Biomass markets are of great interest to many landowners.



from #8 all the way to #1 for 2010. This most recent spike in interest is our justifiable concern over the tone of the multiple debates in Congress over the appropriateness of private woodlands becoming being used as a preferred source of fuels (cellulosic ethanol) and electricity (woody biomass). There is still a deep seated fear within the national environmental community and within Congress that private landowners will resort to clearcutting if woody fuel and biomass markets are available to them. This concern is amplified by the business opposition provided by the producers of competing feedstocks (i.e. ethanol from corn).

NWOA is and remains an advocate of free trade with a minimum of government interference. We also support diversity and honest competition in log, pulpwood and chip markets. In this period of mergers, this requires oversight by government through anti-trust laws and market price manipulation. Not many forestry organizations venture a position on international trade, but NWOA does. The few that do, tend to support import protections while opposing any export penalties. While popular, this is not a realistic public trade policy. The long running softwood lumber trade dispute with Canada was publicly resolved in early 2006 along guidelines that NWOA advocated, but the Canadians continue to express concern that the U.S. is not abiding by the accord. Multiple buyers (American mills and exports) and competitive markets promote successful forestry enterprise. Many NWOA members voluntarily allocate a portion of their timber sales for local mills to help assure the continued availability of multiple markets.

www.logprice.com
Current log prices by state

America has a worldwide advantage in timber growing and is a proven leader by example of sustainable forestry. NWOA supports fair access (exports and imports) to world markets, appropriate measures to maintain productivity and diversity of domestic mills, and the 25 x '25 national renewable energy initiative. Wood must not be discriminated against as a renewable fuel and energy source.

2.) Fair Income, Inheritance & Property Taxes *Ranking Range: 1 to 5*

The Number One issue for 20 of the last 23 years—Taxes—was edged out this year by Markets. While in years past, Taxes, Markets, and Property Rights as a group have always been ranked much higher than the remaining seven issues of the Top Ten, this year Taxes and Markets as a pair pulled ahead of the pack. There is no doubt that timber, land and

inheritance taxes remain a big concern of woodland owners across America. A decade ago Congress passed legislation to phase out federal inheritance taxes at death, those taxes declining to zero in 2010. At the time this was politically popular with the voters after years of effort to reform U.S. tax policy. However, not everyone was pleased. They recognized that the lost tax revenue would have to be replaced one day. In order to get the votes to pass that tax reform, Congress included a "sunset provision." There

www.timbertax.org
Federal timber tax site
www.timbertax.net
Seigel timber tax articles
www.timbertax.com
Trained tax preparers

were not enough votes in 2000 to make the progressive tax reforms permanent. Congress gave itself ten years to come up with a financially sound tax policy, which so far has been elusive despite some good efforts. On December 31, 2010 the law expires and federal tax rates return to 1999-2000 levels. The inheritance tax, so important to landowners working to pass their woodlands on to their heirs, will increase from 0 percent to as much as 55 percent. As one woodland owner dryly commented: "I have to die this year to save my family selling the farm to pay the taxes."

With the current interests in clean air, renewable energy, clean water, and energy independence, the huge benefits of keeping working woodlands working is becoming better understood every year. NWOA's strategy, working with our partners on tax federal tax issues, will be to push this benefit hard. At the national level, NWOA will continue to work with our partners to assure that the 2010 Tax Reform Act includes permanent tax credits which recognize the multiple benefits to society and the environment. These are possible only when woodlands are kept as woodlands. Most encouraging to date, is the strong support of making the Conservation Easement Tax benefits permanent, lead by the land trust advocates with whom NWOA has worked.

The steady increase in property taxes assessed by local governments is becoming more serious. Faced with overall decline in property values, local tax authorities are turning to the lower land use property taxes as a source of additional income without an outspoken defender. This is a task for the affiliated state landowner associations. Only with vigilance will their earlier hard won tax credits be maintained.

NWOA believes that property taxes should be based on benefit/cost ratios, with appropriate recognition to the market benefits to society (timber, wildlife revenues) and the non-market benefits (clear water, natural beauty, natural habitat). Federal and state income tax, as well as inheritance tax laws, must promote keeping woodlands as woodlands.

3.) Right to Practice Forestry & Private Property Rights Ranking Range: 1-8

A lingering and justifiable concern of landowners over the continuing erosion of private property rights keeps this issue in the third spot. This is more of an indication of the urgency of the top two issues, rather than a lessening of concern over the importance of property rights. NWOA works for the recognition and respect of Private Property Rights as fundamental to the American way of life.

Eighteen years ago NWOA developed the widely respected Private Property Responsibility Code which in turn has been



Right to practice forestry legislation is an ongoing concern.

formally adopted by the majority of our state affiliates. This code is our assertion of responsibility for our private lands and our intention to protect the bundle of rights that go with private ownership.

A landowner's Right-to-Practice Forestry is regulated at the state and sometimes the county or town level, but NWOA maintains a careful watch on this issue nationwide through the eyes of our state affiliate landowner associations. When done responsibly, and in full accord with state clean water and invasive species laws, we consider the practice of forestry to be a basic property right of the landowner.

The issue of private property rights emerges is both expected and unexpected events. It often linked to programs by a public agency or utility acquire private land for a public purpose (roads, power lines, schools, etc.). This can be done legally without landowner consent through a process called a "taking." The owner can, however, challenge the price offered for the land.....something called "compensation." The question then becomes a determination of a fair price, often by a court process. Subtle, or poorly defined, takings often result from logging restrictions or other land use rules required by the federal Endangered Species Act. Unfortunately, some courts have ruled that such a subtle taking does not occur until a landowner has lost up to 80 percent of the value of the property!

A most difficult aspect of this issue is that each case must be argued individually by landowners, a process that is both expensive and the results uncertain. Although the Endangered Species Act has technically "sunsetting," Congress keeps it alive each year through the appropriations process. Rulings by the U.S. Supreme Court favoring societal benefits over individual rights have resulted in the introduction of numerous bills at the state level, but the Congress is still unwilling to address this issue. There are only ten million woodland owners among the 275 million citizens that members of Congress represent. It is difficult to get the attention that property rights deserve.

Private property ownership is fundamental to the American way of life. NWOA asserts that the rights and responsibilities of private landownership must be understood and protected. Compensation for necessary takings should be at least 50 percent of fair market value and more is justified. The practice of responsible forestry is a basic property right.

4.) Stewardship Incentives: Cost Sharing, Tax Credits *Ranking Range: 2-10*

NWOA has long endorsed cost sharing for forest practices (federal, state and private), as well as other types of incentives (taxes, zoning, easements) as proven programs for getting good forestry on

www.privatelandownernetwork.org
Link to cost share resources

the ground. In recent years, there has been a trend away from cost sharing (which tended to benefit a relatively small number of landowners) with more emphasis on alternative incentives. NWOA believes there is justification for continuing both approaches with periodic performance reviews to determine the most effective and appropriate programs. NWOA was a member of The Forests in the Farm Bill Coalition that succeeded in expanding the Environmental Quality Incentives Program (EQIP) so more woodland owners will be eligible to participate. Congress has funded EQIP as much higher levels than previous FLEP, FIP and SIP programs. Emerging cost share initiatives focus on integrated resource management (water quality, wildlife habitat, stewardship plans, etc.) over timber (tree planting, stand improvement). The Forest Stewardship Program, funded by the U.S. Forest Service and state forestry agencies is working well in most states.

NWOA supports the Forest Stewardship Program, the Environmental Quality Incentives Program, and the Forest Legacy Program (easements). Each state is encouraged to develop similar incentives and tax credits to assist good stewardship by landowners.

5.) Invasives & Forest Health *Ranking Range: 1-8*

NWOA members have long been concerned with forest health issue including insect outbreaks (i.e. western pine beetle) and diseases (i.e. root rot). Family forest owners are often in a better position to combat these depredations through intensive forest management and preventative measures. Up to date and accurate information through the combined efforts of cooperating federal and state forest health surveys is essential.

Excellent monitoring and documentation must be followed by effective control action, which may not happen without a commitment to protecting America's forests. Because of inadequate funding for National Forests, insect infestations have spread unchecked causing unacceptable damage to adjacent private woodlands. An example in the western pine beetle epidemic now devastating the lodge pole pine forests of the Rocky Mountains.

The sudden spread of damaging invasive species including insects (emerald ash borer, longhorn beetle), plants (cogon grass, stilt grass) and new disease pose a growing threat to woodlands. Control measures must be on a landscape basis, including all ownerships.

The arrival of invasive plants and insects from other continents poses a serious threat to family forests. NWOA supports funding for research, control operations, extension education and, as a last resort, quarantines to control spread. Full funding of federal and state forest health surveys is essential.

6.) Certification of Loggers, Foresters & Forest Practices *Ranking Range: 3-10*

Certification of loggers and foresters is a confirmation that they practice under a Code of Ethics and receive periodic training. Certification of a forest practice results from a review by an independent qualified third party of actual forest practices on the ground.

Professional foresters are certified through membership in the Association of Consulting Foresters and/or the Society of American Foresters. Such individuals are authorized to display the initials "ACF" or "CF" behind their name. Loggers are trained and often accredited by state Logger Training Programs in cooperation with state forestry associations and agencies, the Extension Service, the Forest Resources Association, and the American Loggers Council.

Forest Practice Certification is available from three providers. The two largest programs are the Forest Stewardship Council, and the American Tree Farm System (recognized by the forestry industry's Sustainable Forestry Initiative—SFI). The Green Tag Forestry program, developed for private landowners, is available through NWOA and the National Forestry Association.

www.greentag.org
Green Tag Forest Certification
www.findalogger.com
Accredited loggers by state
www.findaforester.com
Professional foresters by state

NWOA recommends the use of certified loggers and foresters as an indication of the quality of their services. Improved markets may be available to landowners whose forest practices are certified.

7.) Extension Education & Forestry *Ranking Range: 2-9*

Investment in forestry education (e.g. Master Woodland Managers) through the Extension Service and cooperating state and local agencies (who put up \$5 for every federal \$1) yields a good return to society through improved forest health and productivity. In NWOA's opinion: "Forest Education beats Forest Regulation every time!" It is more cost effective and certainly makes more sense in the long run.

Woodland owners benefit from multiple sources of forestry advice, including consulting foresters, state service foresters, and extension forestry. Putting landowners in touch with trained foresters is important. In spite of the impressive achievements attributed to both Extension and Service Forestry, cash strapped states continue to single out these programs for continuing budget cuts. One governor proposed the elimination of forestry extension altogether, but reconsidered after a strong response from landowners generated by the state affiliate.

NWOA supports annual appropriations for the Renewable Resources Extension Act (RREA) and other related programs. Publicly-funded service forestry advice through state agencies is very effective and must be maintained.

8.) Wildfire: Suppression, Fuels & Prescribed Fire

Ranking Range: 4-10

With increased fuel loading, especially on public lands, and the weather effects of apparent global warming, the threat of wildfires is a growing concern of private landowners. Fire, plus insect and disease outbreaks, present a potential of destroying a lifetime forestry investment of work and money. Overstocked forests (especially those on federal lands), declining forest health, the arrival of highly inflammable invasive species, delayed fire detection, and inadequate initial attack are all contributing factors.

Unfortunately, with the exception of Oregon, fire control priorities give buildings a higher priority for protection than forestlands, often resulting in much larger acreage burned with long lasting damage to water and plant resources and well as timber and wildlife. Implementation of the Healthy Forests Restoration Act and the National Fire Plan are providing improved funding and direction to wildfire management. Still, too much attention is focused on protecting homes constructed in fire prone areas at the expense of addition acres of woodlands burned.

NWOA worked closely in 2009 with partners to successfully pass the FLAME Act which provides emergency funding of federal wildfires. Prior to this law, when fire fighting appropriations were exceeded with costs of huge wildfires, money was diverted from other programs including funding for private landowner education and assistance.

Periodically, NWOA advises Congress that: "Small landowners can only afford small fires!" Detection failures (fires larger than one acre when first reported) are an important part of the problem. Some NWOA members, in cooperation with local fire districts and the Forest Fire Lookout Association are now volunteering to re-staff closed lookouts. In fact, more lookouts across the U.S. are now staffed with volunteer observers than any time in history.

www.nwccg.gov
Wildfire related features
www.firewise.org
Cooperative fire programs

NWOA recognizes the difficult choices facing fire fighters in dead and dying forests. And within the urban housing interface, we are concerned that homes built in inappropriate areas are being protected at the expense of large expanses of public and private forests. Additional emphasis should be placed on early detection and the control of fires while small.

9.) Keeping Forests as Forests

Ranking Range: 2-10

This issue was previously defined as: Wetlands & Water Quality" which focused on wetland definitions, state water quality regulations, and Best Management Practices (BMPs). These are being consolidated with emerging efforts to keep forests intact. Concepts of Landscape Forestry, Ecosystem Corridors and Forest Fragmentation have emerged which address the broader issue. NWOA continues to support Section 404 of the federal Clean Water Act which recognizes silviculture as a compatible management practice in seasonal wetlands. All 50 states have adopted Best Management Practices. 2010 will be an important year as Congress revisits the Clean Water Act, including an expanded definition of "waters of the United States," which will affect any woodland owner with seasonal stream courses. The issue is likely grow larger than water quality alone.



Logger training and Extension programs are essential.

NWOA supports emerging efforts that recognize the importance to the economy and the environment of keeping forests as forests. Forests are comprised of timberlands, living wetlands, wildlife corridors and multiple ecosystems.

10.) Landowner Liability Ranking Range: 5-10

At one time ranking as high as #4, this issue now has dropped to #10 partly because of the availability of low cost and high quality vacant land liability insurance, as well as hunt club insurance. Even

www.woodlandowners/insurance.com
Landowner and hunt club liability insurance

with the passage of state laws intended to limit landowner liability, none of these statues protect against "willful neglect." Any plaintiff can make such a claim whether it is true or not, and the court decides both the guilt and the compensation. With people moving into rural areas, private landowners are experiencing increased trespass, dumping, and unwanted public use of their property, especially with the use of ATVs. Individual landowners can be held liable for injuries related to both authorized and unauthorized use of their property. Liability risk is governed by state rather than federal law, and those laws vary in each of the 50 states. NWOA offers a top rated insurance coverage of \$1 million/\$2 million for woodland liability and/or hunt club protection. It is the only insurance available in all 50 states and costs \$150/year (up to 535 acres).

Most states have enacted landowner liability laws that shield property owners from nuisance lawsuits, but none offer defense for "willful neglect." Because all landowners are responsible for defending themselves against any lawsuit, regardless of merit, NWOA recommends a review of insurance coverage with a professional to assure you are protected from loss of your woodlands through an adverse claim.