

## Harvesting Contracts Improve Communications

Expectations often determine whether you perceive a job as a success or a failure. Often, custom and tradition have shaped each party's expectations for common transactions. For example, when buying a bowl of soup, I expect it to be hot. The cook understands why I refuse to accept lukewarm soup. Unfortunately, in the complicated business of woodlot harvesting, the expectations of the landowner and the timber harvester may not coincide. In such a case, communication is critical.

Verbal communication provides a starting point, but it usually is insufficient. As W.C. Fields once said, "Don't do what I say. Do what I mean!" To arrive at a clearer understanding of what the other party expects, both the landowner and the timber harvester should seek a written contract. In addition, on even the easiest jobs, with even the best timber harvester, unforeseen circumstances can arise. A well written contract will provide a process for solving such problems.

When confronted with a contract, many people think that the other person does not trust them. Contractors often think "a handshake should be enough to close a deal. That '#%&\$' must not trust me to do a good job. Besides, I'm the expert here. They shouldn't be telling me how to do my job. If they want the job done by me, let me do it my way." Landowners can be just as negative: "All this fine print is confusing. I just want my trees cut. The contract has terms that I do not understand. I'm probably being taken for a ride. My instincts are good enough that I can tell a good logger from a bad one."

While contract negotiations certainly can be tense, such a negative view of contracts may be simplistic. Contract negotiations provide a forum for communicating expectations. Undoubtedly each party is unaware of some expectations that the other has. The written word makes these expectations tangible. A contract gives each person the ability to hold onto something. It lets everyone know what the other expects. During the process of negotiation, it also gives each party the ability to tell the other if the other's expectations are reasonable. Unreasonable expectations can be discussed and modified. By the time the contract is signed, everyone has described their expectations, compromises have been reached and everyone has agreed to abide by the solution. This process is invaluable to both sides.

Contracts are attention getters. Each party must pay attention to the other's expectations because, in the end, each is expected to sign the agreement and be penalized for failing to abide by it. Think of it this way, if a teacher tells the class that there will not be any tests or papers, the students are not as likely to pay attention to the lectures. By negotiating a contract, each side pays attention to the other.

Here are some areas that should be discussed during contract negotiations: (1) harvest location, how trees are designated, method of measuring, (2) price and method of payment, (3) time frame for completion of the harvest, (4) potential types of damage (road rutting, barking trees, hanging trees, silting streams) and a method for repair or compensation, (5) location of skid trails and landings (6) insurance, workers compensation, performance bond, and (7) special situations like repairing stone walls or stacking some firewood near the home.

Top quality loggers usually have contract forms, which provide a starting point. If not, two professionals, foresters and lawyers, can help a landowner prepare a timber harvesting contract. Foresters understand the process of cutting and skidding trees, as well as potential problems that might arise. They can discuss the reasonableness of expectations and suggest other issues to think about. Consider hiring a forester to handle the entire process for you, from marking the trees, finding timber harvesters, negotiating the contract and overseeing the harvest. Even so, some contract issues are complicated. If a legal issue arises, a lawyer should be consulted. They understand contract law and what kinds of agreements are enforceable. In addition, CFA or the New York State Department of Environmental Conservation can answer general questions about timber harvesting contracts.

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