

The Forest Steward's Journal

Summer 2020

Volume 33

Journal of the Forest Stewardship Foundation

The MISSION of the Forest Stewardship Foundation is to “educate and inform landowners, natural resource professionals and the general public about the science and ecology of forest lands, the many values derived from forested lands and the principles of sustainable forest land development.”

DISCLAIMER: As in the past, we again advise that this information is submitted for your interest only. The Foundation's mission, as indicated above, is to “educate and inform”, not to advocate or persuade. The Foundation takes no position, either endorsing or opposing, approving or disapproving, any of the assertions or arguments in the contributed information.



From the Chair

We were very disappointed that we had to cancel our April Helena Landowner Conference because of COVID-19, especially after all the preparation that was put into it. On the brighter side we can count our blessings that we live in Montana during these challenging times. We will look forward to having the conference and insect and disease workshop next year under more normal circumstances.

Our foundation continues to flourish despite the recent setbacks. Membership is increasing and we have received several notable financial gifts that should enable us to expand our educational outreach. I would especially like to thank the Bertch Family Foundation, van Loben Sels family and Idaho Forest Group.

Some of you may wonder at times why we have different groups like Tree Farm, Montana Department of Natural Resources (DNRC), MSU Extension Forestry and the Foundation all doing similar educational outreaches. Let me just say that we all try to coordinate our efforts so we don't duplicate and overlap. No one organization can do it all.

This issue of the journal includes estate planning, conservation easements, lumber market reports and a recent harvest from a wind throw event. One topic we didn't cover is fire, but that has to be a concern to all of us as we go into fire season. Make sure your home and forest are prepared for fire season.

Stay Healthy,

Ed Levert, Chair

Put Amazon Smile advertisement here as it is on the home page of our Forest Stewardship Foundation web site.

How Property Title Affects who Receives it After you Die

By: Marsha A. Goetting, Montana State University Extension Family Economics Specialist

How you title your real and personal property affects who receives it after your death. Title can also have unintended consequences for your survivors. For example, a father and son were forestry landowners together for 15 years with the land in joint tenancy between them. Dad was age 85 and assumed that he would die first. The dad "thought" he would avoid probate and federal estate taxes. But the unexpected happened – the son was killed in an automobile accident leaving a wife and three children. The son's family was "disinherited" because under joint tenancy contract law the property passed to the father as survivor. True, Montana law does provide some protection for the surviving spouse but Dad and his son did not achieve their estate planning goals.

Regardless of how your land and financial accounts are titled, you need to be aware of what happens to that property when you die so you take appropriate actions while you are alive to assure it's distributed according to your wishes instead of Montana law. Take the "test" for three situations to see how informed you are about Montana intestacy statutes (dying without a will).

Property titled in sole ownership in a marital situation; no written will. Assume Jack died without writing a will. Jack's survivors are his wife and parents. All property valued at \$800,000 was in Jack's name only. What dollar amount did Jack's wife receive? \$800,000, \$675,000, \$550,000, \$400,000, or none, all passes to the state of Montana because Jack didn't write a will.

Montanans typically believe that Jack's wife receives all \$800,000 (#1). Wrong answer! Why? Because the property was solely in Jack's name and he had surviving parents in addition to his wife. The Montana Uniform Probate Code (UPC) provides for the surviving spouse to receive the first \$300,000 in value of the estate and three-fourths of the balance. The remaining balance of one-fourth passes equally to his parents. Jack's wife receives \$675,000 (#2) while Jack's father and mother each receive \$62,500.

Property titled in joint tenancy with right of survivorship; no written will. Assume that Tim and Sharon, a married couple without children, had titled all their property in joint tenancy with right of survivorship. Neither had written a will. Tim died immediately in an automobile accident. Sharon passed away in the hospital three days later. Who receives their property? State of Montana because Tim and Sharon had no written will, Tim's parents, Sharon's parents, ½ to Tim's parents and ½ to Sharon's parents, or ½ to Tim brothers and ½ to Sharon's sisters.

Most people choose #3 thinking Sharon's parents would receive the property because she survived Tim by three days. They are wrong! The property passes one-half to Tim's parents and one-half to Sharon's parents (#4). Why? The UPC states "if property is held in joint tenancy with right of survivorship and neither survives the other by 120 hours, the property is split equally between their heirs." In this case, the priority heirs are both Tim and Sharon's parents, not their siblings.

Who gets the property if Sharon survives until the eighth day? Sharon's parents! Why? Because Sharon lived beyond the 120 hours (5 days), she became the heir and, after her death the property passes to her heirs...her parents. Who gets the property if Sharon dies immediately and Tim dies on the eighth day? Tim's parents receive all the property.

In summary, very few Montanans are aware that by titling property in joint tenancy with right of survivorship and by not writing a will, their property could pass to unintended heirs. A will could assure that assets do not get passed to one set of heirs simply because their one person outlived the other by a few hours. Remember, a will only controls the property after the death of the joint tenants. For example, if Tim writes a will leaving the property to his parents, the will "works" only if Sharon is not living. If Sharon is still alive, the property passes to her. That's why many married couples have mutual wills with the property passing to the surviving spouse, and if the spouse is not living to the children, and if neither is surviving, then to the parents, brothers or sisters or whomever they wish. An attorney drafting a will can provide the appropriate wording to accomplish the will-writer's wishes.

Property held in joint tenancy with right of survivorship with a written will in existence. Gary, age 67, has remarried and titled his land and house in joint tenancy with his new wife. His adult children are quite "concerned" but Dad told them not to worry because he has written a will leaving them the land and the house to his wife. If Gary dies, who receives the land and house? Gary's new wife as the surviving joint tenant receives both, Gary's children receive the land, his wife the house as directed in the will because it has priority, Gary's kids receive ½ the value of each and his wife receives, or Gary's kids receive ¾ the value of each and his wife receives ¼.

Most people choose #2 thinking that Gary's children receive the land and house because the will was written after the joint tenancy with right of survivorship between Gary and his new wife was established. Wrong! The joint tenancy title on the land and house is a contract. Gary cannot undo the contract with his written will. His new wife receives his land and house, not his children as Gary intended.

Any property that is held in joint tenancy with right of survivorship passes to the surviving joint tenant. It doesn't matter if the asset is a savings account with a balance of \$500 or land worth \$5 million. It doesn't matter if a person writes a will leaving the property to someone else that is not a part of the joint tenancy. The surviving joint tenant receives the property under joint tenancy contract law. In Gary's case it's no wonder the children are "concerned" as their dad is unaware of the consequences of Montana joint tenancy contract law. Dad has disinherited his children without realizing it!

That's why it's important that Montanans know how their real and personal property assets are titled. This includes checking accounts, certificates of deposit, investments and land. Additional information is available in our MSU Extension MontGuides. They are available on the Web www.montana.edu/estateplanning/epublications.htm

If you do not have computer access, copies of "Property Ownership" and "Wills" are available from your local MSU County or Reservation Extension office.

Land Trusts and Landowners Cooperate to Help Generate Forest Health

By: Glenn Marx, Montana Association of Land Trusts Executive Director and Montana Forest Stewardship Foundation Board Member

It all comes down to two things: The document itself, and the relationship between the land trust and the landowner.

“The document” is the conservation easement and (for this article) its accompanying forest management plan, the “relationship” is (for this article) essentially the annual monitoring visit by a land trust steward, and “it” is the way the document and relationship are carefully merged to produce an ongoing vision of land management consistent with the landowner’s intentions and land trust’s mission.

Conservation easements have been around in Montana since 1976, and since then landowners and land trusts (and public agencies) have partnered to conserve over 2.8 million acres of Montana’s forests, farms, ranches, open lands, wildlife habitat, and more. Montana is a national leader in private land conservation thanks in large part to the stewardship ethic of landowners, the professionalism of land trusts, Montana’s bountiful landscape, and a property rights-friendly state conservation easement statute.

Simply put, a conservation easement is the use of a private property right to create a voluntary, negotiated, typically permanent agreement between a landowner and a land trust (or public agency) that limits development and maintains open land.

This article is going to focus on conservation easements held on private non-industrial forestlands and the role of land stewards in monitoring those easements. The story will be told by three knowledgeable people: Andrea Darling, a land steward for The Montana Land Reliance; Ed Levert, a landowner with a conservation easement on forestland he owns in the North Fork of the Flathead; and Ryan Lutey, now executive director of The Vital Ground Foundation and the Vital Ground staffer who worked with Levert back in 2009 to complete the easement.

Typically, the conservation easement and forest management plan (or timber harvest plan) are two separate documents that work in tandem and cross-reference each other. The easement cannot easily be modified, but the forest or timber plan guides management actions on the forest and can generally be updated to accommodate dynamic forest conditions.

The Role of Land Trust Steward

Andrea “Andy” Darling is a natural resources consultant, has taught Forest Stewardship Workshops through MSU Extension Forestry for over 20 years, and has served on the Montana Forest Stewardship Foundation board of directors for eight years. She has also been a land steward for The Montana Land Reliance (MLR) for 15 years, and during that time she estimates she has monitored close to 100 conservation easements. She now annually monitors about 60 easements in an area generally defined as the upper Missouri River (roughly Three Forks to Augusta). MLR is Montana’s largest land trust, with 22 land stewards spread around the state who annually monitor over 1.1 million acres of privately conserved land. By comparison, some other Montana land trusts have one steward, and work in much more limited geographical areas. All land trusts have some form of stewardship staff, and all Montana land trusts conduct annual conservation easement monitoring visits. All Montana land trusts are members of the Land Trust Alliance, and membership in the Alliance requires annual easement monitoring.

Each year Darling contacts roughly 60 landowners, schedules a convenient time with the landowner to visit the property, and she – with or without the landowner, depending on the landowner’s wishes – conducts a site visit to make sure the terms of the easement (and the timber harvest plan) are being followed. It is almost always a friendly conversation, almost always a friendly relationship, and always a productive visit. The conversation will turn more serious – and still remain civil – if there’s an easement violation or a blatant departure from the timber harvest plan by the landowner. Land trusts are required to address conservation easement violations, and they definitely respect that requirement. A major reason for the monitoring visit is so the landowner and land steward can meet to discuss the landowner’s plans and possible actions as they relate to the conservation easement, so there are no surprises at the next monitoring visit, and – for MLR – to make sure timber harvests are consistent with the timber harvest plan.

“MLR does not micromanage easements or forests,” said Darling. “We write our easements with management flexibility so the landowner can manage their forest to accomplish multiple goals. The easement and the timber harvest plan reflect the landowner’s goals, and that means lots of options for forest management...everything from commercial timber harvests to fire hazard reduction treatments to thinning to firewood gathering to many other prescriptions.”

Is it important for a landowner to self-identify clear management goals before the conservation easement and accompanying forest management plan are finalized?

“Yes, yes, yes,” said Darling. “Everyone owns property for a different reason, and no two conservation easements are the same because of the differences in landowners and landowner goals. Those landowner goals guide the land trust in the creation of the conservation easement, the language in the timber harvest plan, and the way those documents are implemented. There are a lot of reasons why landowners enter into conservation easements – succession planning, family legacy, financial situations, a commitment to conservation and agriculture, and more – and the easement and timber harvest plan should reflect each individual landowner’s reasons and their property goals.”

Sometimes those forest management objectives change over time due to circumstances beyond the landowner’s control. MLR easements contain opportunities for landowners to expand active management



The Montana Land Reliance land steward Andrea 'Andy' Darling.

through timber harvest plans to allow multiple options to address catastrophic fire, disease, and insect infestation, specifically with the intention of creating landowner flexibility to manage for a healthy, resilient forest while maintaining the conservation values of the property.

“The goal of MLR is for landowners to know they can maintain a healthy forest during their ownership and beyond,” said Darling.

And the job of a land trust steward is to annually meet with those landowners to discuss those healthy forests.

How Vital Ground and Ed Levert Found Common Ground

Let’s take a look at the creation of one conservation easement and the resulting easement monitoring and forest stewardship.

Ed Levert didn’t need a lot of help figuring out why he wanted a conservation easement or how he wanted his forest managed. Levert worked 32 years for the US Forest Service, served as a Forest Service District Ranger, is the former Lincoln County Forester, is the Libby area chairman of the Society of American Foresters, and is the longtime leader of the Montana Forest Stewardship Foundation. When he and Vital Ground began conversations about a conservation easement on 160 acres of forested land Levert owns in the North Fork of the Flathead, he wasn’t hesitant to share his personal vision of the easement and a forest management plan.

“I wanted to see good management of that forest happen now and after I was gone,” Levert said. “And I had a pretty good idea how I wanted it done.”

Vital Ground is based in Missoula and focuses its work in current (and perhaps future) occupied grizzly bear habitat, in and around western Montana. The notion of one 160-acre parcel producing grizzly bear habitat conservation and saw logs may seem in conflict, but both Vital Ground and Levert are confident that the forest management plan on Levert’s North Fork property accomplishes clearly understood wildlife habitat and forest health goals.

“The relationship between me and Vital Ground is fully cooperative and has been from the very beginning,” said Levert. “There’s been education for both of us through the process, and they’ve been receptive of my ideas and management goals.”

“Ed helped Vital Ground design language for our easement templates that recognizes and accommodates the needs of forest landowners and forest management,” said Ryan Lutey of Vital Ground. “Both Ed and Bud Moore (legendary forest manager and author of “The Lochsa Story – Land Ethics in the Bitterroot Mountains”) helped shape the organization’s philosophy on active forest management as a transient disruption that, when done correctly, ultimately improves forest health and benefits many of the conservation values our easements are designed to protect.”

One important concept is that both Vital Ground and Levert agreed the forest management plan (and any changes to it) had to be reviewed and certified by a forester with the Montana Department of Natural Resources and Conservation.

In addition, the forest plan and conservation easement Levert and Vital Ground cooperated to create allows Levert to conduct non-commercial forest actions as needed, without notice to, or approval from, Vital Ground. These actions include such activities as fire protection measures, fuels reduction projects, forest thinning, personal use for things like posts and poles, and a broad range of other non-commercial uses or activities. Commercial forest harvests are also allowed, when in compliance with the forest plan stipulations and with Vital Ground’s pre-project awareness and approval. Twice since the easement was established Levert conducted commercial timber actions that together have harvested about 300,000 board feet. Some minor temporary road construction was required as part of those sales.

Every year a Vital Ground land steward makes the trip to the North Fork for a site visit to monitor the easement and forest management activities, and most years Levert meets the steward on the property to show the steward what has been accomplished, and to discuss plans for future forest activities.

“To me, it has been more of an educational opportunity for the stewards,” said Levert. “I’ve had almost continual management on the property... commercial timber harvests, thinning, planting, improving bird and wildlife habitat... all consistent with the easement, the forest management plan, and my goals as a forestowner.”

Vital Ground’s land steward will visit the Levert easement sometime this summer. Levert is eager for the monitoring visit to take place so he can proudly walk the steward through the property and showcase some of the under-story removal completed within the past year.



Ed Levert coordinating tree thinning on the Alvord Lake Community Forest with members of the Montana Conservation Corps Photo by Gael Bissell

Wood Products Market: Where Are We Headed?

By: Michael Niccolucci, Steven Hayes, Kate Marcille, and Todd Morgan; BBER University of Montana

Just when you thought the housing market had fully recovered from the 2008 Great Recession, the market is disrupted by a non-economic factor, COVID-19. Housing starts had finally topped 1.5 million starts (on an annualized basis) for the first time since 2007, reaching a high of 1.62 million starts in January 2020 (figure 1). However, by April 2020 housing starts plummeted to 891 thousand starts. The future could hold a variety of scenarios for the housing market. For example, how will consumers react to living in an environment without a known vaccine for this novel virus? Was the Congressional recovery package sufficient to bridge the gap to opening the economy? Was the Federal Reserve's monetary infusion of \$3 trillion (yes, with a T) sufficient to keep the economy out of recession? Given that this disruption is not driven by economic factors and is riddled with uncertainty, only time will tell when and how much the housing market will rebound.

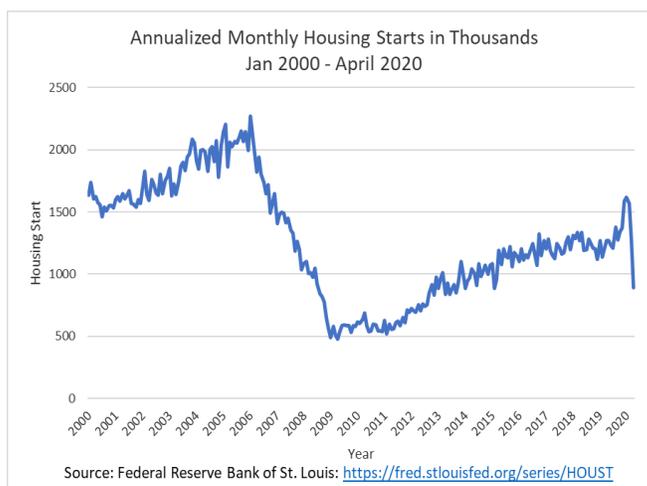


Figure 1: Housing Starts

The reaction of lumber prices to COVID-19 may tell us something about potential recovery. Since the significant drop in the third quarter of 2018, lumber prices were making a slow, but steady climb back to an average of \$400 per thousand board feet (MBF) lumber tally by the end of the first quarter of 2020. The closing lumber prices during the first week in May indicate a price of \$382 per MBF. Lumber prices have not reacted to the significant drop in the housing market, at least not yet.

Moving a little closer to home, Montana delivered log prices seem to be mirroring the lumber market. The average delivered log price for 2018 was \$411 per MBF Scribner. There was a slight decline to an average of \$393 in 2019 reflecting the lagged reaction to the lumber market decline that occurred in the latter part of 2018. As of the close of the first quarter of 2020, delivered log price survey results show a slight decline from 2019 to an average of \$387 per MBF (figure 2). The Bureau of Business and Economic Research at the University of Montana (BBER) quarterly delivered log price survey also gauges the market expectations of log purchasers. As of early 2020, log purchasers indicated anticipating a fair to good future demand for most species except ponderosa pine and western hemlock.

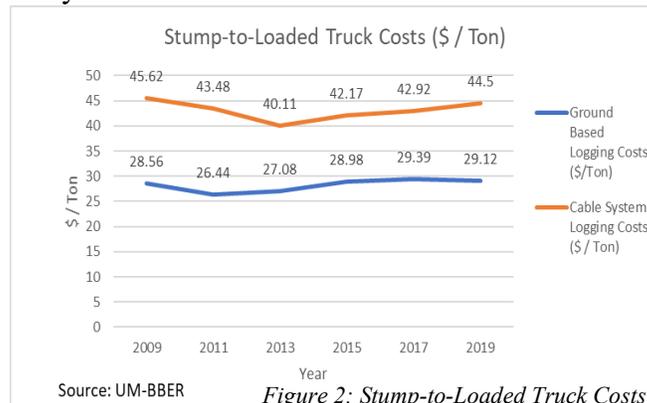


Figure 2: Stump-to-Loaded Truck Costs

After a quick overview of the demand side of the equation, let us turn to log supply. What does the logging and hauling cost side of the equation indicate? BBER collects stump-to-loaded truck costs and haul costs in Montana and Idaho. The figure displays costs for ground based and cable skidding systems in inflation adjusted 2019 dollars. The figure indicates that over the last 10 years costs, have been relatively flat. Even though fuel prices have been fairly volatile over the same time period, ground based, and cable skidding costs have remained relatively flat.

The last piece in the cost side of the equation is haul costs. BBER has collected haul costs from the log hauling industry since 2010 on a biannual basis. The costs have ranged from \$71 per hour in 2010 to a high of \$103 per hour in 2014 (nominal dollars). The average for the eight-year period is \$90 per hour. The cost per day is dependent upon the number of loads delivered per day, the trip distance to the site and, of course, the price of diesel fuel, which is highly variable.

If it's not one thing, it's another. The housing and lumber market are traditionally volatile. Prior to 2020, the volatility was directly caused by economic conditions. However, COVID-19 is now causing market volatility and the impacts are still developing. In Montana, delivered log prices and the costs of delivering the material to the mill are not nearly as volatile. If the impact of COVID-19 is relatively short-term, most timber sales should remain profitable for landowners.

**Forest Stewardship
Foundation Board
Members**

Ed Levert, Chair
5220 Kootenai River Road
Libby, MT 59923
(406) 293-2847
televert@kvis.net

Gary Ellingson, Vice Chair
Northwest Management, Inc.
1417 Orange Avenue
Helena, MT 59601
(406) 442-7555
(406) 544-7169 (Cell)
nwmanagement@nmi2.com

Linda Leimbach, Treasurer
262 North Central Road
Libby, MT 59923
(406) 293-3205
(406)291-0626 (Cell)
plleimbach@gmail.com

Andy Darling
39 Big Dipper Drive
Clancy, MT 59634
(406) 690-5383
apdarling@gmail.com

Dan Happel
P.O. Box 243
Pony, MT 59747
(406) 685-3419
happelmt@3riversdbs.net

Glenn Marx
Montana Assn. of Land Truists
P.O. Box 892
Helena, MT 59624
(406) 490-1659
montanamalt@gmail.com

Clyde Robbe
126 Foxtail Lane
Butte, MT 59701
(406) 490-2280
microbbe@gmail.com

Lorrie Woods
368 One Way Road
Columbia Falls, MT 59912
jlwoods@gmail.com

John Chase
4435 3rd Ave N
Great Falls, MT
treefarmerjac@gmail.com

Blow Downs, More than just Firewood

By: Conny Buegge



Last summer (2019) after having our 40 acres logged, we had a number of trees left vulnerable and exposed, unable to support themselves. When a wicked wind storm came, whirling and churning all of our trees, our concerns sadly proved legitimate. We looked around the property, finding over 100 trees had succumbed to the turbulent forces. Of course the spindly ones were down but we found that some of our bigger trees had toppled as well, trees we were certain would make good lumber. We felt like these big boys were too good to be used for fire wood since we had all those smaller ones that would provide us with a more than ample supply. There were not really enough trees down to order a logging truck, so we were left wondering what to do with these "saw logs". On our way home from Troy we noticed a sign at a person's home advertising that he would mill and sell lumber so we called to see if he was interested in buying our logs. He came out to inspect the logs that we had drug in, limbed, and decked and he decided that these would be worth the effort to mill. He arranged for them to be picked up and gave us a fair price for them.

There are also guys who will come out to your property with their portable mill. We had this done around 2005 when we had started construction on our house. As we cleared an area on the property for the house, we took down a good number of trees to use for posts, beams and trusses in our great room, but we still had trees left. Knowing we could use them for dimensional lumber, we had an individual come out here with his portable mill. He worked tirelessly and efficiently making lumber for us. We ended up with huge stacks and we used it a whole lot of it for framing. Then, we stacked the rest of the lumber hoping that we would end up with blue stained wood, which we did. That more than supplied us for the trim around all of our windows and doors in the house. We were very grateful for the thousands of dollars we were able to save by circumventing the lumber yards this way.

So when the winds blow, take heart. There might be lumber in your future.



Photos by Conny Buegge

Forest Stewardship Foundation
Po Box 1056
Libby, MT 59923-1056

RETURN SERVICE REQUESTED

NONPROFIT ORG
US POSTAGE PAID

MISSOULA MT
PERMIT #74



The Forest Stewardship Foundation is a Montana non-profit, public benefit corporation qualified under the 501 (c)(3), IRS Code.

The Forest Steward's Journal is a publication of the Forest Stewardship Foundation. Comments, articles, and letters to the editor are welcome.

Please Join the Forest Stewardship Foundation

Through memberships of only \$25/year we have been able to secure grants, publish and distribute the semi/annual Forest Stewards Journal to over 1200 addresses and co-sponsor the annual forest landowner conference and insect and disease workshop. Making forest education happen across the state is what we are all about. Over the past 25+ years these efforts have also included conservation easement and succession planning workshops, sponsorships of forest stewardship workshops along with a host of other efforts.

As a non-profit organization our board members are not paid, but are passionate about this cause. Your membership means a great deal to our continuing success. Our membership has steadily increased over time to 130 members. Please consider joining the foundation by completing the membership application form/envelope found in each winter's edition of the Journal or by going to our website at: <https://www.ForestStewardshipFoundation.org>.

Thanks for your help.
Ed Levert, Chair

