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Timber Tales

No. 139 News and Ideas for Forest Landowners from Ricky Kilpatrick, Area Forestry Agent 1st Quarter 2012

How to Handle Drought Losses on Your 2011 Taxes¹

The drought of 2011 devastated agricultural crops and newly planted or replanted forestland in Louisiana. Many forest landowners are questioning whether there are tax consequences resulting from this sudden and unexpected drought. The answer is that there may be some tax deductibility opportunities, depending upon each individual forest landowner’s situation.

For example, let us assume that Marge site prepared and replanted her forty acre timber tract in 2011. She incurred costs of \$130 per acre in site preparation costs, \$30 per acre in seedling costs, and \$40 per acre in labor costs associated with replanting. Therefore, her total costs associated with stand establishment were \$200 per acre in 2011. The drought caused Marge to lose large quantities of her planted seedlings. Can Marge claim this as a loss?

The Internal Revenue Service regards the most critical issue to be one of whether or not Marge’s remaining stand of seedlings is “totally worthless.” The answer to this question will depend upon the expertise and opinion of a forester. If Marge’s forester concludes that the drought damaged the stand of seedlings to such a degree that the tract should be completely replanted, then the residual stand is deemed “totally worthless.” If, on the other hand, Marge’s forester concludes the planting can be repaired by “spot replanting,” then there are no tax deductibility opportunities. In the case of partial loss, Marge could add the costs associated with replanting the damaged areas to her cost basis.

For total losses, Section 165 of the Internal Revenue Code states that all losses incurred in connection with a trade, business, or investment are generally deductible. Marge’s investment loss associated with seedling damage would qualify under Section 165. However, Internal Revenue Code Section 1231 states that these trade, business, or

For additional information, call Area Code 318 and . . .					
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¹ Thanks to Tax Attorney and Tree Farmer Paul Spillers for this information. Paul is also a member of the Louisiana Forestry Association’s Board of Directors.

investment losses must be “netted.” If, for example, Marge had revenues from another timber sale in 2011 totaling \$10,000, the qualified losses incurred due to the drought (in this case \$200 per acre for forty acres, or \$8,000) would be subtracted from the revenues derived from the timber sale. The net gain would be \$2,000, and would be taxed as capital gains at the capital gains tax rule. If, on the other hand, Marge had Section 1231 gains totaling \$5,000 in 2011, then the net would be a \$3,000 loss which could then be deducted from “ordinary” income (salary, business income, dividends, etc.). If Marge had no Section 1231 gains in 2011 (no other timber sales, for example), the entire \$8,000 could be deducted from “ordinary” income. If Marge is in a 30% tax bracket, an \$8,000 deduction will save her \$2,400 in taxes in 2011.

What if Marge incurred site preparation costs in 2010 and actually replanted in 2011? If Marge chose to amortize her 2010 reforestation expenses over a seven-year period, then the only amount not eligible to be included as a capital loss would be that small amount amortized in 2010. The remainder of the site preparation expenses incurred in 2010 could be included as Section 1231 losses and netted against any Section 1231 gains for the 2011 tax year (provided, of course, that the planting is deemed a total loss).

If a professional forester determines that Marge’s seedlings were a “total loss,” then Marge would report the net of Section 1231 gains and losses on IRS Form 4797, titled “Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2).” The forester’s opinion should be submitted in written form as a letter to Marge. His letter should set forth his reasons for concluding the planting was a “total loss” and the facts supporting his opinion. This letter should be provided to Marge’s tax return preparation specialist.

Look Out for Beavers!

This is a good time of year to check your land for beaver dams and water levels. Beaver dams endanger wildlife habitat, flood farms, kill new and old growth forests, undermine railroad earthworks, weaken levees and obstruct culverts. Beavers can also create safety issues...I have a friend who fell on a beaver-chewed stub, and it went through his leg! If you have a new dam holding water on your timberland, you will want to get this water drained before spring. One spring growing season in standing water can kill a lot of trees. This is very damaging to your forest structure and can completely change the composition of a bottomland hardwood area. If it goes untreated for a couple of years, it can be very hard to reclaim this area back to its original condition. You also have to be concerned about an area being designated as a wetland if it stays in water most of the year, and then you are limited as to what can be done. If you have areas that are hard to get to, check aerial photos. Current photos are easily accessible now.

This article may seem familiar, as I included it in the first quarter of 2011 also, but I think this is a very important topic. I hate to see acres of nice bottomland hardwoods turn into a big, wet inaccessible thicket!

Be sure and check John Robinette’s article on new beaver hunting regulations in this newsletter. In recent years, lots of freedom has been granted to try and help resolve the problems caused by beavers, feral hogs and other problem-causing species.

New Regulations - Nighttime Shooting of Outlaw Quadrupeds, Beaver and Nutria²

In Louisiana, feral hogs, coyotes and armadillos are classified as “outlaw quadrupeds,” meaning they can be harvested throughout the year during daylight hours by properly licensed hunters (valid hunting license required) with any weapon.

² By John Robinette, Biologist Program Manager, Dept. of La. Wildlife & Fisheries, La. Wildlife Insider Magazine, Fall/Winter 2011

To aid landowners in their efforts to control outlaw quadrupeds, as well as beaver and nutria, the law concerning the taking of these animals was amended in 2011 to remove the firearm restrictions in prior law. Currently, the law allows the taking of feral hogs, coyotes, armadillos, beavers and nutria on private land at night without a permit from LDWF under the following conditions:

1. Person(s), other than the actual landowner, while engaged in the nighttime shooting activity, must have written permission from the landowner in their possession, including the landowner's contact information. Hunting clubs that lease land from a corporate landowner must obtain permission from the corporate landowner. In this instance, the person(s) engaged in nighttime shooting must have written permission from the corporate landowner's authorized representative and the hunting club's president. Each authorized person must be specifically named in this letter of permission.
2. Nighttime shooting may only be conducted from ½ hour after official sunset on the last day of February to ½ hour after official sunset on the last day of August of the same year. In simple terms, persons shooting nuisance animals at night, such as hogs, from March 1 – Aug. 30 will be within the prescribed season.
3. A valid basic hunting license is required.
4. Any legal firearm legal for hunting may be used. The prior restriction limiting night shooting activities to .22 rimfire or shotguns with buckshot has been removed.
5. Spotlights, infrared or laser sighting devices, or other night vision devices may be used.
6. Noise suppressants or muzzle silencers are legal to be used by persons licensed by the Bureau of Alcohol, Tobacco, Firearms and Explosives.
7. There is no limit on the number of hogs, coyotes, armadillos, beavers or nutria that can be taken at night during prescribed season.
8. Any person attempting to take hogs, coyotes, armadillos, beaver or nutria at night must notify the sheriff of the parish in which the property is located 24 hours prior to engaging in nighttime shooting.

Knowing your target and what lies beyond your target is critical, these basic rules are even more important to remember when engaged in nighttime shooting activities. Bears and feral hogs have similar body size and shape, so positive target identification is particularly important when shooting at night in areas where bears occur.

Winter Forestry Work

Usually, timber harvesting and forestry work in general slows down this time of the year due to wet weather. However, these conditions also provide an opportunity for improved forestry and wildlife management.

The wettest time during the winter is the best time for forest landowners or managers to survey critical erosion problems. At this time, the problem areas are at their worst and a more effective plan can be developed than if the areas were evaluated in the dry part of summer.

Although the actual ground work would not usually be recommended, surveying and flagging for drainage, culverts and permanent roads could be done. Stream crossings, wildlife food plots and thinning intensity of erosion problem areas could be most effectively planned by evaluating the areas in their wettest conditions.

Winter is also a good time for boundary maintenance work. Visibility is much better while the foliage is off the trees and shrubs. If you plan to mark boundaries or other areas with a GPS, satellite reception will generally be better in the winter. Young pine plantations can be evaluated for survival, and the need for replanting high mortality spots can be determined much easier at this time of the year.

Finally, it's just nice to walk around in the woods during the winter. Things just look different this time of the year, and you see things that you might not notice during other seasons.

Boundary Maintenance

In working with forest landowners, a common problem that arises is the location of the landowner's boundaries. Boundary line maintenance is usually something that the landowner forgets about or may not think is very important. Maintenance may be neglected because the landowner knows his lines well in relation to natural markings or has not had reason to know the exact boundaries in the past. However, regardless of the situation, there will come a time when a definite knowledge of the boundary line will be important. Well marked lines will assure the landowner of a better job of cutting desired trees near the line during a harvest or thin. It will also help prevent accidental cutting from adjacent landowners.

The cost of frequently remarking and maintaining boundaries is very small compared to the cost of running a boundary line survey periodically. If your lines are gone, you might consider getting them re-established at the time of your next harvest or thin. If your lines can still be found or if you get them surveyed, make a point to keep them established by remarking them every few years.

Acorn Production for Wildlife and for Oak Regeneration

Surprisingly, the acorn crop was excellent this year even after the drought. I did notice many trees dropping acorns early, and many of these acorns were immature and not viable but even with this, we still had a very good crop overall. In relation to this, my daughter Corri is doing a science fair project with acorns. She is comparing several species (live oak, white oak, cow oak, water oak and Shumard oak) to see which ones have the highest percentage of germination after this drought year we've encountered.

Squirrels have interfered with her project on two occasions, eating many of the acorns even when she thought she had them well protected. Thankfully, we had extra acorns and with steel grating and relocating the acorn pans by the dog pen, the project can now proceed. I will report back on the outcome. Following is some additional acorn information that might be helpful.

Acorns of oaks in the white oak group mature in one growing season, those of the red oaks take two growing seasons. The red oaks all have bristle-tipped lobes on their leaves; the white oaks do not. The white oak group includes such common Louisiana species as white oak, bur oak, overcup oak, post oak, swamp chestnut oak, and chinkapin oak. Common Louisiana members of the red oak group include southern red oak, cherrybark oak, Shumard oak, black oak, Nuttall oak, blackjack oak, willow oak, water oak, and laural oak. Live oak is usually grouped with the red oaks on the basis of wood characteristics, but its acorns mature in one year.

Most oak species produce a good crop of acorns every three or four years. Insects get most of the acorns in poor or moderate years. Some species of oaks are better acorn producers than others, and different species tend to produce good crops of acorns in different years. Only a relatively small proportion of trees of a given oak species are inherently good seed producers.

Trees with large crowns exposed to the light produce more acorns than trees with shaded crowns. Trees of large diameter produce more acorns than trees of smaller diameter, all factors being equal, but production peaks and then declines with increasing size in some species.

In a study of oaks in the southern Appalachians, white oaks produced an average of approximately 150 acorns per 10-inch diameter tree and peaked at approximately 2,200 acorns per 26-inch tree before declining. Black oaks that were 10 inches in diameter averaged approximately 300 acorns per tree and continued to increase at a study rate to approximately 2,100 acorns per 36-inch tree. Northern red oaks produced approximately 50 acorns per 10-inch tree and peaked at approximately 1,600 acorns per 20-inch tree.

Trees can be ranked by counting acorns with binoculars in mid-August. Those that are identified as good acorn producers can be favored later by thinning to expose their crowns. Retaining a mixture of species will help level out year-to-year fluctuations.

Important Questions A Landowner Should Ask A Tree Planting Contractor³

Prior to entering a contractual agreement for tree planting, a landowner should obtain the following information from potential contractors:

1. Will vendor sign a contract with landowner? (Helpful to provide sample contract.)
2. How long has contractor been planting trees?
3. How are crews handled and supervised?
4. Are crews paid on an hourly or a production basis?
5. Does contractor have access to cold storage for seedlings?
6. Can contractor provide references or take landowner to previous planting jobs?
7. How will contractor care for and handle seedlings on site?
8. If contractor is provided seedlings, what is provenance of seeds or seedlings?
9. How are seedlings transported by contractor to planting site?
10. How will contractor verify trees planted per acre?
11. What method will contractor use to plant seedlings (dibble, hoedad or machine)?
12. Will contractor guarantee planting job for survival?
13. How will contract differences be resolved?

Events, Thoughts and Tidbits

***The Ark-La-Tex Forestry Forum is set for Thursday, March 8, 2012, at the Holiday Inn Financial Plaza. Register by March 5th for \$20! (See details on page 7.)

***If you are not a member of the Louisiana Forestry Association, why not make a 2012 resolution to join!! The LFA is a strong organization with a great reputation and is highly thought of by peers, lawmakers, other professional organizations as well as state and federal agencies. The LFA is a great advocate for landowner rights and interests. As a member, you'll receive the quarterly *Forests and People* magazine, the bimonthly LFA newsletter and legislative updates. You'll also have access to insurance for hunting (as a landowner/lessor or as a hunting club/lessee) and forest land certification through the tree farm program. And the annual convention is always spectacular!!

***Don't forget that you need to call Do Not Dig (811) if you are going to be planting trees. According to Steve Taylor with Walsh Timber Co., it is much easier to make your 811 requests online than by phone.

³ From [A Guide to the Care and Planting of Southern Pine Seedlings](#), USDA Forest Service Management Bulletin R8-MB39, December 1989.

Sincerely,

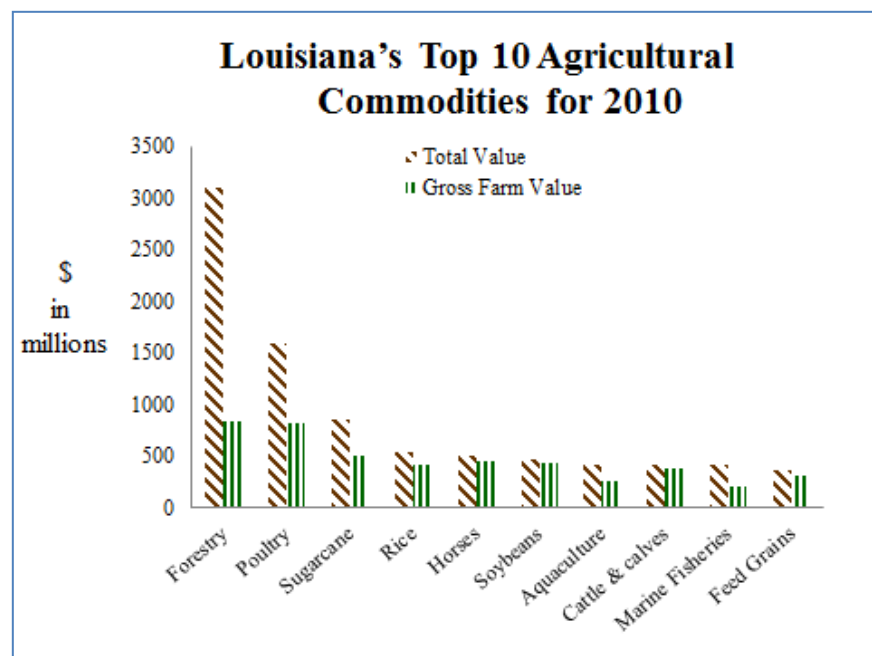
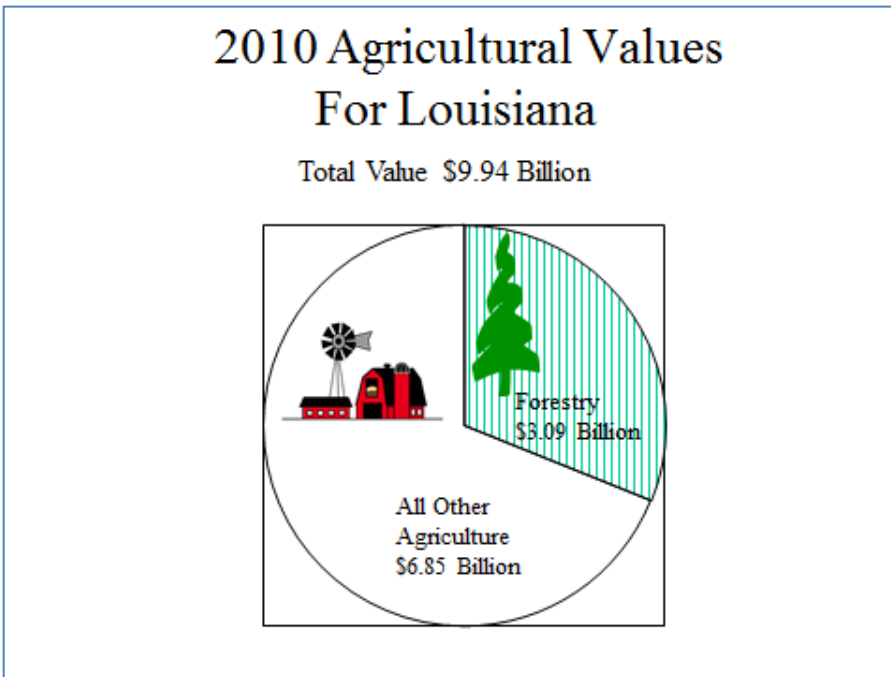
Ricky Kilpatrick

Ricky Kilpatrick
Area Forestry Agent

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Ag and Forestry Values for Louisiana

Here are a couple of graphs of agricultural values for Louisiana in 2010. Notice how forestry compares to the others. As soon as I have 2011 figures, I'll post those graphs and you can compare.



**28TH ANNUAL ARK-LA-TEX FORESTRY FORUM
THURSDAY, MARCH 8, 2012
8:30 A.M. TO 3:00 P.M.**

**HOLIDAY INN FINANCIAL PLAZA
5555 FINANCIAL PLAZA
SHREVEPORT, LA**

The program is currently being planned and speakers are being contacted. Planned topics include:

- Basics of lake/pond management
- State, regional and federal issues that impact forestry
- Do you need to form an LLC?
- Taxes
- Wildlife assistance programs for landowners
- Other topics

Door prizes will be given by several exhibitors.

Come and enjoy an excellent forestry meeting, great lunch and the fellowship of others interested in forestry. If you pre-register by March 5th, the fee is \$20. After that date or at the door, registration will be \$25. Your fee includes lunch and a copy of program proceedings.

**ARK-LA-TEX FORESTRY FORUM
MARCH 8, 2012**

Name _____ Phone _____

Company/Organization _____

Mailing Address _____

City _____ State _____ Zip Code _____

This form may be duplicated. If more than one person shall be registered, please include names and addresses of the additional people.

_____ Number of people registered @ \$20 per person (\$25 after March 5th)

_____ Amount enclosed

Make check payable and mail to: **ARK-LA-TEX FORESTRY FORUM
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Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River and Webster Parishes**

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Louisiana Cooperative Extension Service, Dr. Paul Coreil, Vice Chancellor and Director
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