

THE VOICE OF THE TIMBER INDUSTRY

TIMBER BULLETIN

DULUTH, MINNESOTA

JULY/AUGUST 2011

VOLUME 66

Litigation Keeps Wood Moving During Shutdown Taking a Stand: Simcoe and Habisch Logging

A photograph of a logging skidder in a forest. The skidder is orange and white, with a large black grapple holding a stack of logs. A person is visible in the operator's cab. The background is a dense forest of tall, thin trees.

**Pre-Employment Drug Testing:
What Owners Need to Know**

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TIMBER BULLETIN

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Duluth, Minnesota

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ON THE COVER

Ralph Simcoe stacks wood in the Nemadji State Forest. Simcoe and partner Joe Habisch were profiled in the Minneapolis Star Tribune during the state government shutdown. For their story, please turn to page 8.

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NORTH STAR EXPO

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Minnesota Timber Producers Association



The signs of summer ending are here. The Log-a-Load golf tournament and the Expo are just around the corner. I would like to thank all the members of the Expo committee for their time and hard work. Also, I would like to take this opportunity to invite everyone to attend the Log-a-Load Tournament. It is a great cause and always a good time. Be sure and go to the Expo and see

President's Column



what's new, visit with friends and if you're not careful, you might learn something new.

I would like say thanks to Ray Higgins and Wayne Brandt for

their efforts to keep loggers cutting wood during the government shutdown. It goes to show the efforts of a few can make a difference to many.

It's a little slow for news now, other than presidential nominations seem to be up in the air yet, so I'll have to dig into my archives. As I was cutting last winter, where I thought was the middle of nowhere, my saw got tangled in barbed wire. Someone must have had a farm nearby but we never saw anything. Makes you wonder what ever happened to them. And will they say that about us (loggers) in perhaps 60 or 70 years? Wonder what happened?

Hope to see you at the Expo and remember to be safe.

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Timber Industry Loses Giant Jack Cedergren 1922-2011

Long-time TPA board member and advisory committee member John H. "Jack" Cedergren, died in his home Aug. 21, 2011, four days shy of his 89th birthday.

Jack worked at Northwest Paper Company – later Potlatch – for 35 years, first as a logging superintendent in the Isabella area, and ultimately as director of wood procurement. Before that he had logged on the West Slope of the Sierra Nevada Mountains for two years.

With TPA, Jack was very active in many areas, including the advent of mechanization in the logging industry. Cedergren chaired TPA's first mechanization committee for 16 years.

"Jack was one of the strongest proponents of mechanization and of innovation in the woods," said longtime TPA executive secretary Russ Allen. "He would encourage companies who were developing new equipment, like Siiro, who was developing his fell-bucker and mounted it on a Cat. That was among the first innovations and Jack encouraged him on that and also all the rest of the people that started developing things. He was also heavily involved in developing the Space Age Forestry Show at the State Fair."

Cedergren's involvement in the betterment of the industry didn't stop there. He was key in lobbying

for changes in the way the state administered its forestry laws, particularly during the 1967 and 1969 Minnesota legislative sessions. Along with Allen and fellow TPA member Mike Latimer, Jack spent countless hours in St. Paul. As a result, some 13 major timber law changes were enacted during that two-year period, including elimination of the Surveyor General's Department and the transfer of its duties to the DNR's division of forestry. Sale by appraisal was permitted, and bonding requirements for loggers were modified substantially. The state also allowed the designation of alternate landings in the woods.

He was indispensable during that period of time when we were at the legislature," Allen recalls. "He was a strong supporter when we were trying to change the timber laws to facilitate the harvest of timber. He worked so hard with the association. Jack really had his heart and soul in the support of loggers and promoting their well being."

A native of Duluth and 1940 graduate of Duluth Central High School, Jack flew P51 fighter planes in World War II, escorting bombers from England to their targets in Germany. He also worked as a bush pilot in Alaska, completed a 1000 mile canoe trip from Minnesota to Hudson Bay, and earned his degree in forestry from the University of Minnesota.

Jack is survived by his wife of 58 years, Mavis, and two daughters and their families.

Mark Your Calendar

Here are some of the events in the coming months you'll want to make sure are on your calendar:

Sept. 8-10

Great Lakes Timber Professionals Association 66th Annual Lake States Logging & Equipment Expo
Escanaba, Mich.

Visit: www.timberpa.com or call: 715-282-5828

Sept. 16 & 17

58th North Star Expo at Itasca County Fairgrounds in Grand Rapids, Minn. Parking \$3, admission is free. For more information, call the TPA office at 218-722-5013.

The state government shutdown was finally resolved and the government went back to work after three weeks. The solution, while not really solving all of the state's fiscal issues, was a compromise between the governor and the legislature.

We are grateful to Erickson Timber, Hasbargen Logging, and Whitefish Creek Enterprises for their willingness to be plaintiffs in the lawsuit that allowed continued harvesting on open permits and continued trucking of cut products. Without their leadership many of our members would not have been able to continue working.

After Judge LeDuc of International Falls issued the

Executive Vice President's Column



open permits.

The state then went to the Minnesota Supreme Court and asked that the lawsuit be moved to Ramsey County – which the Chief Justice ordered. There was a hearing in front of Judge Gearin in St. Paul on Tuesday, July 12. It was clear from the hearing that the judge, who was quite animated, was sympathetic to our arguments about trucking cut products but was not likely to allow continued logging on open permits.

Settlement discussions then began and an agreement was reached with the state that allowed continued trucking of cut products until September 1 but ended logging on open permits. Judge Gearin, in what I believe was a move sympathetic to us, accepted the settlement agreement and issued a new order late on Friday. She could have issued her order much earlier in the week.

At the same time the agreement to end the state shutdown was reached.

While a few days of logging were lost the following week, in the end, thanks to the lawsuit, we succeeded in this effort.



I mentioned in my last column that our lawsuit and the shutdown's impacts on logging had made the New York Times. It also was in the Wall Street Journal and many newspapers, radio and TV stations here in Minnesota. TPA member Ralph Simcoe was featured in a story on the front page of the business section of the Minneapolis Star Tribune. Judge Gearin, in an interview with the Politics in Minnesota online journal, also talked about having loggers in her courtroom to illustrate the pain that political gridlock was causing businesses. All of this coverage highlighted the importance of the forest products industry to our economy and state. It was another opportunity that we created to tell our story.



The phones have been ringing off the hook here at the office about this year's North Star Expo. Vendors are reserving their space and events at the show are coming together. Mark your calendars to be at the Itasca County Fairgrounds in Grand Rapids on September 16 and 17 for the Expo.



Sometimes it's the little things in life that matter. The look and feel of our hometowns. Catching a nice walleye. Hitting a golf ball crisply. Watching kids' events. The little

things matter in safety, too. Making sure the fire extinguishers are fully charged and you have more of them than you might need. Keeping three points secure when climbing onto a machine or up a ladder. Having good posture and hand positions while operating controls. Think about the little things in safety. They matter!



Isn't this a great time of year? Community events and fairs. Family gatherings. Watching gardens and crops grow and smelling fresh cut wood. I recently got together with a bunch of my high school buddies for a few days of fun and talking smart. We do it every couple of years and it's always a highlight for each of us. Connections like this are very important. Make sure you take the time to stay in touch and have some fun during the rest of the nice weather.



TPA's 75th Anniversary is next year. The public relations committee has begun to discuss how we're going to mark this historic milestone. If you have any ideas be sure to let us know.



The best quote from the shutdown lawsuit came from former TPA President Dale Erickson: "It's a sad day when you have to sue the state so you can go to work."

Dale Erickson



Joe Habisch and Ralph Simcoe of Simcoe Habisch Logging.

Taking a Stand

When it was time to speak up about the government shutdown, Ralph Simcoe and Joe Habisch stepped up.

by Ray Higgins

Ralph Simcoe and Joe Habisch had seen enough rain. The 4,000-cord state sale they were working on near Nickerson in the Nemadji State Forest was in the heart of one of the wettest places in the state during the months of June and July.

"It's just terrible," Simcoe said.

"It rains every other day. And we can't go a week without heavy rain, up to 3 and a half inches."

To make matters worse, Minnesota's government was shut down – including DNR forestry operations – due to a budget impasse between the governor and the legislature. Fellow TPA members had sued the state, obtaining a temporary restraining

order allowing work to continue on DNR permits, but only on already open cutting blocks. For Simcoe and Habisch Logging, the open blocks on this permit were too wet for harvesting operations. Other cutting blocks with sandy soil that could have been harvested hadn't been opened, so weren't available during the shutdown, leaving Simcoe and Habisch



Simcoe operates the Serco 170 loader, piling maple logs to be hauled to the mill.



Habisch drives the Clark Ranger 666 skidder.

sitting idle. When a reporter from the Star Tribune in Minneapolis called Simcoe for his thoughts on how the shutdown was affecting his business, he didn't hesitate.

"I wasn't afraid to talk to him," Simcoe says. "I wanted to get my point across. I was fed up with everybody. I'm not afraid to talk."

Simcoe was born and raised south of Onamia 70 years ago. His father was a logger and his

grandfather owned a sawmill, but the family moved to the Twin Cities when the economy suffered. After high school he enlisted in the Navy and became what he calls "an aviation tin-bender," working on the skin of aircraft. He was stationed for a time in Washington, D.C., serving on the presidential helicopter command, the crew that maintains Marine One, the president's personal chopper. That duty included regular visits to the South Lawn of the White House for

presidential arrivals and departures.

Other stops included Newfoundland and Iceland. After leaving the Navy, Simcoe returned to Minnesota, married his wife, Caroline, and settled in Redwood Falls, where he worked in highway construction. But Ralph never felt at home.

"I made a living down there," Ralph says, "but I just didn't like the heat down there. I'd get up and go to work and it's already 85 at four in the morning, and the humidity was the same."

He wanted to move back to northern Minnesota where it was cooler.

"I talked my wife into coming back here," Simcoe says. "And this was the only way I could make a living up here."

That was roughly 35 years ago. He settled back in Denham, northwest of Willow River, and took a job at a sawmill owned by Leroy Horton. Simcoe ran chain saw, harvesting trees for the mill's logging operation.

After a while, Simcoe started on his own. He harvested with a chain saw and skidded the wood with a C4 Treefarmer. Then Habisch came along.

Joe had begun dating Simcoe's daughter, Debby, while at Willow River High School. After graduation, Habisch went to work with Ralph, and soon thereafter, Joe and Debby were married. Both of Habisch's partnerships – with Ralph and with Debby – are still going strong 26 years later.

As far as the logging operation goes, it's mostly been just Ralph and Joe. Simcoe now lives just outside of McGrath while Habisch lives in Willow River. Over the year they've tried hiring equipment operators, but it never seemed to work out.

"We couldn't find decent help," Ralph says. "We'd hire skidder operators and they didn't work. They'd come out in the woods and sit on their butts on the stump. We just seemed to do it better ourselves, just the two of us."

Habisch runs the Hydro-Ax 611 feller buncher, and also the Clark Ranger 666 skidder. Simcoe slashes and loads with the Siiro loader and Serco 170 slasher.

They share duties in the Caterpillar 320 delimeter. Productivity is slowed because it's just the two of them.

"We don't have the production we would if everything was going at once," Ralph says, "but we still make a living at it."

They do it this way out of necessity. Roughly 22 years ago, Simcoe contracted meningoencephalitis – a combination of meningitis and encephalitis – and spent 62 days in the hospital and another two months laid up at home. As a result, his balance isn't 100% and he can't turn his head enough to allow him to run a skidder. So, Simcoe sticks to the slasher/loader.

"When I first started back to work, Joe had to help me into the loader," Simcoe says. "I got so I could walk and all that, but I used to fall down everywhere. Joe used to give me hell about it."

Simcoe eventually bounced back, which is good, because with a two-man operation, there's plenty to do. Caroline helps with the bookkeeping, and the hauling is outsourced to Jeremy Koivisto of Floodwood. The rest is up to Simcoe and Habisch, including the maintenance on the machines. That's crucial because none of the equipment is particularly new. For instance, the buncher is a 1992 model. Fortunately, Habisch is a whiz when it comes to keeping the equipment in tip-top condition.

"Things fatigue," Habisch says, "so we do what we can. I never took any courses in it. It's all been on-the-job training."

"Joe's a good mechanic," Ralph says. "Normally we rebuild everything every spring. He's pulled the skidder apart, put new cradle pins and all of that. "He did that all by himself. He's very good at keeping things going."

While equipment breakdowns don't stop Simcoe and Habisch too often, this summer it was the combination of the weather and the government shutdown that did idle their equipment. That's what had Simcoe frustrated when talking to the reporter from the Star Tribune.

"We could have worked on this sand ground, but we couldn't



Simcoe and Habisch's Hydro-Ax 611 feller buncher sits on the landing, waiting to harvest more aspen, oak, and maple. With a two-man operation, Simcoe and Habisch can't operate all of the equipment at the same time.



After skidding pulpwood to the landing, Habisch runs the Caterpillar 320 delimeter.

open any new cutting blocks with the shutdown," Simcoe says. "That shafted us there. That hurt the hell out of us. And then you don't know. You can't make plans because you don't know when they're going to go back to work."

The shutdown hurt because they couldn't make any wood deliveries and had no revenue coming in. That made making payments and

paying bills difficult.

"You have to have a good banker that's understanding," Simcoe says.

Fortunately, the shutdown only lasted three weeks, and Simcoe and Habisch could resume work on this sale. It's a thinning from which they'll take all of the birch, aspen, and balsam, while thinning the oak and maple. The majority



Simcoe talks with Minneapolis Star-Tribune reporter David Shaffer (R) and photographer Glen Stubbe during the state government shutdown. Shortly after Shaffer and Stubbe visited the idle job site, the budget deal between the governor and legislature was announced.

of the wood will go to Sappi – the actual permit holder, and Simcoe and Habisch’s main market – with any birch bolts going to Savannah Pallet in McGregor and the roughly 500 cords of oak sold for firewood. That will keep the pair busy for the better part of the winter logging season, as long as ground conditions are good.

“The last five years have been soaking wet everywhere,” Simcoe says. “We’ve been working on sand for just about two years because it’s been so wet. Last year we worked the northwest part of Pine County and that was an aspen clear-cut. It was 4000 cords and we just barely made a living because we had to push semis in and out all the time. And that was on high good ground. I had to grade that road every day. I hauled more gravel in on that road than we’ve ever hauled.”

The weather has been a challenge, as have fuel prices. But they work hard to stay safe, taking care not to put themselves in dangerous situations.

“We don’t push it anymore because we don’t want to get hurt,” Ralph says. “We take it as it comes.”

That’s a good plan. At age 45, Habisch wants time to spend with Debby and his two grown sons, and also hunt and fish. Simcoe also wants to make sure he has the spare time to work on his garden, where he has fruit trees, blueberries, raspberries, rhubarb, asparagus, and more. He’d have even more opportunity for those things had he followed his original plan to retire at 65.

“I got to 65 and I said ‘five more years,’” Ralph says. “Then I got to 70 and I said ‘five more years’ again. So we’ll see. I feel real good.”

TPA Loggers' Lawsuit Allowed Continued Operations During Shutdown

Hours before a state government shutdown was set to go into effect, three TPA members walked into an International Falls courtroom hoping a judge would agree that logging operations could continue over the objections of the Minnesota DNR and attorney general's office. The case was ultimately discussed in three different courtrooms and chronicled in the media across the state, even picked up by the New York Times and Wall Street Journal. What follows is a timeline of the twists and turns of the case and its effects on the



Kit Hasbargen



Dale Erickson

logging industry.

June 30: With the governor and legislative leaders at an impasse on budget discussions, and the state government set to close its doors at midnight, Birchdale loggers Dale Erickson, Kit Hasbargen, and Charlie Hasbargen filed for a temporary restraining order in Koochiching County Court that would prevent the state from suspending timber permits during a shutdown. Their attorney, Steve Shermoen, argued that nothing in state statute or in the timber permits allows the state to suspend the permits in such an instance, and that such a suspension would cause "immediate irreparable harm" to his clients' businesses.

Representatives of the DNR and attorney general's office argued via conference call that the DNR needs oversight on timber harvests, and with no foresters working during a shutdown, that oversight wouldn't be available. Shermoen countered

that DNR foresters don't visit harvest sites regularly anyhow, that Minnesota's Forest Management Guidelines would still be in use, and that the DNR would be able to inspect these harvests after a shutdown and keep the permits open until any problems were corrected.

The attorney general's office also argued before Koochiching County Judge Charles LeDuc that he didn't have jurisdiction in the case, that the State Supreme Court had ordered that all requests for government appropriation during a shutdown be heard in Ramsey County Court before Judge Kathleen Gearin. But Shermoen argued the loggers weren't asking for an appropriation, but rather asking the court to prevent the state from suspending contracts.

Before the end of the hearing, the attorney general urged the judge to take his time making a decision, pointing out that with the 4th of

July weekend coming, no one would be working over the holidays anyhow. Judge LeDuc responded by saying, “you obviously don’t know this industry. These people work when the weather allows regardless of whether it’s Christmas, New Year’s, or the 4th of July. If operating conditions allow, they’ll be working this weekend.”

July 1: LeDuc issued his ruling at 1:30 a.m., granting the request for a temporary restraining order, allowing the loggers to continue working on already opened permits. Later in the day when the DNR questioned whether the order applied to all loggers or just the three plaintiffs, LeDuc clarified his decision to include all loggers. Because of the short time frame for preparing arguments for the first hearing, he scheduled another hearing for July 11 to allow more detailed arguments in order to decide whether to make the ruling more permanent.

July 2: For the previous two days, radio, TV and newspaper reporters from around the state had been calling the TPA office for information on the lawsuit and on the loggers’ victory. But on a Saturday morning, TPA executive vice president Wayne Brandt wasn’t expecting a reporter’s phone call, certainly not one from the New York Times. But Times reporter Monica Davey tracked Brandt down at his home and wanted to know about the lawsuit. Her story about the shutdown, including quotes from Brandt, appeared the next day in the Sunday edition of the Times nationwide.

“I don’t think TPA has ever had coverage before the in New York Times,” Brandt said.

July 5: The DNR and attorney general’s office asked the State Supreme Court to move the July 11 hearing to Ramsey County Court. The Supreme Court granted that motion and also amended its pre-shutdown ruling to include all cases pertaining to the shutdown be heard in Ramsey County, rather than simply those requesting state appropriation.

July 12: After rescheduling the hearing from the 11th to the 12th, Judge Gearin heard arguments from both sides. She was clearly

frustrated with state government over the budget impasse and asked Shermoen why loggers should be allowed to work without government oversight when others couldn’t. Shermoen responded that the state was trying to single out the logging industry, that statute also required constant oversight of gasoline pumps but that the state’s gas stations weren’t closed. Why should loggers be treated differently?

Ultimately, Gearin indicated she would rule against Shermoen and the TPA members, but allow continued hauling of wood that had already been harvested. However, Gearin told the plaintiffs to continue operations until she issued her ruling, and urged the DNR to come to an agreement with the plaintiffs and with TPA on how long that should be.

July 14: With little advance warning, and after days of seemingly unproductive budget discussions the legislature’s Republican leadership and Governor Mark Dayton agreed on the framework of a budget deal, signaling an end to the government shutdown. It will take a few days to negotiate the details and convene both houses of the legislature to pass the final budget bills.

July 15: TPA members and the DNR arrived at a settlement that allowed hauling until September 1st though ended logging as the judge had indicated she would do during the hearing. Judge Gearin issued her ruling based on this agreement, which was rendered moot by the budget agreement.

July 20: Governor Dayton signs the budget bills passed by the legislature, putting state government workers back to work.

Postscript: Thanks to the lawsuit filed by Erickson and the Hasbargens, timber harvests on state land were suspended for less than a week, and hauling wood from state forests was never stopped.

After the shutdown ended, the Politics in Minnesota blog quoted Judge Gearin as saying, “I wish that the legislators who weren’t involved in all the [budget] negotiations...could have heard and seen the loggers in my

courtroom in their jeans and T-shirts talking about how (the shutdown) was destroying their generations-held family businesses in places like Koochiching (County).”

DRUG & ALCOHOL PROGRAM – Pre-Employment Testing Review

by Jane Abel

Pre-Employment Testing – Drug and Alcohol Program – FAQ

The TPA office often receives questions from those involved in our drug and alcohol testing program about pre-employment testing for new hires. In the interest of providing the best and latest information, TPA's Jane Abel has assembled the following "frequently asked questions" and their answers to assist you in managing your business and complying with federal regulations.

Question 1: Is a pre-employment controlled substances test required if a driver returns to a previous employer after his/her employment had been terminated?

Guidance: Yes. A controlled substances test must be administered any time employment has been terminated for more than 30 days AND the driver has not been involved in a controlled substances testing

program in the past 30 days.

Question 2: Must all drivers who do not work for an extended period of time (for reasons such as layoffs over the winter or summer months) be drug tested before returning to work each season?

Guidance: If the driver is considered to be an employee of the company during the extended (layoff) period, a pre-employment test would not be required so long as the driver has been included in the company's random testing program during the layoff period. However, if the driver was not considered to be an employee of the company for any portion of the layoff period, or was not covered by a controlled substances testing



program, or was not covered for more than 30 days, then a pre-employment controlled substances test would be required.

Question 3: What must an employer do to avail itself of the exceptions to pre-employment testing listed under §382.301(b)?

Guidance: An employer must meet all requirements in §382.301(c) and (d), including

maintaining all required documents. An employer must produce the required documents at the time of the Compliance Review for the exception to apply.

There are three basic requirements that must be met before the employer is excused from testing a driver for controlled substances:

1. **30 day requirement.** The first requirement is that driver must have participated in a controlled substance testing program within the past 30 days. This means that anytime there is a break of over 30 days in the driver's participation in the testing program that the employer has to obtain a new controlled substances test.
2. **Tested in last six (6) months or participated in testing program for last 12 months.** The second requirement to avoid testing a driver is that the driver has been tested in the past six (6) months OR has been in the testing program for the past 12 months. This means if the driver has not been in the testing program for 12 months and has not been tested in the last six, he or she must be tested. Thus, if the driver has been in the random testing program for only nine (9) months, but not tested, the employer must obtain a controlled substances test.
3. **No positive tests in last six (6) months.** The third requirement to avoid testing a driver is that the driver has not had a positive controlled substance test in the last six months. If there is a positive test, the employer must test the driver before allowing the driver to drive.

If ALL three requirements are NOT met, the employer needs to obtain a new test of the driver.

Contact with testing program, Documentation, and Retention of Documentation. If ALL three requirements are met, the employer then needs to contact the testing program. The employer needs to obtain specific information from the testing program (actual documentation, not just notes from a telephone call). The following information needs to be obtained:

1. Name(s) and address(es) of the program(s);
2. Verification that the driver participates or participated in the program;
3. Verification that the program(s) conform to part 40 (the FMCSA/DOT regulations);
4. Verification that the driver is qualified under the rules and did not refuse a test.
5. The date the driver was tested for controlled substances; and
6. The results of any tests in the last six (6) months and whether there have been any other violations by the driver of FMCSA/DOT regulations.

The driver may not start driving until the employer has received a verified negative test result from the testing program.

Question 4. Is an employer required to conduct a pre-employment alcohol test?

Guidance: No. An employer is NOT required to conduct a pre-employment alcohol test, unless the employer's policies require an alcohol test.

Question 5. If an employer requires a pre-employment alcohol test, what are the requirements for such tests:

Guidance: If the employer decides to conduct a pre-employment alcohol tests for its drivers, it must meet these five requirements;

1. The alcohol test needs to be performed before the driver is allowed to drive;
2. The test must be done for ALL drivers, not just some;
3. The test must be conducted AFTER the employer has decided to make a contingent offer of hire or transfer, subject to the employee passing the test. In other words, you must first hire, then test, with going to work depending on the results of the test;
4. The test must comply with FMCSA /DOT testing procedures; and
5. The driver may not drive unless the test comes back at less than a .04 blood-alcohol concentration.

The following is a copy of the full Pre-employment testing regulation, 49 C.F.R. § 382.301

§382.301 Pre-employment testing.

- (a) Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the employer uses the exception in paragraph (b) of this section. No employer shall allow a driver, who the employer intends to hire or use, to perform safety-sensitive functions unless the employer has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver.
- (b) An employer is not required to administer a controlled substances test required by paragraph (a) of this section if:
 - (1) The driver has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and
 - (2) While participating in that program, either:

- (i) Was tested for controlled substances within the past 6 months (from the date of application with the employer), or
 - (ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the employer); and
- (3) The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.
- (c) (1) An employer who exercises the exception in paragraph (b) of this section shall contact the controlled substances testing program(s) in which the driver participates or participated and shall

obtain and retain from the testing program(s) the following information:

- (i) Name(s) and address(es) of the program(s).
 - (ii) Verification that the driver participates or participated in the program(s).
 - (iii) Verification that the program(s) conforms to part 40 of this title.
 - (iv) Verification that the driver is qualified under the rules of this part, including that the driver has not refused to be tested for controlled substances.
 - (v) The date the driver was last tested for controlled substances.
 - (vi) The results of any tests taken within the previous six months and any other violations of subpart B of this part.
- (2) An employer who uses, but does not employ a driver more than once a year to operate commercial motor

vehicles must obtain the information in 15 paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with §382.401. If the employer cannot verify that the driver is participating in a controlled substances testing program in accordance with this part and part 40 of this title, the employer shall conduct a pre-employment controlled substances test.

- (d) An employer may, but is not required to, conduct pre-employment alcohol testing under this part. If an employer chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:
- (1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or

someone who has transferred to a position involving the performance of safety-sensitive functions).

- (2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).
- (3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.
- (4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of this title.
- (5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

NORTH STAR EXPO

SCHEDULE OF EVENTS

Friday, September 16

9:00 am	Equipment Displays Open
9:30 am	Display Contest Judging
10:00 am - 11:00 am	Loader Contest (sign up at site)
11:30 am - 12:30 pm	Celebrity/Media Loader Contest
12:30 pm - 3:00 pm	Loader Contest (sign up at site)
5:00 pm	Equipment displays close
5:00 pm	Cash Bar Social Hour begins
6:00 pm	BBQ and Door Prizes – on site

Saturday, September 17

7:00 am - 9:00 am	Free Pancake Breakfast (sponsored by Nortrax)
9:00 am	Equipment displays open
9:00 am - 11:00 am	Loader Contest (sign up at site)
11:00 am	Coloring contest winners announced
1:00 pm	Winners announced for Loader, Master Loader, and Best Load contests
1:30 pm	Winners announced for Guess the Weight, Big Cookie, Vendor Drawing, Wood I.D. and Big Cookie contests
2:00 pm	Equipment displays close

CONTESTS

Vendor Drawing – Visit the vendors identified on the back of your entry card and become eligible to win a chainsaw carving!

Guess the Weight – Guess the weight of a fully loaded truck

Wood Identification – See how many tree species you can identify

Loader – Test your skills against the clock

Masters Division Loader – Loader contest for those 50 and over – sign up at site

Best Load – Come and see the Best Loads of Wood on Display

Big Cookie – Enter to see if your wood cookie is the biggest of its species.

For additional information, contact:
Minnesota Timber Producers Association
324 W. Superior St. #903 • Duluth, MN 55802
218-722-5013



Missouri Timber Trades Association

NORTH STAR EXPO September 16 & 17, 2011 Fairgrounds Grand Rapids MN

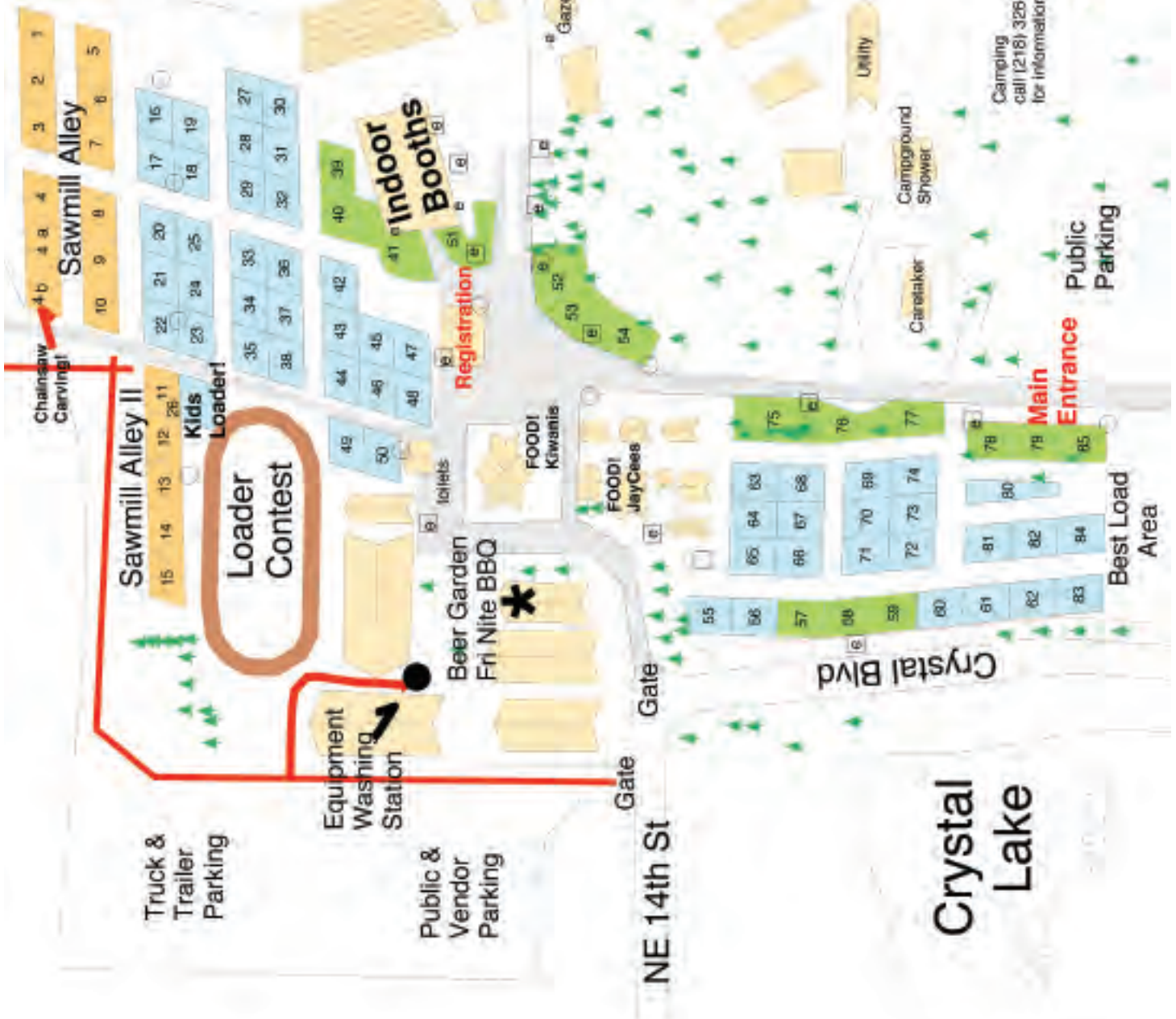


Legend

- light pole (no electric)
- e Pole with Electricity
- Road
- lots (no electric)
- lots (electricity available)
(bring your own extension cord)
- lots (Sawmill Alley)
- Blacktop



Notes:
Lots 52-54 have slight uphill grade from front to back.
Lot 75 has large trees within.



Legislative Report



conservation easements, or for research activities. The DNR is also required to submit a financial plan for the nurseries in January 2012.

- Record funding for DNR roads and bridges was included in the Bonding Bill. A total of \$4.8 million is allocated for projects on state forests,, parks and wildlife management areas. It is expected that over half of this amount will to forest roads and bridges.
- The budget for the MN Forest Resources Council was reduced from \$707,000 to \$580,000 per year. The council's budget had previously been reduced through unallotments from \$780,000 per year and has been as high as \$1.1 million per year.
- The Sustainable Forest Incentive Act was continued, though payments to private landowners were savaged. The current payment level of nearly \$15 per acre was capped at \$7 per acre.

After an historic three- week state government shutdown and a special legislative session, the work of creating a new biennial budget was finally completed. A number of issues important to TPA members were acted upon this year.

- The DNR Division of Forestry's total budget was reduced. The final budget was greater than the governor had proposed and the legislature had enacted in the previously vetoed budget bills. The DNR has indicated that it will be able to maintain its recent timber sales level of 800,000 cords with the funding provided.
- The Division of Forestry will be able to recover its costs for setting up timber sales on other activities when they are performed on lands managed by other divisions. This is most significant for activities conducted on Wildlife Management Areas. Previously the Division of Forestry absorbed the costs and the other divisions kept the revenues generated.
- After a tough battle DNR tree nurseries were allowed to continue operating. Sales from the nurseries will now be restricted for use on public lands, privates lands with permanent

Payments for any individual landowner were additionally capped at \$100,000 per year.

- Legislation to streamline and speed up the environmental review process was passed and signed into law. This is a first step in improving Minnesota's cumbersome and archaic process for judging capital investment projects.
- A variety of proposals on the administration and management of Permanent School Trust Fund lands were introduced and heard. While none of these bills passed, there remains a strong push at the Capitol to generate more net revenue from these lands.
- Payment in Lieu of Tax (PILT) funding was maintained, though a provision that requires periodic adjustments based on land values was eliminated. PILT is the payments that the state makes to counties for state lands – in essence it is the state's local property tax payment.

All in all, reasonable results for forestry issues in a very difficult year at the State Capitol.

Early Loggers in Minnesota

by J. C. Ryan



First-hand recollections by storyteller "Buzz" Ryan of the loggers, leaders, swampers, wood butchers and pull cones who ruled the woods in the hey day of the pioneer lumberjacks with dozens of historical photographs.

Enclosed is \$ _____ for _____

_____ copies "Early Loggers in Minnesota" Vol. I at \$8.50 each.

_____ copies "Early Loggers in Minnesota" Vol. II at \$8.50 each.

_____ copies "Early Loggers in Minnesota" Vol. III at \$8.50 each.

_____ copies "Early Loggers in Minnesota" Vol. IV at \$8.50 each.

Prices include sales taxes, postage and handling.

Please make check or money order payable to "TPA Services"

Name _____

Address _____

City _____

State _____

Zip _____

Mail to: Minnesota Timber Producers Assn.

903 Medical Arts Bldg., 324 W. Superior St., Duluth, MN 55802

Expo Returns to Grand Rapids, features Duke Skorich BBQ

For the third consecutive year, the North Star Expo is returning to the Itasca County Fairgrounds in Grand Rapids. Minnesota's largest logging equipment show is in its 58th year and will be held Sept. 16 and 17. As always, there will be lots to see and do, including the latest in logging equipment from all of the region's top vendors.

Back by popular demand at Friday night's dinner will be the famous Duke Skorich Barbecue. The menu will feature barbecue beef and pork, baked beans, potato salad, and European cole slaw. Tickets for the dinner are \$15 each and can be purchased in advance from the TPA office or at the door.

Continuing the Expo tradition of great food and fellowship, Nortrax will again provide a free pancake breakfast on Saturday morning.

"Grand Rapids always gives the Expo a warm welcome," said TPA Expo Committee chair Joan Pomp. "The Itasca County area is central to the logging industry in our state and the people there always roll out the red carpet for the North Star Expo."

Again this year, attendees will have the chance to win a beautiful chainsaw carving! Everyone attending the Expo will get a vendor card at the entry gate, and on the back of the card will be vendor names and locations. Just visit those locations and have the vendor initial your card. Once all the vendor names have been initialed, return the card to the registration area. At the end of the Expo, one lucky name will be drawn to win the carving!

Like at any Expo, there will be plenty of competitions:

The Best Load contest is taking place again this year. Only the wood will be judged, not the truck it is hauled on. Points will be scored on the timber quality, product quality, product manufacturing, load appearance, and load securement. Monetary prizes are awarded to the top finishers.

The Loader Contest will also be held again this year, as well as the

Master Loader contest.

The Coloring Contest will take place this year as well. In this issue of the Timber Bulletin, you'll find a pull-out poster for the little ones to enter. Just have them color the poster and either bring it to the Expo or mail it to the TPA office. Entries will be posted at the Expo for all to enjoy.

Don't forget to bring in your wood cookies for the Big Cookie

Contest. Remember to attach a list indicating species, where taken, company name and *register at the Registration Desk first!*

Test your visual skills and Guess the Weight! Entry forms will be available near one of the Best Load trucks.

We'll have fun for the whole family. See you Sept. 16 and 17 in Grand Rapids!



2010 Best Outdoor Display – Nortrax



2010 Celebrity Loader Contest participants

The Voice of the Expo

He's the man behind the distinctive voice over the public address at the North Star Expo, the voice that's as much an Expo tradition as fell bunchers, big tires, and the loader contest.



Pat Puchalla doesn't remember what year he started at the Expo, just that it was sometime in the early 1990s when a Duluth advertising agency suggested he give the gig a try. Nearly 20 years later, he's still going strong.

Folks in the Twin Ports have

been listening to Puchalla for years. A native of Duluth's Morgan Park neighborhood, Pat went to school to become a radio announcer and has been on the air ever since. He's best known for his work at B105, a country music station in Duluth, and, other than a three-year stint selling advertising at another media outlet, he's been a fixture at B105 for more than 30 years. Currently, he sells ads for the four radio stations owned by Town Square Media, including B105, but still has a Sunday morning "Country Gold" show and fills in when other announcers are on vacation.

Then there's the Expo. Pat's worked Expos in Duluth, Proctor, Chisholm, and Bemidji, as well as this year's host, Grand Rapids. And he'll be right back behind the microphone making announcements at the Itasca County Fairgrounds in 2011.

"I love the Expo," Pat says. "It

started as a chance to get out there and talk to people in the industry, and it just grew from there. I wouldn't miss it."



2010 Loader Contest winners – Matt and Dan Lundberg

On the Markets

The *Timber Bulletin* publishes information regarding results of a sampling of recent timber sales and other market indicators, as well as other market-related news items.

DNR Forestry Hits Timber Target for FY2011

The Minnesota DNR's Division of Forestry reports that it offered more than 820,000 cords of new timber for sale in fiscal year 2011, which ended June 30. That exceeds the division's target of 800,000 cords of new wood to be offered during FY2011.

When re-offered sales and biomass volumes are added, the division says it offered 1,145,865 cords for sale during FY2011.

In figures provided by the DNR, the totals for FY2011 are:

New Volume Offered	820,323
Total Volume Offered	1,145,865
Volume Sold	858,111
Volume Harvested	870,292

The totals for new offered, total volume offered, volume sold, and volume harvested all represent increases from FY 2010.

DNR Sets FY2012 Target

The Minnesota DNR says it again plans to offer approximately 800,000 cords of new wood for sale during FY2012, from July 1, 2011,

through June 30, 2012.

The Division of Forestry had feared the target would have to be lowered during the coming fiscal year due to proposed DNR funding cuts. But in the July budget deal reached between the legislature and the governor that ended the state shutdown, funding for the Division of Forestry was actually higher than anticipated, exceeding the amounts recommended by both the legislature and the governor during the legislative session.

DNR To Offer More "Logger Select" Sales

The Minnesota DNR says it plans to offer "logger select" as an option on more sales during the coming year. The move is designed to give loggers more flexibility on their sales while potentially freeing up time for DNR foresters.

According to the DNR, sale boundaries would still be marked, but in some instances the forester will provide written and oral direction to the logger, rather than marking each tree to be harvested. The logger will then select which trees to cut.

Logger select will be an option, so loggers who aren't comfortable

with it won't have to participate. The DNR will attempt to work with the Minnesota Logger Education Program to prepare loggers for the practice.

"Until more loggers are comfortable with it, and more field foresters are comfortable with it, more time will need to be spent pre-sale to make sure the right prescriptions are followed," said DNR Division of Forestry Director Dave Epperly. "We'll have a little bit of a learning curve for everybody."

Epperly says the practice will save staff time for field foresters, possibly as much as 20 percent of their time.

"That's a ballpark figure," Epperly said.

DNR Posts Unsold Tracts Online

The DNR has begun posting daily the tracts that went unsold at auction and are currently available over-the-counter at area offices. The list is available on DNR Forestry's Timber Sale Calendar webpage.

The unsold tracts will be available for over-the-counter purchase at the appraised price for a period up to six months. The

notice will be updated nightly,
Monday - Friday.

The web address for the list is:
http://files.dnr.state.mn.us/forestry/timber_sales/Notice_of_Unsold_Timber_Sales.pdf.

Recent Timber Sales
Average prices, as reported
by each agency

Agency Regular Intermediate

Cass County

July 28 – Oral Auction

Aspen	\$43.33	\$31.80
Birch	\$12.37	\$19.28
Red Oak	\$35.40	\$16.63

Beltrami County

August 2 – Sealed Bid

August 4 – Oral Auction

Aspen		
pulpwood	\$30.53	NA
Balsam		
pulpwood	\$24.73	NA
R&W Pine		
Bolts	\$66.67	NA
Hardwood		
pulpwood	\$13.93	NA
R&W Pine		
pulp	\$8.88	NA

*Results are for the combined sealed bid
and oral auctions, as reported by
Beltrami County*

Koochiching County

August 3 – Oral Auction

Aspen Pulp/ Bolts	\$30.46	\$29.71
Balsam Pulp/ Bolts	\$17.84	\$17.83
Spruce Pulp/ Bolts	\$17.63	\$20.40
Jackpine Pulp/ Bolts	\$45.29	\$20.00

DNR – Warroad Area

August 9 – Oral Auction

Aspen Species (WC)	\$13.54	\$10.24
Pine Species (WMP)	\$31.24	\$11.83
Jack Pine (WMP)	\$49.25	\$42.31
Mixed Conifers (WMP)	\$34.84	\$6.50

*11 of the 12 tracts offered on the
regular auction were purchased.*

*18 of the 35 tracts on the intermediate
auction were purchased.*

Aitkin County

August 18 – Sealed Bid

Aspen P/B	\$29.05	NA
Maple P/B	\$10.82	NA
Mixed Hardwood		
P/B	\$9.84	NA

Products:

PB= Pulp and Bolts

WMP= Woodsrun mixed Products

WC= Woodsrun cordwood

ST=Sawtimber

WST=Woodsrun Sawtimber



DNR Holding Salvage Auctions for Blown Down Wood



Views of the blowdown damage in the east central state forests.

In response to the July 1 storm that caused blowdowns in the Chengwatana, St. Croix, and Nemadji state forests, the Minnesota DNR began holding salvage auctions on Aug. 22 in the Sandstone Area.

According to Craig Schmid, the acting DNR Northeast Region forest manager, the DNR will attempt to have similar auctions every two weeks, advertising the tracts roughly 10 days in advance.

"We're not scheduling hard dates," Schmid said, "but that's our intention."

The Aug. 22 auction included 32,000 cords of salvage wood. The DNR estimates that a total of 300,000 acres in the three state forests were affected by the July 1 storm, with the potential of an estimated 150,000 cords available for sale as a result.

Logging contractors who agree to purchase one of these salvage sales will be able to apply for a free one-year extension on an existing state permit they hold.

The DNR says it will continue to monitor the market conditions and demand for the salvage wood by loggers and mills as they continue auctions into the fall.

LOGGERS OF THE PAST . . .

"Life in the Camps"

by J. C. Ryan

This story is reprinted from an earlier *Timber Bulletin*—one of the first of "Buzz" Ryan's ever-popular contributions to these pages. The *Bulletin* will continue to reprint selected stories from the memories he recorded for us.—*Editor*



Many stories have been told and much has been written about the life of the lumberjack working in camp and spending his "stake" in town at the end of a logging season. While there is a certain amount of truth in most of these stories, they are told or written with the purpose of bringing out whatever point of view the story teller or writer has in mind. It may be for entertainment of the listener or reader or to establish some theory. However, the facts are that the majority of the men who helped log the vast virgin stands of pine of our North Star State were a hardworking, honest type of men who gave their best at all times.

While the lumberjack worked from daybreak to dark six days a week during the winter months, his living quarters were made as comfortable as possible with

the supplies available. His food was always far above the average bill of fare of most citizens of the period. When he returned from the woods at night, he found the bunkhouse warm, with a good fire to dry his wet clothing on the drying racks built above the stove. He also found plenty of warm water on the stove to wash up, with a barrel of cold water beside the sink and a clean towel on the roller.

By the time he was through washing up, the supper horn would blow and he would be called in to supper of the best available food. As a rule, it took about 20 minutes to eat, and he was back to the bunkhouse for the balance of the evening. Some of the men lounged on their bunks or sat to smoke on the "deacon seat," while others sewed a missing button onto their shirt or pants, darned a hole in their socks,

repaired their rubbers or other footwear, or arranged their clothing on the drying racks so it would be ready to put on in the morning. It was an unwritten law that no one took another's socks in the morning.

After smoking or a chew of tobacco or snuff, some men would take a hand stone and sharpen their axe or cut hook they would need during the day. There may have been a card game or two—one in each end of the bunkhouse—usually penny-ante poker, smear, seven-up or rummy. In an average camp, gambling was not very heavy, as there probably would not be over \$50 cash in the entire crew. So you can see that gambling was not much of a factor.

Several men might make a trip to the camp office to replenish their supply of snuff or tobacco or purchase some needed piece of clothing such as a pair of socks or mitts. The office usually was open for such business for a couple of hours after the evening meal. Any mail that had been delivered at camp usually was picked up in the office right after the evening meal, and any outgoing letters were mailed. In most camps, mail was very light; lumberjacks did not write many letters.

Occasionally, someone would bring out a mouth organ or violin, but music usually was reserved for Sundays. Mostly the men would sit on the deacon seat discussing the day's work or past experiences, with the older, more experienced men doing most of the talking and the younger men doing most of the listening. There was a tendency for the men to "group up," with the teamsters in one end of the bunkhouse and the sawyers in another, with maybe the loading crew in another spot as they talked over the day's work—but not to show any disregard for each other. As a rule, the conversations were subdued, with very few arguments. Lumberjacks, as a rule, did not like a "loud mouth," and an old timer would soon put a loud mouth in his place.

The little house out behind the bunkhouse was usually visited by most of the crew between the evening meal and bedtime. Lights were always out at 9:00 when the "bull cook" made his rounds, and

Lumberjacks on the deacon seat watch an old timer's card tricks.



everyone made it a point to be in bed at that time. Sometimes a lantern turned down low was kept near the back door to be used by anyone who had to make a call to the little house out behind during the night. During cold nights in the winter, the bull cook checked the fire several times before morning.

In sleigh haul camps, the teamsters were often in a bunkhouse by themselves and were awakened from a half hour to an hour earlier than the rest of the crew so they could feed and harness their horses before breakfast. When the teamsters slept in the bunkhouse with the others, the bull cook would awaken them quietly ahead of the rest. The usual rising time for most of the crew was 5:30 to 6:00. Breakfast was served, as a rule, around 6:00 or 6:15, but this could vary depending on the time of the year, whether it was a sleigh haul or dray haul camp, or for other reasons. Sleighs could start on the roads in the dark, but woods work could not begin until daylight.

Kitchen help usually had sleeping quarters in the corner of the kitchen building or a small room attached to the kitchen and were usually up by 5:00. Floors in the bunkhouses usually were of rough boards and were scrubbed at least once a week by the bull cook. He would have a tub or large pail of hot water and a broom to scrub down the rough boards. Much of the surplus water ran through the cracks, making the drying of the floor quite easy. Despite the rough use given these floors, they were, as a rule, quite clean. During the scrubbing operation, all boots and rubbers left by the bunks would be placed on the deacon seat. Kitchen and dining room floors were scrubbed daily by the "cookees," and the floor in the office was scrubbed about once a week by the bull cook. Also, floors were swept daily soon after the crews left for the woods, and clean towels were put on the rollers, and hot and cold water barrels were filled by the bull cook. The temperature in the bunkhouse was more or less determined by the bull cook and was controlled by opening and closing the skylights.

Sunday was the day of rest or the day when men did not go to the woods, and it started by letting the men sleep about an hour longer in the morning, but it was usually a day of considerable activity by most of the crew. For most of the men this was wash day, and soon after breakfast they went to the "boiling up" grounds in back of the camp, where a supply of wood and water was available along with a number of boiling up kettles. These were large camp kettles, sometimes made from 50-pound lard cans or iron barrels. Here the men washed their socks, underwear and other clothes, hanging them to dry on lines stretched between trees.

The boiling was done to kill any lice that may have been in the clothing, and socks

In the top photo: A nice load of logs for a single team; at this small jobber camp, even the woman folks get in on the picture. Center: an early kitchen scene. Bottom: a bunkhouse pose. Note the "muzzel feeding" toward bunks.



were washed mainly because clean socks were much warmer. The boiling up kettles were in use throughout the day, with men helping with the fires and splitting wood and carrying water while waiting their turn at the kettles. If the camp site was near a stream, the boiling up grounds usually adjoined the stream. In later years, some of the larger camps had washing rooms attached to the rear of the bunkhouses, with a supply of hot water and soap available at all times. But the outdoor boiling up grounds were common in all the early camps.

On Sundays the men would take out the old hay and put fresh hay in their bunks. Some men liked the smell of fresh hay and they thought that when fresh it kept the lice out. A man's bunk was his "castle" and no one was allowed to lie or lounge on another man's bunk. Each man made up his own bed in the morning, and if he failed to do so he was informed about it by the bull cook. If a man left camp and his bunk became vacant and another man wanted to move to that bunk he had to clear the move with the bull cook. When a new man arrived, the bull cook made his bunk assignment.

Sunday was also a day for special jobs—putting new handles in axes and repairing boots, harnesses and other worn or broken equipment. Also, some men had little hobbies, like whittling and carving and making up snuff boxes. There was usually someone who had a hair clipper or a pair of shears, and a few rough haircuts were turned out during the afternoon. What little letter writing was done was usually accomplished on Sunday afternoon.

Sunday meals were a little special as a rule. I know one camp that served pork chops every Sunday—the only meal of the week when pork was served—and the men looked forward to their Sunday pork chops.

After all the personal chores were done, there was always a little time for recreation and "horse play." Someone would bring out an accordion, mouth organ or fiddle—whatever was available—and probably a few games might be played by the younger jacks. Some camps might have had more of this than others, but in the average camp this was held to a minimum. Sunday afternoons passed mostly with the men sitting around on the deacon seat discussing experiences, lounging in their bunks or reading a Western story or Argosy or some dime novel and getting whatever rest they could before the blowing of the horn at 5:30 Monday morning.

While there were many exceptions to the routine we've described here, this was pretty much average for life in our early camps between 1880 and 1920—the peak period of the logging of our vast virgin pine stands in Minnesota.

Top photo: A small jobber camp, all buildings of logs. Center: Camp cook, his helper, clerk, camp foreman, bull cook and "walking boss" were six of this group. Note the light sleigh used by the walking boss to travel from camp to camp. Bottom: Splitting wood for the bunkhouse, the bull cook always found a good supply at hand.



Classifieds

To serve our readers better, the Timber Bulletin offers free classified ads of up to 85 words to all members and associate members of the Minnesota Timber Producers Association. All ads must be submitted in writing to the Association office. The MTPA assumes no responsibility for ad contents and accepts free ads on a first-come, first-served basis within space limitations.

WANTED

Barrel stave logs – White Oak and Burr Oak butt cuts 12-inch diameter and up – random lengths
 For more information call
 Robert Staggemeier at
 Staggemeier Stave Co. Inc.
 Caledonia, MN 55921
 Office: 507-724-3395
 Cell: 608-792-7598

FORESTER POSITION:

Carlson Timber Products of Sandstone, a leading producer of forest products is seeking a qualified candidate for the position of forester. Candidates can apply via email to dave@carlsontimber.com or call 320-245-2920 for additional information.

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