



U.S. Department of Agriculture
Office of Inspector General
Southeast Region
Audit Report

Forest Service
Northeastern Research Station
Accounting for Timber Sales



Report No.
08007-1-AT
May 2001



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250



DATE: May 29, 2001

REPLY TO

ATTN OF: 08007-1-At

SUBJECT: Forest Service Northeastern Research Station
Accounting for Timber Sales

TO: Dale Bosworth
Chief
Forest Service

ATTN: Cathy Beaty
Acting Chief Financial Officer

SUMMARY:

This report contains the results of our audit of Forest Service's (FS) Northeastern Forest Experiment Station accounting for timber sales. The audit originated from a hotline complaint received by our office. We found that the Fernow Experimental Forest improperly used cooperative agreements to sell timber because FS incorrectly determined that the McSweeney-McNairy Act of May 22, 1928 (16 U.S.C. 581), allowed the use of cooperative agreements and the agency to retain the proceeds from these timber sales. As a result, FS did not pay the State of West Virginia at least \$341,541 required by the Twenty-Five Percent Fund Act of May 23, 1908, and may have violated laws that prohibit the augmentation of appropriations by retaining approximately \$2 million of timber sale proceeds from fiscal years (FY) 1988 through 1998.

We recommend FS (1) award and administer timber sales for the Fernow Experimental Forest through the Monongahela National Forest, (2) pay \$341,541 to the State of West Virginia for receipts collected between 1988 and 1999, (3) return to Treasury \$2,046,566¹ for timber sale proceeds retained by the station for salaries and expenses related to the logging crew, and (4) consult with the Office of the General Counsel (OGC) to determine if augmentation of appropriation occurred. FS' response to the Details and Recommendations, dated April 18, 2001, is included in an attachment.

¹ The Twenty-Five Percent Act of 1908 requires FS to pay 25 percent of timber receipts (stumpage value less road maintenance and stone replacement costs) to States. Principles of appropriations law classify the remaining proceeds as miscellaneous receipts that must be returned to Treasury.

BACKGROUND:

Under the Forest and Rangeland Renewable Resources Act of 1978, as amended (Public Law 95-307; 16 U.S.C. 1641-1648), the Secretary of Agriculture was authorized to conduct, support, and cooperate in investigations, experiments, tests, and other activities the Secretary deemed necessary to obtain, analyze, develop, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest resources. The National Forest Management Act (NFMA) of 1976 (Public Law 94-588), authorized the Secretary of Agriculture, through the FS, to sell or dispose of trees, portions of trees and other forest products that result from research or demonstration projects. Timber sale proceeds that result from timber harvested as part of research projects are subject to the Twenty-Five Percent Fund Act of May 23, 1908 (Public Law 60-136; 16 U.S.C. 500, 533, and 556d), that requires FS to pay 25 percent of all timber sale proceeds to the States. FS must return the remaining 75 percent of timber sale proceeds, less amounts specified in the timber sale contracts or permits for various items such as reforestation, brush disposal, etc., to the U.S. Treasury.

The audit resulted from a hotline complaint that reported a FS station was improperly handling timber sales at the experimental forest. Allegations included (1) inadequate advertising and bidding procedures, (2) misuse of timber sale proceeds, and (3) non-compliance with the Twenty-Five Percent Fund Act. In addition, the complainant alleged that the timber sale proceeds were improperly used to pay for foreign travel, and that employees were improperly paid by FS while working for States.

OBJECTIVES:

Our audit objective was to follow up on issues reported in the hotline complaint. Specifically, we evaluated whether (1) the station followed proper timber sale procedures, (2) timber sale proceeds were properly distributed, (3) the station complied with the Twenty-Five Percent Fund Act, and (4) timber sale proceeds and research funds were improperly used for foreign travel and to pay for salaries of persons not working for FS.

SCOPE AND METHODOLOGY:

Our audit was conducted in accordance with Generally Accepted Government Auditing Standards. The fieldwork was performed at the Northeastern Forest Experiment Station located in Newtown Square, Pennsylvania, from February 28 through March 17, 2000. Our review covered timber sale activities conducted by the Timber and Watershed Laboratory for the Fernow Experimental Forest located in the Monongahela National Forest near Parsons (Tucker County) West Virginia. This laboratory is a subunit of the Northeastern Forest Experiment Station.

Our plans were to review timber sales from FY's 1997 through 1999; however, we extended our review back to FY 1988 since the Timber and Watershed Laboratory was not following FS timber sale policy and procedures. The station only had records available for timber sales from FY 1988 through 1999 and during this period, it harvested 9,294.45 million board feet of timber and collected \$2,403,240 in timber receipts (see Table 1). Additionally, FS could not locate documentation concerning bid values for timber sold in the first quarter of FY 1990.

To accomplish our objectives, we performed the following procedures.

- Reviewed authorities, policies and procedures governing timber sales at experimental forests. In addition, we reviewed policies and procedures related to the distribution of timber receipts to acquire background information on how timber sales and receipts should be handled at experimental forests.
- Interviewed staff at the Northeastern Forest Experiment Station and the Timber and Watershed Laboratory to obtain an understanding of how timber sales were handled at the Fernow Experimental Forest.
- Reviewed the timber sale cooperative agreements issued between 1988 and 1999 to determine how the station was authorizing and processing the timber sales.
- Reviewed timber sale accounting between 1988 and 1999 to determine how the station was distributing the timber sale receipts.
- Reviewed Principles of Appropriation Law to determine if FS augmented its appropriations by using timber sale proceeds to pay the salaries and other expenses associated for the logging crew employed by the forest.
- Interviewed officials at the FS Service Washington Office, the other five Experiment Stations, the Eastern Region (Region 9) and the Monongahela National Forest to determine whether the timber sale procedures followed by the Northeastern Forest Experiment Station were consistent with those followed by other units.

DETAILS:

FS' Northeastern Forest Experiment Station used an expired authority to sell timber harvested from the Fernow Experimental Forest through annual cooperative agreements. FS incorrectly determined that the McSweeney-McNairy Act of May 22, 1928 (16 U.S.C. 581), allowed the use of cooperative agreements and the agency to retain the proceeds collected from the sale of harvested timber. The Forest and Rangeland Renewable Resources Act of June 30, 1978, repealed this Act. FS personnel could not locate any other authority that would have allowed them to sell the timber using cooperative agreements and would have allowed the station to retain the timber receipts. As a result, the station did not follow timber sale policies and procedures. FS did not pay the State of

West Virginia at least \$341,541 required by the Twenty-Five Percent Fund Act of May 23, 1908, (Public Law 60-135; 16 U.S.C. 500, 533, and 556d), and may have violated laws prohibiting the augmentation of appropriations by retaining approximately \$2 million of timber sale proceeds from FY's 1988 through 1999.

Our review disclosed, from FY's 1988 through 1999, the experiment station improperly used cooperative agreements to sell over 9,294.45 million board feet of timber for which it collected over \$2.4 million.

Table 1 - Summary of board feet harvested and timber receipts from FY 1988 to FY 1999:

Fiscal Year	MBF cut	Stumpage Value	Bid Value (Premium)	Total Timber Receipts
1988	1,383.124	\$178,478	\$38,751	\$217,229
1989	855.930	91,278	26,167	117,445
1990 ¹	767.195	90,512	26,393	116,905
1991	839.525	108,868	30,007	138,875
1992	915.870	116,641	50,864	167,505
1993	901.635	120,338	90,994	211,332
1994	785.210	144,545	117,124	261,669
1995	568.110	98,300	128,930	227,230
1996	572.510	77,067	98,826	175,893
1997	561.652	114,467	127,146	241,613
1998	667.189	175,210	168,638	343,848
1999	476.495	65,590	118,106	183,696
	9,294.45	\$1,381,294	\$1,021,946	\$2,403,240
¹ Stumpage Value and Bid Value excluded for 1 st quarter of FY 1990 due to missing documentation.				

Forest Service Manual (FSM) 1581.02 states that FS units should use cooperative agreements to provide financial assistance to a recipient for performance of a project that accomplishes a public project as authorized by law. Title 7, section 3318 of the United States Code (Funding and Miscellaneous Provisions) confers authority to enter into cooperative agreements if it is determined that the objectives will serve a mutual interest of the parties, and the contributing funds will further the authorized programs of the contributing agency. The cooperative agreement issued by FS was for the sole purpose of selling the timber. Although the agreement states the cooperator will provide research data, FS staff stated that in the past several years they have not requested any data from the cooperator. The agreements did not meet Title 7 U.S.C. 3318 definition for cooperative agreements since FS did not request data that would further the research programs of the station.

FSM 4062.61 instructs the units to use timber sale policies specified in FSM 2403 and 2463 when disposing of timber resulting from research projects. FSM 2463 specifically instructs units that timber sales from experimental forests must follow all laws and regulations and prescribed fiscal and reporting procedures. In general, timber receipts should be allocated into different funds, including: Brush Disposal, Salvage Sale, Knutson-Vandenberg (KV) projects, Payment to States and the General Miscellaneous Receipt funds. Our review disclosed from 1988 to 1999 the station did not follow the timber sale procedures set forth in the directives. The station did not (1) advertise bids, (2) allocate timber receipts to various FS funds, (3) pay the State of West Virginia 25 percent of timber receipts, and (4) return the remaining timber receipts to Treasury. We contacted each of the other five FS experiment stations and they told us they were selling timber harvested for research purposes in accordance with these FS directives and procedures. In addition, the other experiment stations told us that timber sales from their experimental forests are administered by the nearest ranger districts for the National Forests where the experimental forests are located.

The Northeastern Forest Experiment Station did not follow the bidding procedures specified in the NFMA, FSM 2463.1, and Forest Service Handbook (FSH) 2409.18. This manual and handbook specify that all sales of timber with values equal to greater than \$10,000 should be advertised for 30 days. Although all of the station's timber sales exceeded \$10,000, they were not advertised in accordance with FS policies and procedures. Instead, the station sent letters to eight local sawmills requesting bids to sell timber from the experimental forest.

The station awarded one cooperative agreement to one sawmill annually. This agreement allowed the sawmill to purchase all of the timber cut from the experimental forest. Over a 10-year period reviewed, three sawmills within a 50-mile radius of the forest were awarded the agreements.

For normal timber sales, purchasers bid for the stumpage value and harvest the timber. However, the sawmills (cooperators) were not only bidding a price for the uncut tree, which represents the stumpage value, but also were bidding an additional dollar amount per thousand board feet or premium above the appraised stumpage value. The premium was intended to reflect the savings of harvesting cost to the purchaser since the station harvested, hauled, and decked the timber with a full-time FS logging crew. However, FS was unable to provide us with authoritative criteria allowing the use of a FS logging crew and the collection of a premium in excess of the stumpage value.

We found the station did not report timber sale proceeds at the Fernow Experimental Forest as part of the All Service Receipt Report, which is used to compute the annual payments to States. Since the proceeds were not included in the All Service Receipt Reports, the State of West Virginia did not receive 25 percent (\$341,541) of the timber sale proceeds collected between FY 1988 and 1999. This amount represents 25 percent

of the stumpage value collected (\$1,381,294) less the road maintenance and stone replacement costs (\$15,131). Timber sale proceeds were used to pay the salaries and expenses for the logging crew employed by the experimental forest.

The Twenty-Five Percent Fund Act of 1908 requires that:

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated.

Table 2 shows the 25 percent of timber sales (based on stumpage value less road maintenance and stone replacement cost)² from the experimental forest that should have been paid to West Virginia from FY 1988 through FY 1999. In addition, Table 2 shows that amount of timber sale proceeds that FS should return to Treasury after the 25 percent payment and the payments to the Monongahela National Forest for road maintenance and stone replacement.

Table 2 – Summary of 25 percent and amount payable to Treasury:

Fiscal Year	Total Receipts	Stumpage Value	Road Maintenance	Stone Replacement	25 percent to State	Amount to be returned to Treasury
1988	\$217,229	\$178,478	\$1,383	\$ 968	\$44,032	\$170,846
1989	117,445	91,278	856	599	22,456	93,534
1990	116,905	90,512	689	493	22,332	93,389
1991	138,875	108,868	1,007	705	26,789	110,374
1992	167,505	116,641	916	641	28,771	137,177
1993	211,332	120,338	902	631	29,701	180,098
1994	261,669	144,545	785	550	35,803	224,531
1995	227,230	98,300	555	388	24,339	201,948
1996	175,893	77,067	573	401	19,023	155,896
1997	241,613	114,467	562	393	28,378	212,280
1998	343,848	175,210	667	467	43,519	299,195
1999	183,696	65,590	0	0	16,398	167,298
Total	\$2,403,240	\$1,381,294	\$8,895	\$6,236	\$341,541	\$2,046,566

The Miscellaneous Receipts Statute and the Disposition of Receipts from National Forest Revenues Act of March 4, 1907, (16 U.S.C. 499) identify timber receipts as “miscellaneous receipts,” which shall be returned to the Treasury except for the 25 percent fund for States. Our review of FS authorities did not disclose any authorization for FS to retain and use the timber sale proceeds to pay salaries and other expenses associated with the logging

² When determining payments to States for timber sales, FS reduces stumpage value by such costs as road maintenance and stone replacement.

crew. The General Accounting Office's (GAO) Principles of Appropriation Law (GAO/OGC-92-13, Appropriation Laws, Volume II) states an augmentation occurs whenever an agency supplements its appropriations with outside sources without specific statutory authority. Thus, the station may have augmented FS appropriations by retaining the timber receipts to cover the salaries and expenses of the logging crew. We found no evidence that funds generated from the timber sales were used to pay for foreign travel or that the funds were used to pay salaries of individuals working for States.

Recommendation No. 1: Timber sales at the Fernow Experimental Forest should be awarded and administered by the closest ranger district associated with the Monongahela National Forest. Any harvesting techniques should be coordinated between the Forest and the Station to meet the research objectives.

FS Response

The FS concurs with this recommendation. The Northeastern Research Station Project Leader responsible for administering the work on the Fernow Experimental Forest has been instructed to work with the Cheat/Potomac Ranger District on the Monongahela National Forest to administer the sale of timber cut by a Northeastern Research Station, Timber and Watershed Laboratory logging crew.

OLG Position

We concur with the FS management decision for this recommendation.

Recommendation No. 2: FS should pay \$341,541 to the State of West Virginia, 25 percent of the proceeds collected between FY 1988 and 1999.

FS Response

The FS response stated:

This Recommendation is closely tied to Recommendation No. 4 because payment of salaries for the logging crew from timber sale proceeds would be the basis for the supposed augmentation. See FS Response to Recommendation No. 4.

FS submitted a request to the Office of the General Counsel (OGC) on June 23, 2000. Where the OGC makes a determination that the FS should have used appropriated funds, rather than proceeds from the sale of timber, appropriate corrective action will be taken once the agency receives a response from OGC.

OLG Position

We do not agree with the FS management decision for this recommendation. Regardless of whether the sale proceeds represented augmentation, the 25 percent part is due to West Virginia.

Recommendation No. 3: FS should return to the U.S. Treasury \$2,046,566 in timber sales proceeds retained to pay the salaries and expenses of the logging crew.

FS Response

“This Recommendation is closely tied to Recommendation No. 4 because payment of salaries for the logging crew from timber sale proceeds would be the basis for the supposed augmentation. See FS Response to Recommendation No. 4. Appropriate corrective action will be taken once the agency receives a response from OGC.”

OIG Position

We do not agree with the FS management decision for this recommendation for the reasons stated in our position on Recommendation No. 4.

Recommendation No. 4: Consult with OGC to determine if an augmentation of appropriations occurred, and if so, report the circumstances and corrective action to the Department and Congress. If OGC determines that an augmentation has not occurred, request OGC to provide the authority, which permits the retention of funds.

FS Response

On June 23, 2000, the FS Chief Financial Officer requested an OGC opinion on the following:

- a. Is it appropriate for the FS to enter into a cooperative agreement, as discussed below, to facilitate the execution of research activities such as silvicultural experiments? If not, is there another instrument that could be used to conduct these activities?
- b. If you find that the cooperative agreements in question are appropriate to facilitate the conduct of research activities, which of the research authority(ies) to cooperate with others that are available to the Chief, FS, authorizes such agreements?

- c. If you find that the cooperative agreements in question are not appropriate to facilitate the conduct of research activities: (1) are there specific actions the Agency should complete with respect to the funds received and subsequently expended in accordance with these cooperative agreements; (2) are there actions the Agency should take that would impact payments to States completed by the Agency in accordance with 16 U.S.C. 500?

OIG Position

We do not agree with the FS management decision for this recommendation for the following reasons.

- We do not question FS' authority to use cooperative agreements to conduct research activities including silvicultural experiments. However, the cited sales did not constitute "research" and the timber purchasers did not furnish data to further the Station's research programs.
- Since FS has clear policies and procedures regarding the disposal of timber resulting from research projects, we do not agree with FS' request to OGC to seek some other instrument or authority to post-justify their actions. It is important to note that our contacts with each of FS' other 5 Stations revealed that they were aware of and were following FS policies and procedures in FSM's 4062.61, 2403, and 2463.

We agree with your management decision for Recommendation No. 1. Management decisions have not yet been reached for Recommendations Nos. 2, 3, and 4. In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned, including the timeframes, on our recommendations. Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance.

We appreciate the cooperation and assistance your staff provided during our audit.

/S/

RICHARD D. LONG
Assistant Inspector General
for Audit

Attachment



United States
Department of
Agriculture

Forest
Service

Washington Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

File Code: 1430
Route To: (4000/6500)

Date: APR 18 2001

Subject: Office of Inspector General Official Draft Audit Report "Forest Service
Northeastern Research Station Accounting for Timber" Audit Report No.
08007-1-At

To: James R. Ebbitt
Assistant Inspector General for Audit
Office of Inspector General

We have completed our review of the Official Draft Audit Report "Forest Service Northeastern Research Station Accounting for Timber" Audit Report No. 08007-1-At. We appreciate the opportunity to review and comment on the subject audit.

Enclosed is our response to the OIG findings and recommendations. If you have questions or need additional information, please contact our External Audit Liaison, Linda Washington, on (202) 205-3761.

CATHRINE L. BEATY, Acting Chief Financial Officer
Deputy Chief, Office of Finance

Enclosure



Caring for the Land and Serving People

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Attachment

**Office of Inspector General (OIG)
Audit Report No. 08007-1At
Forest Service Northeastern Research Station –
Accounting for Timber Sale**

**Forest Service Review
March 19, 2001**

OIG RECOMMENDATION NO. 1: Timber sales at the Fernow Experimental Forest should be awarded and administered by the closest ranger district associated with the Monongahela National Forest. Any harvesting techniques should be coordinated between the Forest and the Station to meet the research objectives.

FOREST SERVICE RESPONSE: The Forest Service concurs with this recommendation. The Northeastern Research Station Project Leader responsible for administering the work on the Fernow Experimental Forest has been instructed to work with the Cheat/Potomac Ranger District on the Monongahela National Forest to administer the sale of timber cut by a Northeastern Research Station, Timber and Watershed Laboratory logging crew.

OIG RECOMMENDATION NO. 2: Forest Service should pay \$341,541 to the State of West Virginia, 25 percent of the proceeds collected between FY 1988 and 1999.

FOREST SERVICE RESPONSE: This Recommendation is closely tied to Recommendation No. 4 because payment of salaries for the logging crew from timber sale proceeds would be the basis for the supposed augmentation. See Forest Service Response to Recommendation No. 4.

The Forest Service submitted a request to the Office of General Counsel (OGC) on June 23, 2000. Where the OGC makes a determination that the Forest Service should have used appropriated funds, rather than proceeds from the sale of timber, appropriate corrective action will be taken once the agency receives a response from OGC.

OIG RECOMMENDATION NO. 3: Forest Service should return to the U. S. Treasury \$2,046,566 in timber sales proceeds retained to pay the salaries and expenses of the logging crew.

FOREST SERVICE RESPONSE: This Recommendation is closely tied to Recommendation No. 4 because payment of salaries for the logging crew from timber sale proceeds would be the basis for the supposed augmentation. See Forest Service Response to Recommendation No. 4. Appropriate corrective action will be taken once the agency receives a response from OGC.

OIG RECOMMENDATION NO. 4: Consult with OGC to determine if an augmentation of appropriations occurred, and if so, report the circumstances and corrective action to the Department and Congress. If OGC determines that an augmentation has not occurred, request OGC to provide the authority, which permits the retention of funds.

FOREST SERVICE RESPONSE: On June 23, 2000, the Forest Service Chief Financial Officer requested an OGC opinion on the following:

- a. Is it appropriate for the Forest Service to enter into a cooperative agreement, as discussed below, to facilitate the execution of research activities such as silvicultural experiments? If not, is there another instrument that could be used to conduct these activities?
- b. If you find that the cooperative agreements in question are appropriate to facilitate the conduct of research activities, which of the research authority(ies) to cooperate with others that are available to the Chief, Forest Service, authorizes such agreements?
- c. If you find that the cooperative agreements in question are not appropriate to facilitate the conduct of research activities: (1) are there specific actions the Agency should complete with respect to the funds received and subsequently expended in accordance with these cooperative agreements; (2) are there actions the Agency should take that would impact payments to states completed by the Agency in accordance with 16 U.S.C. 500?

Once the Forest Service receives a response from the OGC, corrective action will be taken accordingly.