

STATE FOREST PROPERTY LINES AND OWNERSHIP

State forests and forest recreation areas generally have a scattered ownership pattern. This ownership occurred because major land acquisition ceased before all desirable land for state forests was purchased. For example, Owen-Putnam State Forest contains about 6000 acres, but was originally envisioned as a 30-40,000 acre property. This left an ownership with many inholdings, outholdings, and convoluted boundaries. State forests and forest recreation areas have a considerable length of property line with neighboring private land owners, much more so than if acquisition had been more consolidated. Property line location, identification and maintenance is a major program responsibility along with simple ownership management. A property line/ownership program at every property should consist of the following elements.

Property Line/Ownership Research

Property line/ownership research is the gathering of information in a non-field setting that will assist with ownership determination or property line location. This research is done whether it is for ownership records, a property line run or a line survey. Much of the research involves courthouse work. This includes obtaining copies and checking the descriptions of deeds for the state property, and the property of neighbors. This is particularly important for parcels that have metes and bounds descriptions, or reference some type of monumentation. This information can often be obtained at the county recorder office. At times, it may be necessary to follow chains of title back in time to determine the intention of a description.

Another key piece of research is the layout of sections and the location of known corner monuments. There are several locations for this. The county surveyor will often have records of past survey work and where corners were set. The State Archives in Indianapolis contain copies of the original field notes when the Indiana land survey system, and the sections, were first laid out. Local professional surveyors often are willing to share knowledge of monumentation they have found or have set. Longtime area residents and neighbors often have knowledge of past survey activity, or know the locations of monuments and fences.

Properties should make an effort to identify and contact private surveyors doing work in their areas. An effort should be made to obtain copies of all private surveys that include state forest property. Copies of these surveys should be sent to the Property Specialist.

Aerial photographs are good for locating fence/tree lines and roads. Often it is best to have photos from prior to 1950 to match with recent photos. Old tree lines may be difficult to see in recent years due to regrowth of the forest.

Field Evidence Location

Locating evidence in the field to identify a line location is one of the most difficult parts of the job. Like the research, it is critical that evidence location be done for property line runs and line surveys. It is the most critical part of the job because the line must be based on some evidence to be located on the ground. Evidence varies greatly. It includes fences, tree lines, cornerstones, rebar, PK nails, and old roadbeds.

All field evidence should be visited and documented, even if it is not on a property line. Evidence located off of the property line, either on private land or within state property, is just as important as evidence on the line. Any work on private property should be cleared with the private landowner. All evidence needs to be evaluated for its value in determining a line location. Some evidence may not have marked a line at all, or may have changed. Examples include fencelines that were placed for convenience, roads that shifted to avoid wet spots, or stones that were purposely moved by someone in the past.

It is critical that property personnel give the same importance to evidence located within ownership blocks as is done for evidence on the ownership lines. Monuments and other evidence (such as fence) may be critical to back up evidence on the line, or in situations where evidence on the line is lacking. Evidence within ownership blocks can easily be destroyed or damaged by management activities. It is critical that property personnel locate and mark the location of survey monuments in the interior of state forest ownership. Other possible line evidence (fence, tree lines, roads) should be documented with a map. In areas where ground disturbing activities (such as timber sales, wildlife projects, road work) are to occur, all probable locations for survey monuments will be searched prior to the activity to attempt to locate possible survey monuments. Probable locations in any section include all sixteenth corners (the corner of any "forty"), any further subdivision corners, and the lines between them. These locations should be searched whether or not county surveyor records show anything is located there. Deed descriptions, county survey records, and known surveys are possible sources of information on the locations of survey markers.

Property Line Run

The property line run is the primary form of property line location. Usually, the property line run occurs in conjunction with the location of field evidence. It is not a survey, and should never be considered as accurate as a survey. A property line run is the location of property line using basic equipment such as a hand compass, a 100-foot tape, a hip chain, a clinometer, and other such equipment. It involves one or two property people. Using existing evidence, the approximate line is located and marked. Pacing is not a recommended measurement method for this. Difficult terrain and heavy undergrowth often make accurate pacing difficult. Modern, inexpensive instruments such as the hip chain are much more accurate and save time in the long run.

Property lines identified by line runs can only be marked with flagging or paint.

Flagging is one way property line in a line run can be marked. Flagging has the advantage of limited duration. It will quickly become less visible, and has a less permanent presence, which prevents neighboring owners from thinking it is the exact property line. Flagging is good for situations where there is uncertainty about the location of a line. Flagging is also good for when line needs to be marked for only a short-term basis.

The property line can also be marked with orange boundary marking paint. The paint is placed on line trees. It consists of one vertical slash in each direction of the property line, and one vertical slash on the side of the tree facing state property. It has the advantage of being longer lasting than flagging. This allows for easy remarking of line. Because of the somewhat permanent nature, paint should only be used where there is a good line between known points. Flagging and painting lines each have an appropriate use.

All interior or on-line survey monuments located will be documented in property files/database including a map. These will be marked in the field with a Carsonite post with a "Survey Marker" decal. This is to prevent loss of the survey monument. All these monuments will be referenced using at least three witness trees. *It is important that properties put considerable effort into locating, marking and documenting interior monuments.* Interior monuments are as important as monuments on line for locating property lines, especially during a survey.

Monuments located off state property will be documented in property files/database including a map. These should be marked with nothing more than temporary flagging. These monuments should be referenced if possible.

All other property line evidence (such as fence) will be documented in property files/database and on a map.

Properties will have an annual schedule to run ten percent of the property line mileage, with the entire property line mileage covered in ten years. This does not mean all the mileage will be marked. Many sections of line cannot be marked because of poor descriptions or lack of evidence. However, regular coverage of lines is important to show "possession" of property and check for possible encroachments. Most importantly, regular coverage helps to maintain existing monumentation and evidence. Also, additional evidence may be uncovered with subsequent line runs.

Property Line Survey

The property line survey is performed by a licensed, professional surveyor. This may be a Department surveyor, or a surveyor hired by the Department. Line evidence located by the property is still critically important. It is unlikely that the surveyor will know the line area as well as the property personnel. A property line survey will require substantial assistance and possibly supervision from property personnel.

A property line located by a property line survey will be marked with orange Carsonite boundary post markers spaced within easy eyesight of each other, averaging no more than 125 feet apart. Property corners not already monumented will be marked with an appropriate DNR monument. DNR monuments will not replace existing monuments, stones, and other markers.

Boundary markers will not be placed on lines surveyed by private surveyors unless approved by the Division surveyor (contact Property Specialist). All private surveys obtained by the property will be sent to the Property Specialist. Properties also will not place boundary markers on lines surveyed by the DNR surveyor in situations where only corners are set. Many old DNR surveys are this type. In these cases, one Carsonite property line marker with decal should be placed on either side of the monument, on the property line, and within ten feet of the monument. Properties will use Carsonite markers with survey marker decals to mark relevant private survey markers.

Properties may request a survey using the Request for Survey Assistance form. Surveys may be request because of encroachment situations, or they may be requested simply to locate property lines. The Request for Survey Assistance forms will be used by the Property Specialist to develop CRR survey projects for the biennial budget process.

Crisis surveys may arise that will cause surveys to be done out of rotation. In these cases, the property receiving the crisis survey will lose its subsequent turn in the rotation. CRR surveys and surveys done by the Division of Engineering surveyor will not count toward the rotation, assuming the DoF surveyor had no major involvement.

Each property will designate a survey contact person who is responsible to ensure there is the necessary research, supplies, and personnel available for a survey. The properties will inform the Property Specialist of the selected survey contact persons. The Property Specialist will be responsible for coordinating the survey schedule with the Division surveyor and the properties. The property will identify a survey priority for its turn. This should be a new survey that will work toward identification or resolution of an encroachment situation, or provide an improvement in property management.

In addition to the new survey, during a rotation the surveyor will also work on or resurvey an older survey that did not have line set. This is selected by the property and should be a survey that still has the markers in place. The goal is to get as much line set as possible with minimal effort. If the old survey requires substantial work to reconstruct, it will be bypassed.

The Property Specialist and Division surveyor will advise the property of the research, field and records that the property will need to conduct. Field evidence includes survey monuments and markers, fences, roads, tree lines, and use changes. This evidence may be along the line, within state ownership, or outside state ownership. Local citizens may have knowledge of past surveys and other known evidence in the area. Records evidence includes deeds of all

surrounding property back at least fifty years and two prior ownerships. Other records include known surveys, either from the county surveyor's office, or professional surveyors that have done work in the area.

As covered in the Good Neighbor program, the property will notify neighbors of an upcoming survey. Surveys inevitably entail some crossing of private property. The property will contact the appropriate landowners for permission to cross private property for survey work. They should be informed of minor limb/brush clearing that might be necessary. During survey work, efforts should be made to find the least obstructed routes so disturbance is kept to a minimum. If a landowner is upset by inadvertent clearing damage, compensation can be claimed through the DNR Tort Claims Procedure.

The property will supply at least two people to assist the Division surveyor, at least one of whom is the survey contact person. The property will coordinate with the surveyor on materials needed for the survey such as posts, hubs, and rebar. The property will supply what is needed. The surveyor and survey contact person will coordinate on a work schedule for the project.

The surveyor will inform the property manager and the Property Specialist immediately when an encroachment is located. In encroachment situations, the surveyor and property will refrain from discussing resolution of encroachments with private landowners. They will only discuss the line location and how it was arrived at. All encroachment resolution questions should be referred to the Property Specialist. The Property Specialist will formulate a resolution with the assistance of the property manager, surveyor, Section staff and attorney, as needed.

When fieldwork is completed, the surveyor will provide the property and Property Specialist with a print of the survey. This print must be recorded in the County Recorder's Office. The record type, book and page number will be supplied to the surveyor and Property Specialist. The Division surveyor will supply copies of the print to all appropriate surveyors. The property will supply copies of the survey print to all appropriate neighbors. Copies for distribution can be obtained through the Property Specialist.

The property will develop a schedule to regularly inspect, maintain and enhance the posting of surveyed lines. Posted survey lines will be inspected at least once every five years. Additional markers can be installed on line by running a taut, straight string between two existing markers on either side of the desired location, and placing the new marker gently against the string.

The Property Specialist will establish and maintain a system to track surveys. The Property Specialist will periodically review the survey line maintenance performed by the properties.

Property Line Location Requests

Properties often receive requests from neighboring landowners or contractors working on neighboring land to identify property line locations. Anyone requesting a property line location should complete a Property Line Location Request Form. This form lists the responsibilities and limitations of the line locations. It also lists the information required from the person making the request. The completed form will be maintained in property files.

Properties will make a reasonable effort to accommodate such requests without disrupting operations. A line run is used to fulfill the request. If heavy foliage causes significant obstruction, the line location may need to be postponed until after leaf fall. Properties will inform those making location requests that lines located through line runs are not to be treated as surveyed lines. There may be situations where lack of evidence or line complexity makes it impossible for a line to be located. The property will then inform the neighbor the line cannot be located with a line run, and recommend they contact a surveyor.

Fencing Requests

Properties occasionally receive requests from neighbors to help fence property lines. This comes from a statutory requirement for private landowners that adjoin to share in the cost of common fencing. This statutory requirement does not include the State of Indiana and state property. The Property Specialist can be contacted for further information.

Encroachments and Property Disputes

Often during the course of working on property lines, property staff identify possible encroachments or disputes on state forest land. Disputes involve a discrepancy or perceived discrepancy in ownership of a parcel, or the location of a property line. Encroachments are the unauthorized use of state forest land for a private use. Encroachments take a number of forms, some of which are better resolved through law enforcement and property regulations.

The worst encroachments involve some type of construction that creates something of a permanent nature. Trails and fences are readily remedied forms of these types of encroachments because they are relatively easy to move. Buildings, roads, utility lines and lakes are more difficult because of the degree of disturbance and permanent nature. Houses are especially problematic because of the emotional attachments. Construction encroachments involving permanent development are considered the most serious, as a general rule, and receive the highest priority.

Unauthorized use (not involving construction) of state forest property is another form of encroachment. This can involve a wide variety of activities, many of which are addressed in

DNR Property Regulations. Use encroachments include crop fields, grazing, parking areas, yards, gardens, ORV use, dumping, unauthorized road use, unauthorized trail use, storage of personal property, and unauthorized ingress and egress.

The third type of encroachment is theft encroachment. This can be the loss of forest products such as timber, poles/posts and firewood. Unauthorized gathering that occurs on a property falls in this category. It also includes the loss of materials installed by the property such as recreational items, boundary markers, gates, signs and other such items.

Disputes involve a disagreement over the location or perceived location of property lines. It also involves discrepancies of state property deed descriptions with private property deed descriptions. There are often situations where deeds for state forest land describe land that is also described on private land deeds.

Handling all of the above situations will vary based on particular circumstances. Encroachments that generally involve a violation of property regulations and appear not to involve a dispute in property ownership or property line location should be resolved through normal law enforcement channels. Examples include unauthorized ORV use, unauthorized gathering, removal of state property (gates, signs, markers), and trash dumping. These often do not involve a line or ownership dispute, and are simply disregard for regulations or plain vandalism. Properties will work with law enforcement or other local authorities to resolve these situations.

Timber theft or removal, whether or not there is property line or ownership question, will be reported immediately to the Property Specialist. Such reports will include a map and listing of trees removed. The Property Specialist will work with the Timber Buying Licensing Forester to resolve the situation. If a survey is deemed necessary, the property will submit a Request for Survey Assistance form.

Other encroachments that appear to involve a question of ownership or property line location will be handled in one of two ways. Encroachments need to be classified as to whether they are in an initial stage, or have been active and ongoing for some time and have occurred more than one year ago. Anything under construction, development or installation should be considered in the initial stage.

If an encroachment is in an initial stage, the property will contact the encroacher and Property Specialist immediately. The property will present to the encroacher evidence of ownership or line location. The property will request the encroacher's evidence of ownership or line location.

If after review of the evidence the property is confident there is encroachment on the state property, they will advise the encroacher and *request* he cease the activity. This will be done in writing. If the encroacher does not cease, the property will not take a confrontational stance. Rather the property will advise the Property Specialist of the status, and they will

determine a course of action.

If after reviewing the evidence the property cannot confidently determine if the activity is encroaching on state property, the property will advise the encroacher of the questionable nature of the ownership or line. The property will not request that the activity cease, but can recommend that the encroacher avoid the questionable area. The property will advise the encroacher that if there is a later determination (such as after a survey) that state property was encroached upon, the encroacher will be the responsible party. This will be done in writing. The property will keep the Property Specialist apprised of the situation.

If an encroachment has been ongoing and active for some time, the property will gather additional line and ownership evidence. If the property is confident there is an encroachment, the property will immediately contact the Property Specialist. The Property Specialist will determine how to proceed. If there is a question of ownership or line location, the property will submit a Request for Survey Assistance form to initiate a survey. This form is sent to the Property Specialist.

In all these encroachment situations, the properties will maintain a nonconfrontational approach to the encroacher. The properties will not make any threats, direct or implied, regarding the encroachments. The Property Specialist will be the primary Division contact with the encroacher for encroachment resolution. The only exceptions are simple use encroachments (yards, grazing, etc.) that the property may be able to resolve amicably in discussion with the encroachers.

Property personnel can often readily resolve minor use encroachments by tactfully dealing with the encroacher. However, no matter how apparently minor an encroachment may appear, the properties and the Property Specialist will work to resolve all of them. Minor encroachments, if ignored, can often grow into major encroachments as ownership of property blurs with time.

Section Bullet Summary

- The first element of a property line/ownership program is research with courthouse records, local surveyors, aerial photos, and area residents to locate possible line evidence.
- Location of field evidence includes stones, survey markers, monuments, fence, tree lines, and roads. All should be mapped and documented. Stones, monuments, and other survey markers will be marked with Carsonite posts.
- Properties will attempt to locate, mark and document survey markers and other evidence interior to property lines, as well as on line. In particular, properties will check probable locations of survey markers, such as sixteenth corner, prior to ground disturbing activities.
- Property line run is the standard method of property line location. It is an approximation only, based on limited evidence and using basic equipment. Line identified through line

- runs will be marked only with paint or flagging.
- Property line surveys will be performed by DNR or contract surveyors. Properties will be on a rotating schedule for the Division surveyor. Contract surveys will be based off submitted Request for Survey Assistance forms.
- Properties will attempt to assist neighbors with line location requests by doing line runs.
- All timber theft situations will be reported to the Property Specialist.
- Minor use encroachments can be resolved by the property working with the encroacher, as long as the encroachment ceases. Otherwise any encroachment that involves a line location or ownership dispute will be resolved through the Property Specialist.
- All encroachments, even minor ones, will not be overlooked. This is to prevent potential escalation.