

**Public Dialogue on National Forest System
Certification Study
Minneapolis, MN | July 22, 2008
MEETING SUMMARY**

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INTRODUCTION

The first of a series of three Public Dialogue Sessions on the National Forest System (NFS) Certification Study took place on July 22, 2008 in Minneapolis, MN. The meeting agenda, participant list, and copies of the presentations made at the meeting, are available at: <http://www.fs.fed.us/projects/forestcertification/index.shtml>. Also available at this website are copies of the background documents distributed in preparation for the meeting and other detailed information about the pilot tests conducted on five units of the NFS by the Pinchot Institute for Conservation.

WELCOME AND OPENING REMARKS

Tim Mealey, Meridian Institute, welcomed the group and invited participants to engage in a respectful exchange of ideas. He clarified that the objective of the dialogue was not to try to achieve consensus but to ensure that everyone had an opportunity to contribute their ideas and perspectives, and to capture those for the record. He then turned to Doug MacCleery, USDA Forest Service (USFS), for additional opening remarks and an overview of the National Forest Certification Study and Public Outreach Process.

PRESENTATIONS

OVERVIEW OF THE PUBLIC OUTREACH PROCESS AND THE FOREST SERVICE'S INTEREST IN CERTIFICATION

Mr. MacCleery thanked everyone for their participation and let the group know that the Forest Service was there to listen to participants' perspectives on the implications of National Forest certification. He then reviewed the objectives of the session:

1. Highlight results and lessons learned from the National Forest System certification pilot tests (see below) and from the certification of state-owned and other public lands.
2. Provide an opportunity for open dialogue and sharing of views on independent, third party certification of National Forest lands.
3. Understand the key issues and perspectives that should be taken into consideration by the Forest Service before it makes a decision on whether to pursue certification of National Forest lands.

Mr. MacCleery's presentation included the following points:

- A motivation for pursuing the pilot tests was that certification is one of the most significant developments in the field of forestry in the last two decades and so far the Forest Service has been largely an observer of this process.
- The Forest Service has been involved in a variety of efforts domestically and internationally to promote the idea of sustainable management of forests. In doing

so, the Forest Service has been increasingly asked why it is not pursuing certification, given that it has been urging other countries to put frameworks in place to strive for sustainability.

- Asked if the major driver for Forest Service interest in certification was international pressure, Mr. MacCleery responded by saying that certification is one of the ways to demonstrate more sustainable management of forests to the marketplace. Furthermore, local communities and small-scale investors are interested in distinguishing for the marketplace some of the forest products that are harvested during the Forest Service's efforts to restore the forests and reduce the risks of wildfire.
- The Forest Service has not made a decision to move forward with certification, and the Minneapolis dialogue serves an important step in the Forest Service's efforts to understand the implications of certification as the Agency's leadership decides whether to move forward.

DETAILS OF THE PINCHOT PILOT TESTS

Will Price, Pinchot Institute for Conservation (Pinchot), provided the group with an overview of the lessons learned by Pinchot from the National Forest Certification Study.

Mr. Price's presentation included the following points:

- Pinchot's role was to help evaluate the applicability of existing certification standards on several National Forests—to better understand what these standards would say about the management of our National Forests, and how the certification process could play out in this setting. The study was not intended to provide any recommendations to the Forest Service on whether to seek certification.
- Prior to the in-field case studies, the Institute conducted a 'crosswalk analysis' comparing the requirements in standards used by the Forest Stewardship Council (FSC) and Sustainable Forestry Initiative (SFI) standards with the standard of practice required of National Forests -- established by statutes, management plans, directives and other statements of policy or operational guidance.
- The Institute and the Forest Service initiated a set of case studies involving simulated assessments carried out by audit firms¹ qualified to perform FSC and SFI audits.
- Five National Forests were selected for these studies based on their willingness and readiness to participate, and an interest in covering a range of resource management issues and geographic settings. They were: the Mount Hood National Forest (MHNF), Lakeview Federal Stewardship Unit (LFSU) on the Fremont-Winema National Forest, Chequamegon-Nicolet National Forest (CNNF), Allegheny National Forest (ANF), and the National Forests of Florida (NFF, a combination of three National Forest units).
- Pinchot's role in these case studies was to help to design and carry out the series of

¹ Also commonly referred to as certifiers or certification bodies.

test evaluations, using a process that closely mirrored typical certification assessments.

- Pinchot selected accredited FSC and SFI audit firms through a competitive bid process, and worked with them and each of the participating National Forests through the auditing process.
- The studies included some additional components that would not be part of typical certification assessments. The audit firms were required to develop a set of “additional considerations” -- a set of special indicators developed through stakeholder consultation that would explore management issues unique to National Forests.
- The audit firms were required to report on how well the National Forests conformed to the requirements of selected FSC and SFI standards, doing so in the much the same format and manner they would for a landowner seeking certification. They were also asked to evaluate how well the units dealt with the issues addressed by the additional considerations.
- Definition of non-conformances: When an auditor determines that a forest management operation does not meet one or more requirements of the certification standards, the auditor may make a finding of non-conformance and issue a “Corrective Action Request” (CAR) to the forest manager. Major non-conformances preclude the awarding of a certificate until remedied; minor non-conformances can be addressed within the first year after seeking certification.

Strengths of the Forests Studied:

- National Forests met or exceeded many, if not most of the FSC and SFI requirements in the existing standards, with exemplary performance noted in some areas.
- The Forest Service was commended for its stakeholder consultation process, its efforts to communicate with local tribes and protect cultural sites, and programs for controlling invasive and exotic species.

Weaknesses of the Forests Studied:

- Auditors observed forest health and road maintenance issues arising from backlogs of management activities, maintenance, and decommissioning of old infrastructure.
- There were fire management issues in Western forests, and Eastern forests had delays in actions to prevent damage from pests and to restore habitat for endangered species.
- The evaluation of the MHNF revealed a policy conflict between the FSC West Coast regional standards and Forest Service management of old growth on that forest. Old growth was less of an issue on other forests, but on both Eastern case study forests the Agency was asked to ensure it is identifying and protecting all occurrences of old growth stands. Definitions of old growth also varied between the FSC and the Forest Service.
- Auditors found that the Forest Service does not have sufficient controls to ensure protection of forest workers, and this deficiency needs to be addressed.

Challenges in the Auditing Process:

- Most of the non-conformances found by the auditors were related to management oversights or delays in implementation, and to this end, auditors were concerned by the uncertainty of the Forest Service budget process and how it would impact the Forest Service's ability to achieve its goals and mandates.
- Additional challenges included: issues outside the control of the Forest Service; the sheer volume of evidence to consider in the process of conducting certification audits; the size of most national forests; and the number of Forest Service staff that would be engaged by the certification process and the diversion this would represent from their normal staff duties.

Opportunities in the Auditing Process:

- The collective feedback from auditors was that the SFI/FSC evaluation processes functioned well for reviewing the National Forests. There were virtually no direct policy conflicts. At least one of the audit teams commented that the scope and complexity of the National Forest System induced a more comprehensive review, making greater use of the certification standards than the auditors had previously encountered.
- This type of auditing process was more holistic and integrative than the Forest Service typically undergoes when it reviews its own programs. It also served well as a way to get independent feedback, and new perspectives on how the Agency's priorities are balanced and translate to performance on the ground. Certification can also serve as another avenue for stakeholders to provide input on the issues facing the forest.
- Auditors gave feedback about the need to streamline the auditing and certification processes and to determine what kind of capacity is needed by Forest Service personnel to handle the required documentation and preparation for audits.
- Auditors were not sure certification was appropriate for all National Forests. Most seemed to feel that the certification audit process would function "just fine" for the assessment of National Forests—that any wrinkles could be worked out. At least one auditor wondered whether certification would make sense for a National Forest—i.e., "What would it do for them?" Most of the auditors felt that certification would require improvements in management. Several worried that making some of those improvements would depend on factors outside the control of the unit (e.g., budget allocation and public reaction).

AUDITOR PRESENTATION

Dave Bubser of SmartWood (an FSC-accredited certifier and one of the third-party auditors who participated in the pilot study), provided the group with his perspective on the pilot test auditing process and some of the lessons learned.

Mr. Bubser's presentation included the following points:

- The auditor's job is specific and narrow: to evaluate candidate forest management systems and operations against a set of standards. The auditors did not bring additional expectations to the process nor did they have license to omit particular standards.
- Auditors do not make value judgments in their role as auditors, and were not on site to resolve contentious issues (e.g., how much wood to cut, how much wilderness there should be).
- Certification is not a panacea or a cure-all.
- The standards are designed to be flexible and apply to a wide range of operations. As such, the standards are interpreted within the context of the candidate's management operations.
- By necessity, all auditing is based on a sample.
- There were common misconceptions about the process of stakeholder interaction both within the Forest Service and external to the Forest Service. The purpose of stakeholder consultation measures undertaken within the context of third party forest auditing is to evaluate conformance to the certification standards. In the pilot tests, stakeholder input was used by the auditors as supplemental information to compare to the direct observations they were making in the field, and to provide additional perspectives or to identify additional issues to examine. It was also used to gain an understanding of how stakeholders believe issues should be resolved. It was not always clear to all stakeholders that their input was being sought in the context of conformance to the FSC standards, which may be quite focused - and different - compared to their prior experience. It was also not clear to some that the stakeholder questionnaire the auditors distributed was not designed as a scientific opinion poll, and therefore was not intended to be - or considered to be - representative of general public opinion.
- The FSC developed a federal lands policy in 2003 that set three thresholds² that federally-owned forests have to meet before being eligible for certification.
- A key component of the pilot study was to develop "additional considerations". Nineteen special indicators were identified primarily through stakeholder input. Indicators developed previously for assessments conducted on Department of Defense (DOD) and Department of Energy (DOE) lands that had undergone certification were also integrated into existing FSC regional standards with these "additional considerations". The additional considerations were considered as hypothetical examples of what the FSC-US process might require for Forest Service lands.

² (1) A willing landowner, e.g., the Forest Service; (2) a determination that public consensus exists regarding management of the NFS; and (3) development of a set of new standards (indicators) specific to the NFS to more effectively evaluate its unique legal, procedural, and governance mandates and structure.

- It cannot be predicted whether the Forest Service would be able to successfully achieve certification if it chose to pursue it. However, in terms of staffing, resources, organizational orientation, and mission, the pilot test auditors felt the Agency was better positioned to do so than most other organizations they have encountered in their auditing experiences.

PRESENTATION ON EXPERIENCES FROM A PILOT TEST NATIONAL FOREST

Jeanne Higgins and Geoff Chandler (Chequamegon-Nicolet National Forest - CNNF) presented on the lessons learned from the pilot test conducted in the CNNF, which was selected due in part to the strong statewide interest and support for certification in Wisconsin, and also because the Forest Service wanted to study a forest where there were active timber sales.

Their presentation included the following points:

- Certification is a high-visibility public lands issue in the Lake States. At least 15 million acres of public lands (including state- and county- managed lands in WI, MN, and MI) and private lands that participate in public programs (e.g. Wisconsin's Managed Forest Law program) have been certified in the Lake States since 2004.
- Certification is consistent with the state's goal to differentiate Wisconsin's wood products in the marketplace.
- The CNNF is an island of non-certified land surrounded by a sea of certified lands.
- The certification study took place in six days and auditors selected 35 sites from a list provided by the Forest Service. In addition to site visits, the auditors reached out to 200-300 stakeholders by mail or in-person interviews, a few of whom responded and shared their perspectives with the audit team.
- The auditors recommended a number of major and minor corrective actions and noted many areas of outstanding achievement, including cultural/historic preservation and restoration activities.
- The auditors observed that the rate of Forest Plan implementation was influenced by external variables like the right of citizens to seek redress through appeals. As an example, land managers were not able to carry out specific management activities due to litigation.
- Certification by an independent third-party could potentially help provide greater wood market assurance and give valuable insights about improving management. National Forest certification could also enhance the transparency of Forest Service management activities and augment the Forest Service leadership's commitment to sustainable forestry both nationally and internationally.
- Certification systems need to recognize the special obligations and constraints affecting National Forests, including the right for citizens to seek redress. There is also a need for clarification of FSC/SFI terminology and definitions to more effectively apply to Forest Service actions (e.g., stream restoration and logging system specifications).

- Overall, certification was seen as a thorough and comprehensive process.

EXPERIENCES FROM STATE-OWNED FORESTS

Paul DeLong (Wisconsin Department of Natural Resources, Division of Forestry) shared some lessons learned from the certification of state-owned lands in Wisconsin.

Mr. DeLong's presentation included the following points:

- The key objective of certification was ultimately to influence the sustainability of private forest lands that are at risk of being poorly managed or converted to other uses. Based on experiences on state lands in Wisconsin, certification can play a constructive role in this regard.
- One value certification provides is continuous quality improvement and having external third-party auditors to bring expertise and perspective on what is happening in the region and world.
- Certification also helps the landowner achieve better management results, such as with roads and soil.
- Having an independent third-party make specific findings and recommendations also helped convince the state legislature to support funding to implement some of those recommendations.
- Certification provides a tool for meeting consumer demands for forest products from more sustainably managed forests. There is a need for a base of certified lands to provide such products and to influence consumer awareness, which in turn could lead to diminished demand for illegally harvested products from around the world.
- Third-party certification of National Forests could demonstrate leadership and thereby influence what happens on other lands, could help the Forest Service move toward sustainability, and could help influence the Congress to support needed management improvements.

DISCUSSION

The meeting agenda was organized into specific, focused segments to ensure that key issues were covered and participants had ample opportunities to contribute freely. However, once the discussion was underway, comments and questions flowed freely and topics frequently shifted in different directions. In an effort to enable the reader to more easily locate and focus on key topics, we have made an effort to categorize the discussion under various headings. The following headings and bullets are not ordered according to the chronology of the discussion, nor are they intended to imply any relative emphasis or degree of importance. When a comment or question could fit into more than one category, we have done our best to choose the most logical location.

During the discussion, questions were sometimes posed by participants as a means of raising important issues or noting specific concerns. In other cases, where questions

were asked about the pilot tests, Forest Service policy, auditing procedures, and the operation of certification systems, answers were often provided by those with relevant expertise. However, per the meeting rules, in an effort to ensure the most objective summarization of the discussion, the identities of commenters, questioners and responders are not revealed. When several comments or questions are closely related to each other, they are combined into the same bullet, even though they may have come from different people. Each of the following comments and questions should be considered as the view of the individual who made them.

1. BASIC STRUCTURE AND OPERATIONAL PROCEDURES OF CERTIFICATION SYSTEMS

A. General Purpose and Approach

- The growth in certification over the last decade has been driven by an increased interest in sustainability, especially amongst business leaders and in the marketplace. Certification is a tool for meeting market demands and improving the management of forests.
- As more acres are certified, there is a corresponding increase in product marketability, consumer awareness and demand for certified products. The market response encourages suppliers to increase certified acres to produce more certified products to meet consumer demand. For example, as consumers became more aware of the value of organic food, demand increased, and organic food became competitive in the market. The same may be said about certified forest products. Certification could also serve as an incentive for non-certified landowners to make commitments to manage land more sustainably in order to qualify for certification.
- Certification standards will continue to evolve and strengthen in direct relation to any threats to sustainability and in response to market demand. Greater demand for certified products will require more certified product from more forests, thereby promoting improved management on more forests, and further raising the bar on standards.
- Forest certification will be critical to the carbon and biomass markets in the future. Both FSC and SFI have effective mechanisms of responding to changes in the market and in forest policy and are therefore capable of creating and adapting standards to fit the evolution of demands in the marketplace, which will in turn benefit forests.
- Certification has served as a powerful voluntary mechanism and has created change where laws have not been effective. Internationally, certification has brought significant social benefits in the absence of government, and has brought together diverse stakeholders in constructive discussions and collaboration that would never have occurred otherwise.
- Experience with the certification of state-owned land has been very positive. It has improved management on the ground, and has increased the commitment to, and funding for, forestry programs in the state legislature.
- Certification is the most important positive force for change in forestry ever devised.
- While certification has been a positive force to improve forestry practices on private

lands, its application to the NFS is highly problematic for many reasons (*which are elaborated upon below*).

B. Standards, Scope of Coverage, and Assessment Procedures

- Certification does not set, change or undermine forest management policies; it simply assesses whether the policies already in place meet a set of standards. Certification can only answer the questions it is designed to answer. In other words: Does the forest management plan conform to the standards? Is the manager/Agency implementing that plan?
- Would certification address non-timber issues such as ecosystem management, and give them equal consideration with timber production? How are such values incorporated into certification standard-setting? Certification is not just about timber harvesting. It provides a comprehensive evaluation of an entire resource management program.
- How were the FSC Principles used in the pilot test evaluation process, as compared to the Criteria and Indicators? The Principles are articulated through 56 Criteria and 180 Indicators. The Principles are evaluated through Criteria, and the Criteria are evaluated through Indicators; none is in isolation. Any non-conformance with an Indicator results in a Corrective Action Request (CAR).
- The FSC concept of a “fatal flaw”³, which is a more demanding level of conformance required for individual Criteria or Indicators, is also important.

C. Who Pays?

- What are the financial incentives for auditors to certify forest land? The auditors operate on a fee-for-service basis. The market for forest certifiers would increase if the Forest Service pursued SFI and/or FSC certification, but no auditor would sacrifice the integrity of the certification process for a fee. There is an annual accreditation fee charged by the FSC to FSC-accredited certifiers; it is calculated on the basis of acreage, forest type, and type of operation (for Forest Management certificates), and on annual turnover (for Chain of Custody certificates - but with a cap). Public agencies seeking certification under the SFI system are required to pay a one thousand dollar annual licensing fee to SFI in addition to the direct fee-for-service payment to the certification body for the cost of the forest management audit.

³ Within the FSC system, a “fatal flaw” has been a component of the standards considered to be of such importance that if a forest fails to comply with it, then certification cannot be granted. It is effectively equivalent to a major non-conformance. Fatal flaws were previously identified during regional standard-setting processes, and could also, in theory, be identified for special circumstances such as the National Forest System. However, with recent changes in the FSC, which require full compliance with all Criteria in the standards, the concept of a fatal flaw has become less important as a matter to deal with in standard-setting, and may become obsolete.

2. RELATIONSHIP BETWEEN VALUE JUDGMENTS AND CERTIFICATION

A. Within Certification Systems

- Standards never make value judgments. There is no place to make a value judgment in the certification process; the process is designed to evaluate the effectiveness of an organization in implementing its own processes relative to the defined standards (e.g., how effective the Forest Service is in engaging the public, and the level of openness and transparency in the public process).
- There are value judgments made in the development of certification standards, and it is not clear that a third-party is the most appropriate entity to make those judgments or determine compliance with the standards (e.g., the authority to determine water quality standards resides with state governments).

B. In the Context of the National Forest System

- Certification may improve things on the ground, for example by giving a stronger voice to field managers who are now often overridden by policymakers, yet management needs to account for the broader public policy discussions and decisions that involve important value judgments. It's not fair or appropriate to apply certification standards to something that should be a value judgment (e.g., wilderness designation). There are real doubts about whether certification is equipped to deal with something that broad.
- Given the application of certification to discrete land management units, how can certification processes mesh effectively with larger scale public policy making processes dealing with land management issues and land use allocations (e.g., wilderness and other protective designations)?
- The Forest Service needs to regain public trust, and the public needs to be able to accept and validate the value judgments that are being made by the Forest Service, before certification of National Forests will be acceptable.

3. POTENTIAL APPLICATION OF CERTIFICATION TO THE NATIONAL FOREST SYSTEM

A. The Unique Nature of the National Forest System

- Given that all US citizens own the National Forest System, and the Forest Service manages those lands, what would auditors actually assess if the Forest Service proceeded with plans to certify National Forest lands - all of the public lands, or the land managing Agency?
- The size and scale of a land management unit and its operations affect how certification standards are applied. In the case of the National Forest System, public ownership creates a different kind of scale – a much larger scale of ownership and constituency.
- The disparities across a forest, from one forest to another, from one region to another, and one circuit court system to another (e.g., in connection with appeals and legal challenges) would create challenges for auditors and certifying bodies. The

sheer number of ongoing legal challenges would also pose difficulties.

- The public does not want National Forests to be logged, the Forest Service knows this, and certification would not address this fundamental conflict.
- The public perspective is not homogenous and some people do want to harvest timber on these lands but do so in a sustainable manner.
- Compared to state-owned forests, National Forests offer the public more ways to step in and exert influence or to demand that a court determine whether lands are being managed in accordance with law.
- Large tracts of natural land and forests are of increasing importance, especially given the threat of climate change. This land will become even more valuable in the future, and certification could help to ensure it is managed in a more sustainable fashion.

B. General Discussion and Questions Raised

- What was the rationale for the observation of the pilot test auditors that certification may not be appropriate for all National Forests in the system? Does this have anything to do with the fact that each National Forest is managed differently although under the same federal guidelines? In the study, auditors found differences among forests in the types of non-conformances that arose. They also noted that even if a particular forest was managed very well, it might not be possible to achieve conformance with the standards. For example, in some cases Agency staff were well aware of the corrective actions they would need to take to conform to certification standards, but budgetary and other constraints beyond their control limited their ability to act. Thus, some auditors were not sure that the certification process would produce the same results in all National Forests.
- Is the Forest Service looking at certification of the entire forest system or is it considering the certification of a limited number of forests/forest units? The Forest Service has not yet addressed this question. It is not uncommon for large landowners to test certification on smaller units of land to get a sense of advantages and disadvantages of certification before attempting to certify the entire land base. Ultimately it is up to Forest Service leadership to decide on whether or not to pursue certification and to come up with a policy that is achievable. As with other large land owners, it may be preferable to proceed slowly to see how certification works on some forests and then move forward based on that. The Forest Service is also unsure what FSC policies would require, and were the Agency to seek certification, whether it would have to be for one, many, or all National Forest units.
- To what extent would a certification audit look beyond individual timber sales to the project and planning level? For example, would it be possible to apply standards to the forest planning process? There are criteria and indicators in the standards that would be applied at an activity level (e.g., timber sales), as well as the project and forest planning levels. Standards allow auditors to evaluate individual activities on their own merit and to determine how they interact with the full estate and interrelate with surrounding landscape.

- How could managers of certified lands maintain and implement certification standards consistently over time, even in the face of a legal appeal of a timber sale? In order to ensure that certified forests continue to comply with the standards, certifiers are required to monitor the management operation and, at a minimum, conduct annual surveillance audits. Auditors can ask the land manager about Forest Service management practices and decisions under appeal. However, it may be difficult for the auditor to evaluate the practical effects of those decisions and activities because they could be in a state of suspension until the appeal process is completed.
- If the Forest Service pursues certification by an independent, third-party, non-governmental entity, isn't this equivalent to abdicating authority to such an entity? The Forest Service would not be turning over the management of the lands, but only seeking an assessment of whether their own management practices have met a particular set of standards. The Forest Service also cannot legally delegate management of National Forests to a third party. Finally, certification standards would not need to first be incorporated into law in order for the Agency to comply with them, since they are simply a tool for measuring performance.
- Is there any other land management entity that is governed by such an extensive set of public laws and regulations that has ever been certified? In the US, various state forests have been certified, one Department of Defense installation, and one state park. In addition, national lands have been certified in many other countries around the world. However, it should be noted that most other countries have much simpler laws and ways of engaging their citizens than the US does, so the comparison with other national lands may be imperfect.
- Even in smaller, more flexible organizations there is culture shock in pursuing certification and implementing corrective actions. The magnitude of the cultural shift that would occur within the Forest Service if the Agency were to pursue certification of National Forests could be significant. Does the Forest Service understand this, and is it prepared for it?
- The slow pace of Forest Service decision-making could be out of synch with the FSC certification requirement that a landowner resolve minor Corrective Action Requests within one year.
- Over the years, land management in the National Forest System has steadily and significantly deteriorated, yet the pilot tests seem to suggest that National Forests could meet certification standards. In this context, how will the Forest Service and certification bodies determine which standards take precedence and/or serve as the baseline? Will it be the certification standards or Forest Service management standards, and how does that play out over time? Could tighter Forest Service regulations from the past take precedence over current certification standards? When conducting an audit of a forest management operation, certifiers would use the most current standards of the certification system (e.g., FSC or SFI) to evaluate whether the existing management operations (i.e., currently in effect on a given National Forest) meet the standards.

- The Forest Service should be commended for considering certification given that certification standards have not been set for federal lands and could be considered a moving target.
- The Forest Service may be seeking policy legitimacy through certification, and certification could be used to give the appearance of policy legitimacy. If this were true, it would raise significant concern.
- Certification cannot give policy legitimacy. Rather, certification assesses whether management plans and decisions are consistent with certification standards. Those standards reflect the policy choices and values of the certification systems that have adopted them.
- What is the driver or motivation for the Forest Service to consider pursuing certification?
- In state forests, one driver has been major industrial consumer demand and the need to supply and market timber.
- In the organic foods sector, some major corporations pursued the certification of organic food in order to gain advantage in the marketplace but did not fundamentally change their business practices.
- If some stakeholders are dissatisfied with the status quo – the laws, regulations and administrative enforcement that govern the Forest Service’s existing management – wouldn’t they support the use of a new and different approach like certification, which has been effective on other land ownerships? Could certification be seen as an ally rather than as an impediment? Perhaps there is a lack of trust, based on experience with either the Forest Service or the FSC, or both.

C. Policies and Procedures Specific to FSC

- For the pilot study, certification auditors applied current FSC standards that are not meant to apply to federal lands.
- What was the need for “additional considerations” in the study? The idea for additional considerations arose from the FSC-US Federal Lands Policy. One of the three components of this policy requires the establishment of additional certification standards for National Forests in order for the FSC to authorize the certification of such forests. In recognition of this policy, the Forest Service’s Request for Proposals for the pilot tests included a requirement that the certifying bodies develop a set of additional indicators to be vetted through a stakeholder process. Thus, the pilot study became a vehicle to explore some of the issues and “additional considerations” that such standards might need to address, and to identify some indicators and assess how National Forests might measure up to them.
- Were the additional indicators that were developed for the pilot tests approved by the auditor or FSC-US? The additional indicators were developed by the auditing firms contracted to carry out the evaluations. If the Forest Service were to eventually express interest in moving towards certification, then different additional indicators

would be developed by an entirely separate process orchestrated by FSC-US through an open stakeholder and public review process. In the case of the pilot studies, actual certification was outside the scope of the process since the studies simply looked at how certification might work within the National Forest system.

- What is the meaning of “public consensus” in the FSC-US Federal Lands Policy? There is some uncertainty about how this aspect of the policy would be interpreted. The final determination of whether there is a public consensus on whether to allow certification of National Forests will be made by the FSC-US Board of Directors.
- If the Forest Service were to seek certification, would the FSC’s process of developing standards and indicators for the National Forest System properly address stakeholder concerns?
- Pursuant to its federal lands policy, to date FSC certification has not been applied to National Forests. FSC-US fully recognizes the complexities of the National Forest System, including the challenges posed by collective public ownership. A decision to authorize FSC certification of National Forest lands would require a lot of consideration and discussion by the FSC’s diverse membership, which operates by consensus. A decision of this magnitude and complexity would require a high level of consensus-building and stakeholder consultation.
- Would FSC-US accept the Forest Service’s request to go forward with certification using FSC standards if asked? There is a healthy range of opinions about the answer to this question within FSC-US. There are strong concerns about this among FSC-US Environmental Chamber members in particular, but it is not clear whether those concerns collectively will yield a “no” response. FSC-US would not support National Forest certification if there was a “no” response from the Environmental Chamber.
- How would FSC’s partial-estate certification requirement be interpreted if applied to the National Forest System? There is a strong desire in the FSC system that land owners seek full certification of all their land holdings, but it is only required for FSC members. Because the FSC does not permit government entities to be members, this commitment would not apply to the US Forest Service. The debate over partial or full estate certification is constantly evolving due to concerns over “green-washing”, i.e., large landholders promoting themselves as environmental leaders while only certifying a small portion of their operations. This issue will continue to provoke robust debate, and a public land Agency that decides to pursue certification will be in the middle of that debate.
- FSC needs to bolster its ability to strictly enforce compliance and to permit less variability in the interpretation of its standards. For National Forests, the FSC may need to identify key “fatal flaws” which, if the Forest Service failed to comply with them, would result in de-certification.

4. PUBLIC PARTICIPATION AND CERTIFICATION IN THE NATIONAL FOREST SYSTEM

- The Forest Service’s public participation track record is flawed, and changes in the

regulations have had a further negative impact because they do not provide sufficient time or opportunity for public comment. How were public involvement requirements addressed by auditors in the pilot study? For example, how would certification deal with the new National Forest Planning Regulations and the reduction of opportunities for public comment that have resulted from the recent changes to these regulations? An overall finding of the study was that the type and extent of public outreach offered by the Forest Service exceeded the standards of the certification programs. Even with the reduction in Forest Service comment periods, the certification standard for public outreach was met. Public involvement processes are important and auditors want to see the Forest Service willingly engaged and making good faith efforts to achieve the intent of the laws and regulations.

- Regarding the certification standards themselves, what types of stakeholder engagement are required? Also, would equal weight be given to national and local stakeholders?
- How can the certifiers increase the diversity of participation in the public comment process?
- Certification creates the potential that commenting on Forest Service activities would detract from existing avenues of participation and add additional human resource and financial costs for participating organizations. If an organization needed to choose between the certification comment process and an existing public process, they are more likely to participate in a public process, on the record, in order to establish their right to have legal recourse with a court in the event of a dispute.
- To date, the actual implementation of public consultation requirements by certification bodies has been extremely variable, uneven and inconsistent around the world, sometimes to the point of prompting appeals of certificates. This could be particularly challenging in a nation-wide system of federal lands, involving scores of separate management units that are owned by all Americans.
- The discussion about public participation is confusing the Forest Service's public engagement process with the public engagement requirements of the certification audit process. The auditing process has a separate and stringent public stakeholder consultation requirement. A certification assessment would not interfere with existing citizen rights to consultation, and would in fact supplement avenues for participation in the current Forest Service public engagement process.

5. CERTIFICATION AND ADHERENCE TO LAW IN THE NATIONAL FOREST SYSTEM

- During the pilot study, did the auditors look at timber sales that were not subject to the traditional National Environmental Policy Act (NEPA) planning process? The auditors looked at all timber sales, including those that occurred as a result of categorical exclusions from environmental analysis under NEPA. The audit reports document samples of different types of projects, including some that involved categorical exclusions (CEs, i.e., a list of projects categorized as not requiring the full NEPA planning and assessment process). For example, on one forest the auditors

investigated a set of CE projects in the field, based on concerns raised in the stakeholder consultation process. Due to the number of different sites and types of projects that were part of the study, it is instructive to review the individual audit reports to see how the auditors documented their decisions. Typically, this includes an explanation of the evidence that was used and the rationale for any finding of non-conformance or other observation.

- Because the Forest Service does not comply with existing laws and regulations, and in fact tries to undermine them, the Forest Service could be considered a “serial lawbreaker.” Since one of the most basic certification standards (under both FSC and SFI) requires compliance with laws and legal requirements, how could the study units in the pilot test be given passing grades, and how could the Forest Service ever be certified if it does not obey the laws? Auditors based their evaluations on documentation, stakeholder interviews, performance on the ground, and the overall evidence that was put forward to and discovered by the team. The pilot study reports contain specific information about Forest Service compliance with laws and regulations. Overall, the auditors felt the Forest Service dealt well with compliance issues and regulations. In one of the reports there is also an explanation of how the auditors regarded appeals and litigation, and whether these constituted evidence of non-compliance with legal requirements. The report stated that this would not necessarily indicate that the Forest Service was failing to comply with law.
- Heretofore, stakeholders sometimes have used the Forest Service’s failure to comply with its own management plans to stop proposed timber sales. However, the Forest Service has been trying to make its management plans weaker or less meaningful in order to reduce its need to comply with them, and has increased its use of categorical exclusions from NEPA. All of this significantly reduces opportunities for public oversight and redress. In the pilot study, did the auditors look at this evolution in the Forest Service’s use of vague language to avoid requirements? Is there any certification requirement that a land manager has to have a meaningful management plan, and implement it? The auditors evaluated against the forest management plans developed under the National Forest Management Act (NFMA) 1982 Regulations. Forest Plans were evaluated extensively in the study and the auditing teams found the plans were well within the certification standards; the auditors did not observe that the Forest Service was ignoring its management plans. The study did not provide an opportunity to look at the evolution of the Agency over a period of time. The role of the auditor is to focus strictly on evaluating conformance with the standards. If they see a trend or a single event that suggests that – without making adjustments - the management operation might slip out of conformance, the auditor can issue a warning, essentially putting the operation on notice that they should pay close attention to the issue and consider making changes to avert a future non-conformance.
- How did the auditors handle threats to endangered species in the pilot study, given that logging can threaten some species and kill individuals, and that the Forest Service consistently prioritizes logging over protecting endangered species habitat

(e.g., the Indiana bat in the Allegheny Forest)? There were hundreds of field sites and numerous issues that were dealt with in the audits, including non-conformances stemming from threats to endangered species. It is important to look at the details in the audit reports to find out how these were addressed.

- How is compliance with international agreements defined and determined during a certification audit? For example, how did auditors deal with the Forest Service's obligation to comply with the Migratory Bird Treaty? During the pilot study process, the issue of international treaties arose in a variety of contexts, though none surfaced as a non-conformance, and no stakeholders raised the issue of compliance with the Migratory Bird Treaty. Overall, the auditors found that field staff were generally not familiar with individual treaties. However, they reported that the US obligation under such treaties would be expected to be incorporated in management guidance by the Regional and Washington offices of the Forest Service.

6. POTENTIAL BENEFITS OF CERTIFICATION OF NATIONAL FORESTS

- As a result of the pilot study, the Forest Service has begun to monitor the gathering of non-timber forest products to determine if they are within sustainable levels. This would provide forest managers with a statistical basis to test previous assumptions. In addition, the study enabled the Forest Service to assess its policies and make recommended improvements, and to identify some issues raised by stakeholders that need attention. At the same time, the forests are not being held to the study findings.
- Certification has improved the management of all land ownership classes to which it has been applied, and it is reasonable to expect it will do the same for National Forests.
- Certification could augment existing mechanisms for public and stakeholder input, and provide another avenue for vetting and possibly resolving the public's concerns, as contrasted with, for example, litigation. Litigation is not efficient, goes against a collaborative trust-building process, and excludes people who do not have the resources to access the federal court system. Certification could provide an opportunity for people who are not inclined to sue to express their opinions in a non-contentious and transparent manner.
- Three important advantages of certification are that it:
 1. Requires the development of an environment management system for describing processes, and allows this development process to be streamlined.
 2. Enables the landowner to identify and remove management inconsistencies and apply best practices.
 3. Provides an objective, external and broader perspective for identifying opportunities for improvement.
- The Forest Service may be more willing to accept criticisms and suggestions for improvement if they come from an independent third party certifier, which is seen as more neutral, than criticisms being leveled by advocacy organizations.

- Certification has given state forest managers the ability to integrate their intellectual resources. Having a third party look objectively at the way the management is applied or implemented is very important. The idea of continual improvement is that you use your intellectual resources to do a better job as you start learning things. Sometimes the review exposes things you thought you were doing well, but you realize you need to do differently.
- Because certification offers an independent assessment, and seeks the views of individual Agency personnel and field staff, it provides an opportunity for large management organizations to reduce the tendency toward “group think”.
- In situations where there are checkerboard ownership patterns, such as in Minnesota, to the degree that different land owners pursue certification to the same standard, it can achieve a degree of consistency in land management across ownerships that is not otherwise achievable.
- Given the transiency of Agency personnel (e.g., forest supervisors and their shared history), would the chronic loss of institutional knowledge in the Forest Service jeopardize achieving one of the noted benefits of certification, which is continuous improvement? Certification could help improve management by providing an opportunity for continuity, especially in the face of highly transient personnel. In the Forest Service, like other public agencies, people are transient and there are budget cuts and variations, but certification would not be dependent on Agency individuals, and lands can be evaluated objectively over time, regardless of personnel changes.
- The Forest Service could use certification to establish the SFI and FSC systems as desirable models, and this could have a favorable impact in forest management around the world.
- The Forest Service is often looked at as a model of excellence in resource management and a trendsetter that applies scientific principles. Therefore certification of National Forests could positively influence other landowners around the world.
- Certification could improve land management, especially in a large Agency such as the Forest Service where it is often difficult for field staff to be heard, because certification provides new opportunities to hear from field managers and incorporate their creative thinking into improved management.
- In organizations as large as the Forest Service, certification could speed-up the learning process for Agency personnel to pursue sustainable forest management and potentially reduce costs once the improvements in management practices are replicated across the Agency and eventually become the norm. For the same reason, while achieving certification the first time might be expensive, as you expand to other units the certification process will become less expensive.
- Much of the timber now coming off of National Forests is of low value and is removed as a part of forest restoration and/or fuels treatment activities. Certification could provide an opportunity for nearby communities and the industries that help support them to find better markets for such timber.

7. POTENTIAL CHALLENGES AND DISADVANTAGES OF CERTIFICATION OF NATIONAL FORESTS

- Were there discrepancies between what the forest management plan says and implementation of the plan that were uncovered in the pilot tests? Forest health issues arose in the CNNF pilot test as a result of a backlog of management activities, including acres treated. The number of acres to be treated for each forest is defined in the Forest Plan. However, in the CNNF the number of acres actually treated is substantially less than what the Forest Plan requires - probably half - for a number of reasons including a limited budget, appeals, and litigation. There is tension between the rights of citizens to seek redress and the need for auditors to determine whether or not the forest management plan is being implemented as written.
- The uncertainty of the Forest Service budget (resulting, for example, from unexpected costs such as fighting forest fires) could impact the Agency's ability to pursue certification and to carry out the auditors' Corrective Action Requests (CARs) for improvements in order to achieve compliance.
- If the Forest Service pursued certification and later decided to drop it for financial or political reasons, this could damage certifying bodies and the cause of certification in the US.
- If the Forest Service does not pursue certification, it could damage its reputation and credibility both domestically and internationally, particularly in situations where it urges other countries to pursue certification. There could also be negative consequences if the Forest Service tries to achieve certification but fails.
- If the Forest Service does not pursue certification, this could negatively impact local communities and businesses adjacent to National Forests if they cannot compete in the market without certified products.
- There could be conflicting interests between existing federal land management standards and new certification standards, which may prompt lawsuits filed by states or industry that believe more logging is justified than may be permitted by certification standards.
- The fact that the Forest Service sometimes fails to comply with court orders does not provide a great deal of confidence that the Agency would learn from, adapt to, and improve its management to meet Corrective Action Requests (CARs) required by certification.
- If the certification of National Forests resulted in there being more certified products available in the market, would this end up generally diluting the value of certified brands in the marketplace? If this dilution were to occur, then would certification have the same influence, level of attention and market pressure to exert on the Forest Service for continued management improvements?
- In view of the Forest Service's degradation in management and compliance in recent years, would certifiers want to be in the position of giving a stamp of approval to such behavior? The credibility and value of existing certificates and labels, as well as

the reputation of certifiers, could be diminished as a result.

- Certification is just as likely to be co-opted by the Forest Service as ecosystem management was, and thus its promised benefits will not materialize.
- Certification of lands managed by the Forest Service, whose credibility among important constituencies is very low, could possibly reduce the perceived value and credibility of the certification standards and the certification systems.
- There is strong opposition to National Forest certification in the FSC Environmental Chamber. If National Forests are certified, there is a possibility that public relations campaigns could be launched against FSC and SFI and do permanent damage to public appreciation of certified brands in the market.
- Given the perverse economic incentives the Forest Service has in place that promote logging, it is doubtful that certification could blunt those incentives and improve management.
- Because of the size and complexity of the Forest Service, and the transiency of its personnel, it would likely be difficult to audit. These same factors make it difficult to predict the Agency's reactions and its capabilities to adapt its management in order to meet certification standards and maintain compliance with those standards over time.
- Although the application of independent third party certification to the National Forest System has some potential to improve the Forest Service's public comment process (because the certifier would offer criticisms and demands for improvement and corrective actions), this is not likely to happen because the Forest Service typically adjusts to new requirements and paradigms (e.g., certification) by merely changing its rhetoric and not its behavior on the ground.
- Contrary to assertions that the Forest Service values the importance of the public's right to seek redress, the current public involvement process is a sham. The current Administration has misled the public about deadlines for appeals and tried to cut the public out of environmental analysis. In any case, the Forest Service generally ignores the public input it receives and does whatever it wants anyway. How could the certifying bodies possibly certify National Forest timber as "green" wood with these types of actions occurring?
- Do the certifiers have adequate capacity and resources to enable the auditors to spend enough time on each forest to arrive at an accurate and true picture of that forest? The time and resources needed for National Forest certification would not enable certifiers to price competitive audit proposals, and this could lead to other, less scrupulous firms winning the bids, ultimately preventing certification from providing the expected significant improvements in forest management.
- Certification audits are often of variable quality. To the extent that certification could lead to a result where one certifier finds the Forest Service has passed and another certifier finds it has failed, this would create credibility issues for certifying bodies and systems. In any case, the Forest Service would certainly choose auditors based on their likelihood to provide a favorable audit.
- Certification was designed to apply to all classes of ownership, and if a significant

ownership class (i.e., the Forest Service) is denied the opportunity to pursue certification, then that could significantly damage the potential and credibility of certification overall.

- If lands managed by the Forest Service were certified, and the Forest Service used this to defend itself against appeals and other legal actions, some of the litigants may choose to name certifying bodies and systems as co-defendants in the case. They could also choose to pursue certifying bodies and systems separately under consumer fraud law. Either of these scenarios could seriously damage certification bodies and systems. In addition, the volume of disputes and appeals filed under the procedures of the certification systems themselves could significantly increase.
- If the FSC allowed the Forest Service to pursue certification using FSC standards and National Forest lands were certified, the reputation and integrity of both FSC and its standards could be harmed worldwide. Alternatively, refusing to engage the Forest Service in its quest to certify National Forest lands could cause many people to think certification is so inflexible, unreasonable and uncompromising that FSC certification is either irrelevant or not important enough to pursue.
- Will certifying bodies be politically strong enough to deny certifications or to de-certify a forest with an institution as big as the Forest Service, given the diversity and political constituencies of the Agency?
- The Forest Service has often been politically manipulated, and the vulnerability of the Agency to such manipulation is incompatible with independent third-party certification. In any case, is the ever-changing political landscape associated with National Forest management consistent with certification?
- Certification would provide a stamp of approval to Forest Service activities that are fundamentally flawed, if not outright illegal. Certification will only be used to “green wash” Forest Service practices.
- The Forest Service is potentially vulnerable to abuse by certain stakeholder groups, in that the time it takes the Agency to address their complaints could divert attention from land management.

8. ALTERNATIVES TO CERTIFICATION

- The cost of certification leads to the question of whether there are different and potentially better ways to achieve the goals of certification at equal or lesser cost.
- The Forest Service is already obligated to manage the National Forest System in a sustainable manner by over two hundred laws. These are supported by a substantial set of regulations, processes, tools, and watchdogs. In this context it does not seem necessary, or worth the cost, for the Forest Service to pursue certification in order to improve its forest management or meet its obligations.
- A non-enforceable tool like certification (which would not include recourse through the courts) cannot likely achieve what enforceable tools have not been able to achieve in the National Forest System to date. Why would the Forest Service want to pursue additional standards and processes? Management can also be improved

through a renewed commitment to achieving sustainability via existing legally enforceable standards that apply to National Forests.

- If the Forest Service really likes certification standards so much, why doesn't it simply do a public rulemaking process and propose to adopt the FSC/SFI standards as the new, internal Forest Service operational standards? This could by-pass the complications and costs of certification entirely.

CLOSING COMMENTS AND NEXT STEPS IN THE DIALOGUE PROCESS

Doug MacCleery thanked everyone for their participation and also said that the Forest Service will offer interested parties additional options such as conference calls and targeted interviews to learn about and provide input on the NFS certification study and independent, third party certification of National Forest lands. If anyone has suggestions of individuals who may be interested in such options, please contact Sarah Walen of the Meridian Institute at skwalen@merid.org. Mr. MacCleery also said there would be an upcoming Federal Register Notice advising the general public of opportunities to make their views known on the record.

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