



February 11<sup>th</sup>, 2015

Chris Lunde, Chair  
Oregon State Implementation Committee  
Sustainable Forestry Initiative  
c/o Port Blakely Tree Farms, LP  
1501 Fourth Ave, Suite 2150  
Seattle, WA 98101

Mike Kenealy  
Bureau Veritas Certification  
390 Benmar Drive, Suite 100  
Houston, TX 77060

**RE: Unsatisfactory Resolution of Complaint Against Plum Creek Operations in Oregon**

Dear Mr. Lunde, Mr. Kenealy:

On February 7<sup>th</sup>, 2015 Center for Sustainable Economy (CSE) received a response from Mr. Rob Olszewski to our December 18<sup>th</sup>, 2014 Complaint filed with the Sustainable Forestry Initiative (SFI) against Plum Creek Timberlands, LLC for the marketing of illegally logged timber in Oregon as sustainably certified under SFI standards. The response noted, but did not substantively address the supplemental information provided in CSE's January 27<sup>th</sup>, 2015 letter to James A. Kraft, Plum Creek's General Counsel. Plum Creek's response is included as Exhibit 3. CSE's December 18<sup>th</sup> filing is attached as Exhibit 1, and our supplemental letter of January 27<sup>th</sup> is included as Exhibit 2.

In their response, Plum Creek argues that the correct process for addressing CSE's Complaint is outlined in Section 11.1 of SFI's Complaint procedures "Public Inquiries Regarding Inconsistent Practices." That process includes the following remedy for CSE: "A complainant who believes the issue has not been satisfactorily resolved may provide its original documentation and the response from the Program Participant to the appropriate SFI Implementation Committee Inconsistent Practices Program, which shall investigate and respond to the allegations within 45 days of receipt of documentation." As Chair of the Oregon SFI Implementation Committee, we are thus addressing this notice of unsatisfactory resolution to Mr. Lunde. However, because SFI previously determined that a second process is applicable as well – the process outlined under

Section 11.2.1 “Official Complaints Regarding the Validity of a Certification” – we are transmitting this response Mr. Kenealy of the certification body Bureau Veritas as well.<sup>1</sup>

Regardless of which process SFI uses, we believe Plum Creek’s response not only contains misleading statements and inaccuracies about what CSE is seeking, conditions on the ground, and its reputation, but also amplifies the core arguments we made in our December 18<sup>th</sup> filing about the need to ensure that wood products derived from illegally logged lands in Oregon do not carry the SFI seal of approval. Plum Creek fails to offer any means to resolve this issue and others raised in our Complaint. Our reply to Plum Creek is provided below:

1. The core issue over fraudulent marketing of illegally logged timber remains unresolved.

In its response, Plum Creek fails to address the core issue raised by CSE’s Complaint – namely, the disposition of illegally logged timber as it enters the market. Our contention is that Plum Creek has failed to take any steps to prevent timber and wood products derived from illegally logged lands from being marketed with the SFI seal of approval despite a clear standard requiring adherence to all applicable federal, state, and local statutes and regulations (Objective 14: Legal and Regulatory Compliance). This failure defrauds consumers who want to make responsible choices and investors who believe Plum Creek’s claim that all of its timberland is managed in accordance with SFI principles.

Clearly, Plum Creek could have offered several remedies to this situation and thereby help improve the integrity of the SFI label writ large. For example, chain-of-custody tracking of timber from forest to market is fairly sophisticated, and Plum Creek could have offered a process whereby wood products derived from harvest units that receive civil penalties or are flagged with apparent instances of non-compliance do not end up with the SFI label. In its annual Securities and Exchange Commission Filings, Plum Creek could have offered a remedy to identify the portions of its lands (States) where recurring problems exist. Instead, Plum Creek has ignored this central issue entirely.

2. The core issue of certifying repeat offenders has not been addressed.

In addition to the disposition of illegally logged timber and wood products on the marketplace, the other core issue CSE raised in its Complaint was the issue of certification of repeat offenders, especially offenders who make the same mistakes over and over again. The SFI standard means nothing if a timber company like Plum Creek pays no penalty for repeat offenses that cause serious resource damage on the ground and reflect a lack of understanding about applicable regulations and methods to comply with them.

In its response, Plum Creek admits to an embarrassing record of utilizing the same poorly trained foresters and contractors over and over whose inadequate understanding of Oregon’s Forest Practices Act and implementing regulations lead to repeated violations of adjacency and

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<sup>1</sup> According to an email sent by SFI’s Gregor Macintosh to John Talberth on December 19th, 2014, “It is clear from what you sent on December 18th that this specific issue falls under the process for ‘Official Complaints Questioning the Validity of a Certification.’”

<sup>2</sup> See, e.g. Bureau Veritas Certification North America, Inc. SFI Audit Report for Verso Paper Corporation. 2013. Bureau Veritas standard certification audit includes a section entitled “Root Cause

streamside protection standards. Again, Plum Creek could have offered a resolution. For example, it could have offered to suspend certification for its lands in a given state in a given year if similar infractions recur in the previous three to five years. Instead, Plum Creek's response is silent on any pathway to resolution of this repeat offender issue. While Plum Creek claims to be resolving this issue by terminating contractual relationships with disreputable contractors and foresters and issuing negative performance reviews the question remains as to what will happen when the next citation is issued? The issue is more about Plum Creek's overall pattern over time and not about particular foresters and contractors it retains. Clearly, there must be a penalty for repeat offenses.

### 3. Plum Creek has failed to identify root causes that lie at the heart of its repeat infractions.

One of the basic SFI processes on paper is for participating companies to analyze the root causes of inconsistent practices and develop a corrective action plan to ensure that systemic problems are addressed.<sup>2</sup> However, in its reply, Plum Creek fails to conduct a root cause analysis of its infractions. Instead, Plum Creek provides a litany of excuses for the thirteen civil penalties assessed against it and its contractors since 2009 assigning nearly all the blame to disreputable contractors and foresters and to their lack of training.

The reality is that one of the key root causes of Plum Creek's repeated violations in Oregon is the rapid liquidation and/or overharvesting of its forests with high-impact clearcutting techniques. Issues with rapid liquidation and overharvesting of Plum Creek forests are not unique to Oregon. The serious consequences of liquidation and overcutting have been well documented in other states, notably Montana and Maine.<sup>3</sup> In Oregon, as in these other states, too many clearcuts too close together over too short a period of time is certainly an important root cause of Plum Creek's inability to comply with the law. This could not be illustrated better than by Plum Creek's updated satellite imagery of the landscapes it manages in the vicinity of some of the known violations (See Figures A and B).

This contention is also bolstered by Plum Creek's narrative. Citations issued with respect to the 2009 Deadhorse Harvest Complex are largely related to too many clearcuts too close together before adjacent lands met reforestation standards.<sup>4</sup> The 2013 citation was caused by placing a new clearcut in close proximity to a clearcut made in the prior year.<sup>5</sup> In 2012, one of the infractions was caused by an acceleration of the harvest plan by Plum Creek's Harvesting Manager before the unit layout was complete.<sup>6</sup>

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<sup>2</sup> See, e.g. Bureau Veritas Certification North America, Inc. SFI Audit Report for Verso Paper Corporation. 2013. Bureau Veritas standard certification audit includes a section entitled "Root Cause Analysis and Corrective Action Plan." CSE contends that this

<sup>3</sup> For an overview of the impacts of Plum Creek's overharvesting in Montana, visit: <http://missoulanews.bigskypress.com/missoula/seeing-the-forest-for-the-trees/Content?oid=1132458>. For Maine, see: Scott, Charles R. 2005. Liquidation Timber Harvesting in Maine: Potential Policy Approaches. *Harvard Law Review* Vol. 29. 2005.

<sup>4</sup> Response at 8.

<sup>5</sup> Response at 9.

<sup>6</sup> Response at 10.

With respect to the resource damages associated with Plum Creek's logging, Plum Creek ignores the strong scientific connection between clearcutting and landslides in Oregon. Clearcutting on steep, unstable slopes is a root cause of landslides (also referred to as mass wasting) – the case is unequivocal and has been well documented for decades.<sup>7</sup> Satellite imagery clearly reveals the extent of this problem on Plum Creek lands, including imagery appended to CSE's December 18<sup>th</sup> Complaint. In its response, Plum Creek dismisses the connection between clearcutting and mass wasting and instead merely makes reference to some work it has done to reduce the possibility of its road system contributing to the problem when in fact it is clearcutting throughout its harvest units that needs to be addressed.

In its response, Plum Creek has offered no pathway to resolving issues over overharvesting or the placement of clearcuts on steep, unstable slopes susceptible to landslides.

4. Plum Creek has failed to respond to 160 additional instances of apparent non-compliance.

Plum Creek's response is limited to the 13 civil penalties issued by the State Forester. However, in its initial Complaint and a subsequent clarification filed on January 27<sup>th</sup>, 2015, CSE provided public records documenting the existence of 160 additional instances of apparent non-compliance with the Oregon Forest Practices Act (Exhibit 2). According to the State Forester, these additional instances of apparent non-compliance need to be verified on the ground by a trained forester. In its response, Plum Creek has entirely ignored the issues raised by these additional instances of apparent non-compliance.

For these reasons, we believe the Oregon State Implementation Committee and Bureau Veritas must hold Plum Creek accountable for marketing of illegally logged timber as sustainable, for investigating the full scope of its inconsistent practices in Oregon, and for properly responding to the issues raised in our Complaint.

Yours truly,



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<sup>7</sup> See, e.g. Landslides and Public Safety Project Team. 2001. Forestry, Landslides, and Public Safety. An Issue Paper Prepared for the Oregon Board of Forestry. See also, the 1995 Oregon Department of Forestry study which found that "Clear-cut harvest and/or slash burning on steep slopes may increase failure rates two to 40 times over rates on undisturbed sites."

cc/

Gregory Macintosh, SFI  
Dan Stotter, Stotter and Associates  
Peter Goldman, Washington Forest Law Center  
Jim Ace, Forest Ethics

Exhibit 1: CSE Complaint, 12-18-14

Exhibit 2: CSE Supplemental Information, 1-27-15

Exhibit 3: Plum Creek Reply, 2-7-15