

SCS Complaint Investigation Report

*Complaint lodged by Ardis Burghoff, et al, against Wisconsin
Department of Natural Resources—SCS-FM/COC-00070N*

The complaint was submitted via email to SCS Global Services on 13 January 2021. Additional submissions from the complainants were received by SCS on several dates prior to and following the January 13th submission of the formal written complaint.

The letter of complaint, received by SCS on 13 January 2021, is the first formal complaint (as distinct from prior stakeholder input) submitted by Ardis Berghoff, et al¹, regarding the actions of the Wisconsin Department of Natural Resources in its role as managers of state-owned forestland in the vicinity of Whitney Lake, in Vilas County, Wisconsin. Prior to filing the complaint, the lead representatives for the complainant group (referred to as a “group of stakeholders” by the lead complainant) submitted email and verbal (telephone) input to SCS beginning in June 2020. All pertinent correspondence, and notes thereof, were forwarded to the SCS Complaint Investigator by the SCS Forest Management Certification Program Director. Full copies of all documents received are maintained in the project file at SCS Headquarters, as are written notes from telephone interactions with the complainants.

The issues and allegations raised by Ardis Berghoff, et al, in the 13 January 2021 complaint letter cover the following general subject areas:

The 2020 field audit and resulting audit report² was inadequate with respect to Whitney Lake issues

Complainants allege that the SCS Lead Auditor for the 2020 annual surveillance audit of Wisconsin DNR (SCS Senior Certification Forester, Beth Jacqumain) failed to conduct and document an adequate investigation of stakeholder issues and concerns raised by:

- Ardis Berghoff in her stakeholder letter of July 8, 2020 and restated/augmented (following the September 2020 audit and issuance of the audit report on November 16, 2020) in another stakeholder letter on November 23, 2020

¹ Ms. Berghoff submitted the January 13, 2021 complaint letter on behalf of a group of 9 individuals, many of whom are property owners in the vicinity of Whitney Lake.

² The lead complainant incorrectly refers to the “Whitney audit report” when, in fact, it is the *2020 annual surveillance audit report* covering the full scope of Wisconsin DNR’s FSC forest management certification, of which Whitney Lake and surrounding state forestland is a small part. This distinction is not intended to minimize the importance ascribed by the complainants to the issues they have raised regarding Whitney Lake and the planned timber sale on tract 11-19.

- John Schwarzmann³ in stakeholder correspondence in June 2020 followed by a teleconference with SCS Vice President Dave Bubser in July 2020.

The complainants allege that the SCS Lead Auditor was unduly influenced by DNR personnel. Complainants allege that the SCS Lead Auditor allowed DNR personnel to “control the audit and report” and to dictate the findings of the stakeholder input investigation conducted by the SCS Lead Auditor as part of the September 2020 annual surveillance audit of DNR; the Lead Auditor’s field visit to Whitney Lake took place on September 16, 2020⁴. Complainants also allege that the SCS Lead Auditor did not expend sufficient field time investigating the stakeholder issues and concerns that were raised prior to the 2020 surveillance audit of DNR.

DNR plans to heavily log the Whitney lakeshore, in violation of applicable standards

Complainants allege that harvesting that has taken place and that is planned to take place in tract 11-19 (adjacent to Whitney Lake) violates applicable standards. While the written complaint does not specify which “standards” are being or will be violated by DNR in the planned timber harvest near Whitney Lake, further dialogue with the complainants revealed that the applicable standards are:

- Elements of the FSC-US National Standard for Forest Management Certification
- Wisconsin Forestry’s Best Management Practices for Water Quality
- Northern Highlands American Legion State Forest Master Plan

Complainants also assert that the Lead Auditor did not apply the appropriate “FSC standard” when assessing the planned (and partially initiated) timber harvest adjacent to Whitney Lake. The complainants did not fully specify which elements of the FSC-US Forest Management Certification Standard they allege DNR is violating.

DNR has attempted to cover up its actions

This allegation is made without any details as to the actions that constitute a “cover up.” No substantive supporting evidence has been provided to SCS other than an opinion expressed by Ms. Berghoff that DNR’s public noticing procedures for planned activities such as timber sales—which takes place in the form of postings on the DNR website—is not widely known by the general public including the Whitney Lake stakeholders group.

³ Mr. Schwarzmann is a professional forester, retired from the Wisconsin Board of Commissioners of Public Lands

⁴ The field visit to Whitney Lake was one component (“field stop”) of a much larger annual surveillance audit of Wisconsin DNR’s FSC forest management certification which entails approximately 1.5 million acres of state-owned forestland. As such, complainants’ references the “Whitney Lake audit” in written correspondence to SCS is a mischaracterization.

SCS failed to follow its own “stakeholder complaint process”

Complainants allege that SCS did not engage in stakeholder consultation in conjunction with the 2020 audit. In the January 13, 2021 letter of complaint, Ms. Berghoff asserts that SCS, in its audit of DNR, “did not follow its own stakeholder-complaint process,” did not consult with stakeholders as part of the audit, did not apply the appropriate elements of the FSC standard and allowed DNR to dictate the audit report’s approach and conclusion.

SCS Complaint Investigation Plan Submitted to Ardis Berghoff on 25 January 2021

Following receipt of the January 13, 2021 complaint letter, SCS conveyed the following Complaint Investigation Plan to Ms. Berghoff:

Complaint Subject:

- Stakeholder concerns and allegations regarding Wisconsin DNR Timber Sale (Tract 11-19; partially completed) adjacent to Whitney Lake
- SCS Global Service’s July 2020 annual surveillance audit of Wisconsin DNR, particularly the Lead Auditor’s investigation—including a site visit—of written stakeholder concerns and allegations of Whitney Lake property owners regarding the Tract 11-19 timber sale
- The Lead Auditor’s written findings regarding her investigation of the issues raised by the stakeholders concerning the Tract 11-19 timber sale, incorporated into the 2020 annual surveillance audit report

Date Received: 13 January 2021

Name and Affiliation of Complainant: Ardis Berghoff; individual stakeholder and nearby property owner, acting on behalf of several other stakeholders (property owners in the vicinity of Whitney Lake—no formal organizational affiliation)

Complaint Investigator: Dr. Robert J. Hrubes, Registered Professional Forester and SCS Executive Vice-President, Emeritus

Areas of the Complaint Subject to Investigation:

- Stakeholder allegations that the Tract 11-19 timber sale violates DNR policies and standards—particularly, policies and regulations pertaining to aesthetic as well as water quality and wildlife habitat impacts of DNR’s (partially completed) forest management actions
- Stakeholder allegations regarding the SCS Audit Team’s investigative actions and responses to the stakeholder input, as presented in the 2020 Wisconsin DNR annual surveillance audit report;

specifically, that the SCS Audit Team failed to undertake an independent investigation and preparation of written investigation findings

Planned/Completed Complaint Investigation Activities:

- Telephone interviews and email exchanges with a) the SCS Lead Auditor and the SCS Forest Conservation Program Director, b) Ms. Burghoff and Mr. Schwarzmann, acting as representatives of additional named Whitney Lake stakeholders, and, c) pertinent DNR personnel;
- Review all written materials submitted by the complainants;
- Review of pertinent Wisconsin DNR policy and program documents;
- Review of pertinent SCS documentation such as the 2020 annual surveillance audit report
- If determined necessary, request additional information from complainant, SCS Lead Auditor, SCS Program Director, and/or Wisconsin DNR personnel;
- Preparation of a Complaint Investigation Report and conveyance of Report to complainant and involved parties.

Expected Completion Date: The Complaint Investigation Report is expected to be issued by 13 April 2021⁵.

SCS Complaint Investigator's Determinations Regarding the Allegations Raised by the Complainant

To follow are point-by-point responses to and determinations/findings regarding the allegations raised by the complainants.

The 2020 field audit and resulting audit report was inadequate with respect to Whitney Lake issues

Assessment of the multiple allegations under this subject header must include consideration of the circumstances and context of the 2020 audit of Wisconsin DNR; specifically, that the audit took place during a global Covid-19 pandemic that has and continues to drastically impact business and non-business activities, including how FSC-accredited certification bodies such as SCS undertake audits. When the pandemic first spread throughout North America, FSC directed that all audits be postponed or conducted remotely, using electronic communication platforms augmented by techniques such as supplying certificate holders with 360 video transmission devices to provide visual examination capacity for remotely located auditors. Subsequently, and by September 2020, FSC authorized a return to field auditing but with a reduced number of auditors and auditor days and minimization of direct human contact, including with stakeholders and staff of the certificate holder. As a result, the Wisconsin DNR audit was conducted by a 2-person audit team, each auditor on separate field itineraries and a reduced number of auditor field days as well as no face-to-face contact with DNR personnel as well as stakeholders.

⁵ Revised from the estimated date in the complaint investigation plan originally conveyed to the complainants.

Unavoidably, these covid-induced and abbreviated audit protocols have challenged audit teams in their objective of undertaking effective and as robust as possible audits. For the 2020 Wisconsin DNR audit, fewer field sites were visited and a limited amount of time was available for each site visit.

Complainants allege that SCS did not engage stakeholders as part of the 2020 audit of DNR. While it is correct that the Lead Auditor did not make contact with the (then) Whitney Lake stakeholders, there was substantial consultative dialogue between senior SCS personnel and the Whitney Lake stakeholders prior to the field audit. Per FSC and SCS guidelines, stakeholder consultation can take place prior to, during, or following the field component of the audit. As such, the allegation that no stakeholder consultation took place in association with the 2020 DNR audit is factually inaccurate.

While the complaint investigator concludes that the 2020 DNR audit was in conformance with FSC's directives regarding field auditing during the covid pandemic, it was unfortunate that the Lead Auditor elected not to reach out to the Whitney Lake stakeholders (they were not complainants at the time of the audit) in advance of or during the audit. While it would have been unrealistic for the Lead Auditor to make contact with a large number of stakeholders, it would have been appropriate and helpful to connect with a representative of the Whitney Lake stakeholder group that, earlier in the year, had been in active and extensive dialogue with SCS managers, including a Vice-President.

Had the Lead Auditor made telephone or email contact with a representative of the Whitney Lake stakeholders prior to September 16th, it is likely that the auditor's available field time spent at Whitney Lake would have more effectively included a focus on the issues of concern to the stakeholders, in addition to other subject matters pertinent the audit scope.

This, in turn, would very likely have resulted in an audit report that more accurately addressed the issues and concerns raised by the Whitney Lake stakeholders. The report's relatively brief written summary of the Lead Auditor's site inspection of tract 11-19 at Whitney Lake focused predominantly on the silvicultural aspects of the planned harvest, with brief attention to water quality issues and no attention to aesthetic issues (visual impacts of planned harvesting) at Whitney Lake. (Aesthetics are mentioned in the report with regard to other field stops made during the DNR audit, but not with regard to Whitney Lake.)

For the reasons described above, I find that the issues of concern to the Whitney Lake stakeholders, as conveyed to SCS in verbal and written exchanges beginning in June 2020, were not sufficiently addressed in the DNR audit and audit report.

As the bulk of the planned harvesting in tract 11-19 has not yet taken place, it is not too late for SCS to engage pertinent DNR personnel about the allegations raised by the stakeholders (now complainants) that the harvest has not and will not conform with applicable policy and legal requirements (see next section) and the findings of this complaint investigation. Further, the complaint investigator concludes that, if need be, the harvesting of tract 11-19 should be delayed until the findings of this complaint investigation are addressed.

While the exigencies of the September 2020 audit that contributed to the Lead Auditor not making contact with the Whitney Lake stakeholders were unfortunate, the Complaint Investigator finds that the

following allegations raised against the Lead Auditor are purely conjectural, without factual foundation or evidence, and simply wrong; that the Lead Auditor:

- was unduly influenced by DNR
- allowed DNR to dictate the audit report's approach and conclusions/findings
- allowed DNR personnel to control the audit and reports

Such behavior, if confirmed with objective evidence, would constitute an abject failure to follow the professional norms of auditor performance under all certification schemes, including but not limited to FSC.

No evidence, as distinct from conjecture and inference, was provided by the complainants.

Further, I have had the opportunity to observe and work with Beth Jacqmain, whose track record of performance at SCS is reflected in her position title, Senior Certification Forester. On the basis of my first-hand familiarity with Ms. Jacqmain in her capacity as a Senior Certification Forester, I have the fullest confidence that she would never conduct an audit in such an unprofessional and unethical manner, as alleged by the complainants. Accordingly, and in the absence of any evidence to support these allegations, I find that these allegations are without merit.

DNR plans to heavily log the Whitney lakeshore, in violation of applicable standards

A review of written materials provided to the complaint investigator, augmented by telephone interviews with the complainants as well as DNR personnel, indicates that the planned harvest in tract 11-19 is primarily intended as an "overstory removal" type of commercial harvest that, in large part, is designed to provide sufficient light to the forest floor to foster establishment and development of a new cohort of seedlings/saplings, primarily oak. Overstory removal harvest prescriptions are generally more intensive (in terms of volume removed per acre) than single tree selection prescriptions. Likewise, so are the visual impacts.

Another pertinent aspect of the planned harvest is that the intensity of planned removal of harvest trees (and, conversely, the spatial pattern of leave trees) varies across the harvest unit. The basal area retention of retained trees will be as low 35 square feet per acre in some areas and above 60 square feet per acre in other areas of the harvest unit. As well, the widths of riparian management zones (RMZ's) adjacent to or within the harvest boundaries are not universally 100 feet or greater.

While this type of harvest prescription may have a valid silvicultural justification in appropriate circumstances, the central issue is whether or not the harvest layout is in conformance with the Wisconsin BMP Field Manual and the NHAL Master Plan. Compliance with these two documents, in turn, is directly pertinent to the question of whether or not DNR is in conformance with FSC Criterion 1.1 (Indicator 1.1.a.), Criterion 7.2 (Indicator 7.2.a). Central to this determination is the fact that the harvest unit is adjacent to Whitney Lake and Whitney Creek, which feeds into the lake. As detailed below, the planned harvest appears to be in conflict with key provisions of the BMP Manual and the NHAL Master Plan.

Harvest Design is in Conflict with the Wisconsin BMP Field Manual

Before delving into the details of pertinent best management practices for forestry in Wisconsin, it is important to note that I conclude that DNR's compliance with BMPs is mandatory, for at least the following two reasons:

In Chapter 1, page 13 of the Wisconsin BMP Manual, it states:

“The BMPs for Water Quality Program is non-regulatory; however, the use of BMPs is mandatory in a number of situations...On public lands such as...state forests, the following BMPs are a requirements of timber sales.”

With regard to the FSC-US forest certification standard, Indicator 6.5.b states:

“Forest operations meet or exceed....BMPs” and “BMPs for water quality, erosion control, protection of forest resources...and all other mechanical disturbances provide a foundational minimum for compliance with this Criterion.” And: “BMPs include both voluntary and mandatory state and regional BMPs as well as analogous terms used in certain states.”

Chapter 7 of the Wisconsin BMP Field Manual specifies requirements for establishing RMZ's (riparian management zones) in association with lakes and streams. For lakes and for streams wider than 3 feet, RMZ's are to be at least 100 feet (per each side for streams), starting at the ordinary high-water mark. On page 91 of Chapter 7, tree retention requirements within RMZ's are stipulated: "at least 60 square feet of basal area per acre in trees greater than 5" DBH, *evenly distributed*" (emphasis added).

On page 87, variations from the 100' per side RMZ width requirement are addressed:

RMZ widths greater than 100' per side “may be needed on sites that exhibit one or more (emphasis added) of the following site conditions:

- steep slopes
- long, continuous slopes
- highly erodible soils
- no ground cover or duff layer
- intensive soil disturbance near the RMZ
- Unique or sensitive waters”

RMZ widths less than 100' per side “may be suitable on sites that exhibit the following site conditions:

- flat terrain
- short slopes
- stable or undisturbed soil
- dense groundcover vegetation
- soils with high filtration rates”

Of significant note, the trigger for increasing the widths of RMZs is “one or more” of the stipulated conditions. In contrast, “one or more” does not apply to narrowing RMZs below 100’ per side. That is, text on page 87 rather clearly establishes that all 5 stipulated site conditions must be present to warrant narrower RMZs. Such asymmetry (consistent with the “precautionary approach” found in the FSC vernacular) is, in my judgment, consistent with the concept/mechanism of establishing environmental safeguards of any kind. I note, however, that in dialogue with a senior DNR staff person who was involved in the drafting of the BMP Manual, their recollection was that the original intent was that “one or more” would apply to both expanding or narrowing RMZs relative to the baseline of 100’ per side. The staff person’s recollections notwithstanding, I note that the text on page 87 has been in place since at least 2003 without revision. Until and unless this portion of the BMP Manual is formally revised to establish symmetric triggers for both increases or decreases in RMZ widths, it is my determination that FSC auditors must audit against the BMP Manual, as it currently is written.

Accordingly, and in the absence of an argument and supporting evidence that all 5 triggers for narrower RMZ’s are met, I conclude that the RMZs established for the Whitney Lake harvest unit are not in compliance with the Wisconsin Best Management Practices Manual. That is:

- the RMZ’s as laid out are not uniformly greater than 100’ per side
- The residual trees (to be reserved from harvest) are not uniformly distributed, at least 60 square feet basal area per acre.

Further, failure to comply with duly established Best Management Practices constitutes a non-conformity with pertinent elements of the FSC US national certification standard for forest management, as addressed in Principle 1 and Criterion 6.5.

Harvest Design in Conflict with the NHAL Master Plan

In written and verbal exchanges with the Whitney Lake complainants, their representatives (Berghoff and Schwarzmann) have strongly asserted that the harvest plan, if operated as presently planned, will result in a significant adverse aesthetic impact on the viewsheds adjacent to Whitney Lake. While I am unable to confirm this assertion without a site inspection, I consider it likely that an overstory removal type of harvest that involves removing large trees in the near vicinity of the lake shore will generate adverse aesthetic impacts.

In perusing the NHAL Master Plan, I found numerous references and directives regarding the importance of aesthetic values in the state forests of northern Wisconsin, particularly with respect to the many lakes found in this region. Notable directives regarding aesthetics include:

- “The scenic quality of all shorelines and primary roadways will be maintained and enhanced through application of aesthetic management techniques” (page 7)
- Vision Statement: “The unique, aesthetic character of the NH-AL State Forest and the quality of its waters will be perpetuated.” (page 9)
- Property Goal #2: “Maintain and enhance aesthetic qualities of the Northern Highlands—American Legion State Forest.”
- Property Goal #8: “Protect and enhance wild resource values such as...the sights and sounds of a natural environment.”

- Big Tree Silviculture: “A...Governor appointed committee...recommended that...recreational and aesthetic values of old growth and big trees be recognized.” (page 11)
- “All undeveloped lake and stream shoreline will be managed to protect water quality, maintain wildlife and fisheries habitat, and enhance aesthetics. Shoreline management shall include vegetative zones. They will be maintained by following Best Management Practices for Water Quality when performing all forest management activities.” (page 156)

Based upon my review of pertinent written information and telephone interviews with the complainants and DNR personnel, I conclude that the harvest plan for tract 11-19, adjacent to Whitney Lake, is likely in conflict with the above excerpts from the NHAL Master Plan. The evidence suggests that the harvest prescription does not adequately incorporate “aesthetic management techniques” nor adequately balance aesthetic objectives against silvicultural and production objectives.

Practices that do not conform to the NHAL Master Plan most directly constitute a non-conformance with these FSC Indicators:

Indicator 1.1.a: Forest management plans and operations demonstrate compliance with all applicable federal, state, county, municipal, and tribal laws, and administrative requirements (e.g., regulations).

Indicator 4.4.a: The forest owner or manager understands the likely social impacts of management activities and incorporates this understanding into management planning and operations. Social impacts include effects on:

- Archeological sites and sites of cultural, historical and community significance (on and off the FMU);
- Public resources, including air, water and food (hunting, fishing, collecting);
- Aesthetics;
- Community goals for forest and natural resource use and protection such as employment, subsistence, recreation and health;
- Community economic opportunities;

Indicator 5.5.a: In developing activities on the FMU, the forest owner or manager identifies and defines appropriate measures for maintaining and/or enhancing forest services and resources that serve public values, including municipal watersheds, fisheries, carbon storage and sequestration, recreation and tourism.

Subsequent to the January 13, 2021 filing of the complaint, additional information was provided to SCS by the complainants, including reports of additional field checks of harvesting activities in RMZs elsewhere in the NHAL State Forest under the direction of retired BCPL Forester Schwarzmann. The complainants allege that harvest marks in other RMZs are similarly not in conformance with the BMP Manual and the Master Plan. While I do not consider this additional stakeholder input to constitute hard evidence, it does suggest the possibility that the salient issues may not be limited to Whitney Lake.

Lead Auditor Applied the Incorrect “FSC Standards”

In the stakeholder comment letter submitted by Ardis Berghoff on 23 November 2020, the assertion is made that, rather than focusing on FSC Criterion 6.5, the SCS Lead Auditor should have focused on Criterion 6.3 and, more specifically, Indicator 6.3.c.

The complaint investigator concludes that both Criterion 6.5 and Indicator 6.3.c are directly pertinent to the issue of management practices in RMZs in the vicinity of Whitney Lake.

Criterion 6.5 focuses on development and implementation of written guidelines for avoiding adverse impacts of site disturbing activities such as timber harvesting, road construction and other mechanical disturbances, particularly with respect to protecting water resources. BMPs are prominently mentioned in this Criterion as a type of written guideline intended to assure the protection of water resources. Indicator 6.5.b states: “Forest operations meets or exceeds Best Management Practices that address elements of the Criterion where the operation takes place.”

So, clearly, Criterion 6.5 was properly cited and addressed in the audit report. But, in light of the fact that—as discussed above—DNR did not adhere to the RMZ width and tree retention (both minimum retained basal area and spatial distribution) of the Wisconsin BMP Manual, the complaint investigator concludes that, by not explicitly referencing and auditing against Indicator 6.3.c the Lead Auditor did not adequately address this subject matter in the audit and in the audit report.

DNR has attempted to cover up its actions

While DNR’s long-established and periodically revised public noticing mechanism for informing the general public as to planned management activities may not have been widely known by the Whitney Lake stakeholders, the SCS complaint investigator concludes that this simply does not constitute evidence that DNR was affirmatively attempting to conceal its plans for laying out a planned harvest/timber sale in the vicinity of Whitney Lake. As no additional evidence was provided by the complainants in support of this allegation, the complaint investigator concludes that DNR did not attempt to cover up its actions. Materials provided to the complaint investigator indicate that DNR has been engaged in active dialogue with the Whitney Lake residents since well prior to the 2020 audit.

SCS failed to follow its own stakeholder complaint process

Complainants allege that SCS failed to follow its “stakeholder complaint process” by:

1. Not consulting with stakeholders
2. Conducting a site inspection of just one small section of the Whitney Lake shoreline

3. Not applying the appropriate FSC standards
4. Evidently allowing the DNR to dictate the audit report's approach and conclusion
5. Failing to acknowledge and address a serious conflict of interest

First, the phrase used by the complainants—"stakeholder complaint process"—reveals a misunderstanding and mischaracterization of the mechanisms for and stages of stakeholder interaction in the context of FSC/SCS certification auditing. Stakeholder consultation as part of a FSC certification audit can take place prior to, during, and following the field component of the audit. Investigation of stakeholder complaints (as distinct from stakeholder input) is a mechanism that applies only after a certification decision has been rendered and a complaint has been formally filed with SCS. The Whitney Lake complaint was filed on 13 January 2021 and the complainants are focusing on stakeholder consultation in conjunction with September 2020 audit. Accordingly, complainants should have referred to "stakeholder consultation process" as one of the foci of their complaint.

Not consulting with (Whitney Lake) stakeholders

As mentioned above, stakeholder consultation in the context of a FSC audit can take place prior to, during and following an audit but prior to issuance of a certification decision through publication of an audit report. In advance of the field component of the 2020 DNR audit, SCS did engage in substantive consultation with the Whitney Lake stakeholders, via emails and telephone conversations. This renders inaccurate the allegation that SCS did not consult with stakeholders in conjunction with the 2020 audit of Wisconsin DNR.

The Lead Auditor's decision to not make contact with the Whitney Lake stakeholders during the field component of the DNR audit, while not ideal, was due in large part to the challenging circumstances of conducting audits in the middle of the Covid-10 pandemic. Many audits were postponed and/or conducted fully remotely (no site visits) beginning in March/April of 2020, as expressly permitted by FSC. Audits incorporating a (reduced) field component were resumed in the second half of 2020. And per FSC direction, field audits entailed a reduced number of team members and total person-days of time in the field. With regard to the DNR audit, this also meant that each field stop over the course of a 3-day period was shorter than normal. Of note, the 1.5 hour-auditor site visit to Whitney Lake was the longest field stop of the 2020 audit of DNR.

That said, the Lead Auditor's decision not to reach out to the Whitney Lake stakeholders via email exchange or a telephone conversation in conjunction with the 2020 audit was unfortunate as it could have led to a more accurate and robust understanding of the salient issues, a more effective site visit, and a more accurate characterization of the scope of Whitney Lake stakeholder concerns in the audit report.

Conducting a site inspection of just one small section of the Whitney Lake shoreline

As the complainants were not in the field with the Lead Auditor, this allegation is based purely upon inference derived from the Whitney Lake site visit write-up on pages 11 and 17 of the audit report. Further, there are no normative standards (auditing requirements) as to the specific details of a site visit in the context of a FSC audit. The auditor is expected to exercise discretion in how to best use the available field time in any audit.

As a Lead Auditor who has conducted a large number of FSC certification audits over the past 25 years, this Complaint Investigator can attest to the challenges of balancing breadth versus depth in the utilization of limited field time during an audit. Under the extraordinary circumstances of conducting an audit during a pandemic, such discretionary decisions are all the more challenging. Based on dialogue with the Lead Auditor and considering the full scheduled scope of the 2020 audit, the Complaint Investigator concludes that the amount of time spent at Whitney Lake was as much as reasonably could be expected under the circumstances in which Whitney Lake was but one of many field sites that were scheduled to receive a field visit.

Complaint Investigation Decision

In my capacity as the lead investigator for this complaint, I have carefully considered each allegation raised by the complainants and the supporting evidence that was provided. I have engaged in investigative dialogue with pertinent SCS staff to assure that I fully understand the technical content of the written record with respect to actions (planned and partially taken) by the Wisconsin Department of Natural Resources in the vicinity of Whitney Lake, located in Vilas County, Wisconsin. I have also engaged in investigative dialogue (emails and telephone/Zoom interviews) with the two lead members of the Whitney Lake stakeholders group as well as pertinent DNR personnel. Additionally, I have read and considered key policy and planning documents that guide DNR's forest management activities, statewide and within the boundaries of the Northern Highlands American Legion State Forest. On that basis, I have determined that:

- A) The portion of the 2020 Wisconsin DNR annual surveillance audit, and related sections of the 2020 audit report, that pertain to the complainants' concerns and allegations were/are not in full and adequate conformance with FSC and SCS auditing and reporting protocols
- B) DNR must revise the planned harvest of the "Hodge Podge" (11-19) timber sale to bring the harvest plan and field operations into compliance with key programmatic documents, most notably the NHAL Master Plan and the Wisconsin Best Management Practices Manual for Water Quality. Specifically, the harvest upon completion must conform to the aesthetic management policies and objectives set forth in the Master Plan and the RMZ width and residual tree/basal area retention and spatial distribution requirements set forth in the BMP Manual
- C) The itinerary for SCS' 2021 surveillance audit of Wisconsin DNR should include a field visit to Whitney Lake to assess the conformance of the Hodge Podge (11-19) harvest—as revised in response to this complaint investigation report—to the FSC-US National Forest Management Standard

- D) The 2021 audit itinerary should also include a broad focus on how DNR interprets the RMZ width and tree retention requirements found on page 87 of the BMP Manual as well as the aesthetic management policies and guidelines found in the NHAL Master Plan.

A handwritten signature in blue ink that reads "Robert J. Hrubes". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dr. Robert J. Hrubes, Executive Vice-President Emeritus and Registered Professional Forester

Date: 6 April 2021