



December 21, 2009

Bureau of Forestry
Department of Conservation and Recreation
Box 484
40 Cold Storage Drive
Amherst, MA 01004

Via Email: fsc.comments@state.ma.us

Re: **FSC Re-Certification**

Dear DCR Bureau of Forestry:

On behalf of Mass Audubon, I submit the following and attached comments on the re-certification of Department of Conservation and Recreation¹ (DCR) lands by the Forest Stewardship Council (FSC). Mass Audubon recommends that the Commonwealth undertake a more complete public review of the costs and benefits of FSC Certification, including evaluation of certification in relation to the recommendations that will be issued by the DCR Forest Vision process in early 2010, before making a final decision on whether to proceed and if so which properties to include. At a minimum, Mass Audubon recommends that the scope of re-certification be further narrowed to exclude additional lands where parkland values predominate. We also recommend that DCR formally adopt the High Conservation Value Forest (HCVF) provisions prepared by the Division of Fisheries and Wildlife (DFW), including designation of all Priority Habitats for rare species associated with closed-canopy forest and all late-seral forests (dominated by trees >150 years in age) as HCVF.

DCR's limited resources to plan and undertake forestry should be directed to a smaller subset of lands where conflicts with other public interests are minimized. This would enable an agency that is struggling under severe budget constraints to focus its forestry work and demonstrate exemplary silvicultural practices in carefully selected locations. Rebuilding of the public trust in regards to stewardship of the state lands is of paramount concern.

As noted in our comment letter of April 6, 2009 (attached), FSC Certification has its pros and cons. Mass Audubon supports application of high forestry standards to public lands that are appropriate for active forest management. We also support the development of management plans with public input, integrating all of the public interests inherent in these lands including stewardship of natural and cultural resources, recreational values, and sustainable forestry where appropriate. Such integrated planning, along with coordination of forestry between DCR and the Department of Fish and Game, is required by law (MGL Ch. 21 S.2F <http://www.mass.gov/legis/laws/mgl/21-2f.htm>). The FSC Certification process promised to provide high standards including management planning requirements, compliance with all state laws, and third-party oversight to ensure compliance and transparency. As the process has played out as a practical matter, these benefits have been only partially achieved. Nine large reserves were designated and substantial progress was made in forest

¹ These comments are focused primarily on the DCR Division of Parks and Recreation (DSPR) lands, which are the subject of the DCR Forest Vision process. The FSC re-certification review also includes DCR Division of Watershed Management and Division of Fisheries and Wildlife (DFW) lands. Some of the re-certification review report conditions and public comments relate to watershed and/or DFW lands. Mass Audubon supports management of the watershed lands for the water supply protection purposes for which they were acquired. Publicly reviewed management plans for the watershed lands have been in place for many years and are periodically updated. Mass Audubon also supports DFW's application of ecological management and wildlife biology expertise in management of its lands for the benefit of native plants and animals.

inventories, boundary marking, and other fundamental planning work. However, staff and funding constraints and a confusing and duplicative set of planning processes within DCR, along with public concern regarding certain management activities (especially clear cutting), have slowed completion of management plans and those that were completed have been the subject of significant public criticism.

The 2009 re-certification review report acknowledges many of the public concerns about management of their public lands, which is positive in that it contributes to transparency and accountability. However, it remains unclear exactly how and when all of these concerns will be resolved. The state needs to respond in detail and meaningfully to these concerns, before final decisions are reached on proceeding with re-certification and undertaking any significant new cutting operations. DCR is undertaking a Forest Vision process that was initiated in response to public concerns. It is important that this process be completed and all public input and the final Vision report recommendations be meaningfully considered in DCR's decision about whether to continue with FSC Certification and if so on which properties.

Scope of Certification – Properties to be Excluded:

The re-certification review report requires public input on the scope of properties subject to re-certification. As noted above, Mass Audubon believes that DCR cannot complete this review process for the DSPR lands until the Forest Vision process is concluded. Following that process, DCR will need to identify which properties will be designated as Parklands, and further public review may be required to refine and conclude those designations. Mass Audubon recommends that all properties called "State Park" in their official name be considered to be Parklands and excluded from FSC Certification, until and unless such time as it is determined through a publicly reviewed management planning process that any of these sites or portions of them are appropriate for active forestry. It should be noted that there are two different statutes for DCR land acquisition: MGL Ch. 132 S.2 for state forests for forestry purposes and 132A S.1 for parks and reservations for recreation and conservation purposes. Apparently the state has not kept careful property-based acquisition history summaries to document the basis on which various properties were acquired, so it is difficult to determine instances where property donors or the state when purchasing intended that forestry would be allowed or prohibited.

Mass Audubon also recommends that the following properties be excluded from certification pending public review of the proposals submitted by Friends of Boxford State Forest and Robert Leverett for Reserve designations: Boxford State Forest, Skinner State Park, Mount Holyoke Range State Park, Mount Sugarloaf State Reservation, and Mount Tom Reservation. We also request that modifications to the district plans be considered to expand the large forest Reserve network where the state owns lands that are part of the large forest blocks mapped by The Nature Conservancy, and to make the area around Buckley Dunton Lake in October Mountain State Forest a Reserve or Parkland. Other additions to the Reserves that should be considering include lands around Upper Spectacle Pond (in Sandisfield) and Wendell State Forest. Wachusett Mountain State Reservation should be considered for Reserve and/or Parkland status because of the Old Growth Forest located there and its other exemplary scenic and recreational attributes. Finally, we note that Acushnet Cedar Swamp in the Southeast Region is a designated National Natural Landmark and that its rare habitats make it appropriate for consideration as a Reserve and/or Parkland. These recommendations are a first cut and Mass Audubon strongly encourages DCR to fully engage the public at large in review and revision of the existing management plans as well as new plans for areas that presently do not have an approved plan.

Mass Audubon encourages the state to take a precautionary approach to forestry planning, and to carefully select a subset of DCR DSPR lands for active management, avoiding locations of high conservation, recreational or scenic value. By focusing forestry on a smaller percentage of the DSPR lands and selecting those based on areas that are most suited to demonstrate high quality forestry with a minimum of conflicts with other public interests, DCR can apply its limited resources efficiently while rebuilding public trust in its forestry activities.

Compliance with FSC Standards and State Statutes

FSC requires that landowners comply with a series of standards (principles) and associated criteria in order to qualify for certification. The 5-year review conducted by the Scientific Certification Systems (SCS) in coordination with an independent audit team resulted in a detailed, 104 page report. The report lists strengths and weaknesses in relation to the standards, three Major Corrective Action Requests (CARs), seventeen Minor CARs, and nine Recommendations. Major CARs must be resolved before re-certification can be granted. Minor CARs may be addressed at a later date, and the agency could be certified while still working on compliance with these CARs. The Recommendations are advisory in nature and compliance is not required for certification.

Considering that this certification has been in place for five years, it is disappointing that so many aspects of compliance with the FSC standards remain unresolved. FSC certification is touted as evidence that an entity has achieved compliance with high standards. As one example, the abuse of public lands by illegal riding of Off-Road Vehicles continues unabated despite the efforts applied to analyzing the issue and proposing legislative improvements. The CARs also cite inadequacies in the following areas:

- boundary markings and road and trail inventories;
- consultation with Native American tribes;
- staff training and budgets to fulfill management objectives;
- protection of regeneration;
- issues related to patch and clear cuts;
- protection for seeps and springs;
- ecological information in silvicultural prescriptions;
- plans for managing reserves; and
- monitoring for High Conservation Value Forests (HCVF).

It is understandable that a certification auditing process would lead to identification of a few items needing correction and recommendations for further continuing improvement in the certified entities' work. However, the number and scope of CAR's indicates that the concerns are more than minor and isolated.

Mass Audubon objects to Minor CAR 2009.1, which requires the state to complete a social and economic impact assessment prior to implementing declared or *de facto* harvesting moratoria. The current limits on cutting were imposed because of public concerns regarding the social and economic effects of harvesting, particularly various clear cutting operations, which are also cited elsewhere in the report as needing examination and potential changes in approach. These are publicly owned lands, and the state government should be applauded, not criticized, for responding to public concerns by curtailing most new harvesting operations while it undertakes a public review process (the Forest Vision process). This condition was initially a Major CAR but was revised to a Minor CAR following clarification from the state that it intends to proceed with harvesting in accordance with approved plans. However, public objections to the four western district DSPR plans were a significant factor leading up to DCR agreeing to undertake the Forest Visioning process. DCR Commissioner Richard Sullivan and the DCR Stewardship Council have publicly stated on several occasions that the approval of these plans was subject to review following the completion of the Forest Vision process². Given this commitment, if FSC re-certification is granted it should allow for the revision of the existing plans based on the Vision process and public input, and should not penalize the state for any continuing curtailment of cutting that may be necessary and appropriate while that review is underway.

² See DCR Stewardship Council minutes from November 7, 2008 meeting where three of the four district plans were approved: http://www.mass.gov/dcr/documents/scminutes08_11.pdf. "DCR will convene a statewide public process to balance concerns over forest management on DCR lands – plans will be adjusted at its completion."

The FSC Certification process and 5-year review have not adequately addressed some applicable state laws. The DCR Forest Vision report is expected to include an appendix that will review state laws related to DCR land stewardship and identify provisions needing clarification or that DCR needs to address better in its planning and operations. DCR needs to clarify how it will improve its planning processes to better integrate resource protection, recreation, and forestry as required by MGL Ch. 21 S. 2F. This law also mandates cooperation between DCR and DFW in forestry standards and operations. While it appears there have been some staff discussions about this, a more formal approach needs to be institutionalized within the agencies. In particular, DCR needs to better coordinate with DFW to apply DFW's ecological management expertise in stewardship of the full range of natural communities and rare and common species on DCR lands.

DCR's management plans also need to be revised to better address compliance with the agency's responsibilities under the Massachusetts Endangered Species Act (MGL Ch. 131A). The regulations at 321 CMR 10 have a special section on **Responsibilities of State Agencies**.

http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/ mesa/ mesa_home.htm

321 CMR 10.05(1) *All state agencies shall utilize their authorities in furtherance of the purposes of MESA and 321 CMR 10.00: review, evaluate and determine the impact on Endangered, Threatened and Special Concern species or their habitats of all works, projects or activities conducted by them; and use all practicable means and measures to avoid or minimize damage to such species or their habitats... Unless specifically required otherwise by statute, localities on state owned lands that provide habitat for state listed species shall be managed for the benefit of such listed species. Said agencies shall give management priority to the protection, conservation, and restoration of Endangered, Threatened, and Special Concern species occurring on state owned lands. All practicable means and measures shall be taken to resolve conflicts between the protection, conservation, and restoration of state listed species on state owned lands and other uses of such lands in favor of the listed species* [emphasis added]. DFW's designation of all Priority Habitats that support rare species requiring closed canopy forests as HCFV is a step in this direction, and we urge DCR to adopt and carefully apply this and other provisions to actively support rare species in consultation with DFW.

Transparency and Accountability

As noted in the public notice, FSC certification is not appropriate for lands where the parkland values of the properties make them incompatible with active forest management. The Forest Vision process is proposing creation of a new category of DCR land stewardship for Parklands. Mass Audubon supports this recommendation, and we recommend that DCR exclude additional properties that are on the draft re-certification list but which are likely to be considered for parkland status pursuant to the Vision recommendations. See above comments on Scope of Certification for specific suggestions.

Significant benefits of certification include transparency and accountability, through independent third-party reviews and publicly available audits. However, the public involvement processes in FSC Certification are not sufficiently robust to fully support these important goals, especially for public lands. The following areas of public involvement should be strengthened. To the extent these are not required by current FSC procedures, we recommend that the state voluntarily adopt these provisions in coordination with the certification auditing team:

- **Site Visits** – Only the auditors and agency staff have been allowed to participate in the visits to forestry sites that are conducted as part of the annual evaluations. The public should also be allowed to participate as these are public lands. In particular, we are concerned that the reports of the site visits to some of the controversial sites appear to not have recognized what citizen observers have reported (e.g. lack of wetland buffer at Chester-Blandford). Where there is a difference of opinion between agency staff and the public as to what occurred and what the impacts were, the auditors need to hear from both sides, at the site, in order to make an objective judgment.
- **Annual Review** – There should be a well-defined process for the public to provide input to the auditors and agency staff as part of the annual audit process. This should include comments on the management objectives for public lands as well as compliance with existing objectives or management plans.

- **Certification Review Reports** – The auditor prepares a draft report, which the agency can review and comment on. Only after the agency approves of the final report is it made public. We urge that the agencies voluntarily make draft reports and their responses to the auditors publicly available. The public should also be invited to submit comments during the auditing process including feedback on the draft report.
- **Follow-up on Conditions** – The agency’s proposed and actual responses to CARs should be made publicly available, with public input welcomed and meaningfully considered. In preparing these comments, it was difficult to comment on several aspects because we are aware that the agency staff are responding (e.g. in regards to early successional habitat management), but the responses have not been made publicly available. The current conditions also require the agencies to post information on monitoring, but do not require consideration of any public input regarding monitoring.

Costs and Benefits

DCR and other state agencies are under serious funding constraints that are unlikely to abate in the near future. Mass Audubon urges DCR to make publicly available a full accounting of all costs associated with FSC Certification, and to carefully evaluate whether this is the most cost-effective means of achieving the goals of exemplary forestry on DSPR lands. We recognize that all forms of land management planning and stewardship have costs associated with them. We respectfully suggest that the time is ripe for a careful review of the costs and public benefits of certification and of forestry operations. By significantly expanding the network of forest Reserves on state lands and designating various properties as Parklands, DCR can focus its limited number of forestry staff on careful planning and strong oversight of active management of a portion of the 300,000 acres within DSPR. Several participants in the Forest Vision process who have expertise in forestry have suggested that DCR could harvest as much or more timber as it has in recent decades while limiting its forestry activities to only 100,000 acres of land, without overharvesting or degrading public values.

Reserves and Parklands also require some costs of land stewardship. But maintaining land in its existing natural state and applying volunteer effort to trail maintenance can meet immediate needs for much of these lands at relatively low costs. In contrast, the level of effort necessary to fully engage the public and carefully oversee forestry is much higher per acre. There is a role for sustainable forestry on state lands, and it needs to be carefully planned within the larger framework of all the public values inherent in these lands.

Thank you for considering these comments.

Sincerely,



E. Heidi Ricci
Senior Policy Analyst

cc: DCR Commissioner Richard Sullivan
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