

December 24, 2018

SCS Headquarters: Complaints/Appeals
2000 Powell Street, Suite 600
Emeryville, California, USA 94608
complaints@scscertified.com

RE: Complaint/Appeal of SCS Re-Certification of Green Diamond Resource Company under Forest Stewardship Council Standards and Indicators

Dear SCS:

The Environmental Protection Information Center—(EPIC) hereby formally complains and appeal SCS's re-certification of Green Diamond Resource Company (GDRCo) under the Standards and Indicators of the Forest Stewardship Council (FSC). GDRCo California timber operations do not satisfy key FSC Standards and Indicators that should disqualify the company from Re-certification under FSC.

Summary of Complaint/Appeal

GDRCo's California timber operations fail to meet key FSC Certification Standards and Indicators that should have been cause for SCS to deny Re-certification.

This Complaint/Appeal alleges: (1) GDRCo's use of evenaged management as applied on the company's California timberlands does not meet FSC Standards and Indicators that allow for evenaged management as a primary management strategy; (2) GDRCo has failed to comply with FSC Certification Standards and Indicators pertaining to public engagement and the soliciting and integrating of stakeholder input into its Forest Management Practices; (3) SCS failed to respond to all substantive concerns raised about Green Diamond's Forest Management practices raised during the 2017 Re-Certification Audit; (4) GDRCo's accounting of timberlands within its High-Conservation Value Forest (HCVF) network is bogus and fails to meet FSC Standards and Indicators for establishment of an HCVF network.

EPIC hereby requests an immediate audience with SCS to redress the Appeals/Complaints articulated herein, and hereby request a formal written response in advance of such a meeting to all points, complaints, and caused raised herein.

(1) GDRCo's Use Evenaged Management Does not Conform to FSC Standards

GDRCo's application of evenaged management is not inconformance with FSC's Pacific Northwest U.S. Standards and Indicators allowing for the use of evenaged management as a primary silvicultural method.

Indicator 6.3.g.1.b of the FSC US Standards and Indicators provides that a forest manager wishing to employ evenaged silviculture must justify such use by three-stipulated circumstances. These are: (1) evenaged management is necessary to achieve adequate regeneration or vigorous young-stand development; (2) evenaged silviculture contributes to the restoration of native species composition; and (3) use of evenaged silviculture will contribute to the restoration of structural diversity in a landscape lacking openings.

GDRCo's evenaged management regime fails to qualify under any of the three conditions set forth.

California, unlike most States in the United States, has stringent Forest Practice Rules that clearly already require adequate post-harvest stand stocking and require that artificial regeneration must be undertaken in the event a give acre harvested utilizing evenaged management silvicultural systems is reduced below mandatory-minimum stocking standards. GDRCo is already required by the Forest Practice Rules to ensure achieve of adequate regeneration post-harvest regardless of silvicultural method applied. These minimum standards are referred to as, "Resource Conservation Standards." (*See*: California Public Resource Code 4561 et seq., and Title 14, California Code of Regulations 912.7).

Further, 'vigorous young stand development,' is similarly already ensured by the prevailing regulatory environment under the regulation of the Forest Practice Rules. GDRCo's California timberland holdings are all designated and zoned as, "Timber Production Zones," (TPZ) through the nexus of the California Timberland Productivity Act (TPA), and through the zoning designated by the Counties of Humboldt and Del Norte, where the company's property is located. Lands designated and zoned for TPZ already come with a presumption that the continual growing and harvesting of trees for timber for commercial purposes will be the primary land-use, and only other county-designated "compatible uses," will be allowed to occur on property zoned and designated for TPZ. (*See*: California Govt' Code 51100-51104).

State law and local zoning designations and the reduced taxation burden and structure that come with TPZ zoning all incentivize and are intended to ensure 'vigorous, young stand development,' occurs as part of the presumption that the perpetual growing and harvesting of trees for a commercial purpose will occur on such lands given that such lands are freed from the pressures of other and potentially competing land-uses.

The premise that evenaged management is 'necessary' to achieve adequate regeneration fails to account for state laws and regulations that already require attainment of minimum stocking upon completion of timber operations or that artificial regeneration be conducted in areas where mandatory minimums are not met fails to account for the major differences in California Law, taxation structure, and zoning that apply to GDRCo California timberlands.

The premise that evenaged management is 'necessary' on GDRCo lands also fails to consider the unique differences and context of a coast redwood tree-species and forest type. Coast

redwoods (*Sequoia sempervirens*) are at once shade-tolerant and capable of regeneration from sprouting and are not dependent upon successful seed-cone germination like most other conifer species. These differences in the prevailing regulatory environment and dominant tree-species life-history and reproduction are critical to considerations when evaluating if evenaged management is ‘necessary.’

Redwoods are tolerant of shade in moist conditions, which can suppress trees within clumps, sometimes resulting in all crown classes being represented within a single clump. (Lindquist, J. L., & Palley, M. N. (n.d.). Empirical Yield Tables for Young-Growth Redwood. Division of Agricultural Science: University of California., p. 8).

Additionally, new sprouts growing in an area just affected by a clear cut, heavy brush cover slows the growth of seedlings. However, once these seedlings grow past the brush it dies out due to the spread and growth of said seedlings. (*Ibid.* p. 7).

GDRCo's use of evenaged management, far from being, 'necessary,' to ensure adequate site regeneration and to ensure 'vigorous, young stand development," inhibit the redwoods ability to naturally self-produce and to self-select through the stem-exclusion phase of redwood sprout clumping described by Lindquist and Palley. (*Supra*). Instead, GDRCo's evenaged management combined with its use of herbicides to manage and eradicate competing early seral brush and other vegetation ensures the need for artificial regeneration from seedling plantation and establishment rather than preventing it.

EPIC also questions what is meant by the term, ‘necessary,’ and how SCS has interpreted that GDRCo’s coastal California timberlands require evenaged management to achieve adequate site re-capture post-harvest. To the extent SCS believes GDRCo’s evenaged management is ‘necessary’ to ensure adequate stand regeneration and adequate site re-capture, we question what other alternatives were evaluated by SCS to determinate that evenaged management was ‘necessary’ and that other silvicultural methods and regimes would not provide the ‘necessary’ outcomes.

California Law in the Forest Practice Act calls for, “where feasible, the productivity of timberlands is restored, enhanced, and maintained, and that the goal of, “maximum sustained production of high-quality timber products is achieved while giving consideration...” to a suite of other public, environmental, social, and economic values. (*See*: California Public Resource Code 4513(a)-(b)).

These standards in law are well-known as some of the most stringent requirements on private timberland owners like GDRCo to ensure that its timberlands are managed as timberlands and remain in perpetuity as timberlands. GDRCo already has every incentive and obligation to ensure adequate regeneration and adequate site occupancy and stand growth and development by the very nature of the much higher baseline established in California law and regulations.

EPIC further questions on what basis SCS determined that GDRCo’s evenaged management was ‘necessary’ to ensure vigorous young stand growth and development, and what alternative scenarios may have been evaluated, if any, to validate the finding that evenaged management is

‘necessary,’ which by our interpretation means, ‘the only possible method,’ by which adequate stand regeneration and vigorous stand development could be attained on GDRCo’s property.

The idea that GDRCo’s evenaged management is ‘necessary’ to ensure adequate site regeneration and vigorous young stand development appears to be based upon the false assumption that State Forest Practice Rules do not already establish the much-higher baseline than would otherwise exist in other States or countries. Further, this idea appears to be based upon the false assumption that coast redwood requires full-sun and open-growth to attain adequate site regeneration and re-capture and to assure vigorous young stand development, which it does not.

Did SCS review GDRCo’s “Option-(a)” approved by CAL FIRE? If not, on what basis can SCS agree with GDRCo that evenaged management is ‘necessary’ however this is defined? Was GDRCo’s rotation age considered, if so, how? Was GDRCo’s anticipated annual percent-of-inventory harvest increment evaluated, and if so, how? If not, why not?

In summary, EPIC herein contends that GDRCo’s application of evenaged management as a primary land management strategy is inconsistent and not in conformance with the FSC Standards, Indicators, and Guidelines.

(2) GDRCo Fails to Meet FSC Standards for Public Engagement and Intake of Stakeholder Input

GDRCo has failed to create a program that allows it to meaningfully intake, evaluate, and integrate input from a broad spectrum of community stakeholders with interest in the conduct of its business. Evidence of this failure is provided by SCS.

In its 2017 Public Report for GDRCo’s re-certification, SCS writes:

"GDRC demonstrates an exemplary level of participation in local events and civic organizations. GDRC participates in and/or provides financial sponsorship to many local organizations. As a result, the company is well-integrated in the community and has a thorough understanding of its socioeconomic importance in the local population." (p. 29).

We fail to see how GDRCo’s financial sponsorship of local sports teams and other civic organizations translates into an exemplary level of civic engagement in a community with a small, rural, forest-dependent economy, community and labor force, particularly given that the company is an absentee-corporate landowner the majority of whose wealth extracted leaves the local area.

On p. 33 of the 2017 Public Report, SCS further writes:

"Issue: In order to understand the likely social impacts of management activities, the forest owner or manager of a FSC-certified forest is expected to seek and then duly consider input from people who would likely be affected by management activities on the FMU.

Observation: Under the leadership of GDRC Certification Coordinator, Pat McNeil, there has been a substantial advancement in the manner in which the company is documenting the many means and pathways by which it reaches out to a very broad spectrum of stakeholders in the North Coast as well as more broadly. This effort and demonstrable “ramping up” of documentation is to be commended. However, there remains an opportunity to enhance conformity to Criterion 4.4 by more explicitly assessing and better documenting the content of what is being heard from these stakeholders rather than, as is presently the case, primarily documenting just what contacts have been made rather than what has been heard. That is, there is an opportunity to assess and synthesize the results (information gathered/learned) of these well-documented points of contact between GCRC [sic] personnel and various stakeholders and interested parties and, then, how the company has acted on what has been heard/learned.”

This statement from SCS shows that GDRCo has not fully met or complied with CARs issues upon certification in 2012 pertaining to the acceptance, tracking, and integration of public stakeholder feedback into its forest management practices and activities; yet, SCS closed this CAR in 2013. Further, SCS has contradicted itself in justifying GDRCo’s re-certification on the basis that standards and indicators for public and stakeholder input are being attained by the company on the one hand, but then including the above-referenced acknowledgments in the 2017-2018 Re-Certification Public Report on the other.

GDRCo has had ample time and opportunity to create a program and to begin integrating input and feedback from stakeholders in the local community and has failed to take this important FSC principle and requirement seriously. In our estimation, GDRCo fails to meet FSC Standards, Guidelines and Indicators for public engagement and stakeholder involvement. SCS itself has provided clear evidence of this.

(3) SCS Failed to Respond to all Substantive Concerns Raised About GDRCo’s Forest Management Practices upon Re-Certification

SCS failed to respond to substantive comments submitted by EPIC and even failed to acknowledge transmission and receipt of comments submitted by EPIC during the period between the November 14-17 2017, field audit and its re-certification of GDRCo for Forest Management under FSC’s standards on February 8, 2018. EPIC submitted comments to Mr. Brendan Grady of SCS on December 11, 2017; Mr. Grady never responded to acknowledge receipt of our comments, and SCS did not respond to the comments we raised in that letter as part of its Public Report for GDRCo’s re-certification under FSC standards, dated February 8, 2018. Given the dates and timing, SCS either was, or should have been in possession of our written comments and had nearly two months prior to re-certification and issuance of the Public Report in which to prepare written responses to our comments in its Public Report but did not do so.

It should be noted that our written comments submitted on December 11, 2017 contained multiple substantive concerns and included supporting evidence for these that were not articulated in phone conversations previously with Mr. Grady and SCS. It should also be noted

that our substantive comments submitted on December 11, 2017 are once again reiterated here as causes for this Appeal/Complaint to SCS.

EPIC stands aggrieved by SCS and its failure to respond to our substantive written comments in-writing, whether accidental, intentional, or otherwise, and wish to reiterate that these comments were delivered to Mr. Grady and SCS nearly two months prior to re-certification of GDRCo and the re-certification Public Report issued by SCS.

In phone conversations with Mr. Grady, EPIC was led to believe that there was no hard-deadline or date-certain for the delivery of written comments pertaining to GDRCo's re-certification and SCS' audit process for this. To the extent SCS wishes to claim our comments were received too late, this claim is not representative of the process as we understand it, or representative of the information provided to us in a phone conversation with Mr. Grady of SCS. Accordingly, EPIC contends that SCS erred in not responding to our written comments as part of the Public Report for the 2018 Re-Certification Audit.

Our previous comments and all attachments thereto, are hereby incorporated into this Complaint/Appeal by reference, and will be re-transmitted to SCS with this Complaint/Appeal.

(4) GDRCo's Accounting of Lands in its HCVF Network is Bogus

GDRCo's accounting of key lands on its California timberlands as High-Conservation Value Forest (HCVF) is bogus. Specifically, GDRCo's claiming it maintains as HCVF its Aquatic Habitat Conservation Plan (AHCP) Class I and Class II Riparian Management Zones (RMZs), "NSO Core-Areas," and "Type-1 and Type-2 Old-growth" fails to accurately represent the situation on GDRCo's managed California timberlands, and fail to meet the Criteria, Standards, and Indicators outlined by in the FSC Standards as constituting conformance.

"Class I and II RMZs"

FSC standards and indicators clearly spell out what lands can be accounted as HCVF, and what management activities are allowable within lands accounted as being managed as HCVF.

Specifically, FSC Indicator 6.4.e requires forest managers to, "establish and maintain a network of representative protected areas sufficient in size to maintain species dependent on interior core habitats."

Riparian Management Zones (RMZs), by definition, are not "interior core habitats," insofar as these are relatively small, thin, buffer strips adjacent to higher order watercourses, in the case of GDRCo and its AHCP, Class I and Class II watercourses. Consequently, we fundamentally question how it is that RMZs conform to this definition or qualify for accounting as being managed as HCVF. It is important to note that these RMZs are largely surrounded by evenaged management units harvested by GDRCo, and that harvesting in both Class I and Class II RMZs in conjunction with adjacent evenaged management is allowed for GDRCo under its AHCP.

GDRCo's management activities within Class I and Class II RMZs is different based on the requirements for Class I RMZs as opposed to Class II RMZs in the GDRCo AHCP. Given the significant differences in protection measures and conservation values of GDRCo Class I RMZs as opposed to Class II RMZs per the AHCP, allowing GDRCo to lump together all acres of Class I and Class II RMZs and account these as in conformance with the definition, standards, and indicators established to identify areas that qualify as HC VF is inappropriate.

GDRCo's AHCP establishes a minimum of a 150-foot RMZ buffer on all Class I watercourses. Additionally, GDRCo's AHCP limits harvesting activities within Class I RMZs to one-single entry within the 50-year effective period of the permit, to be conducted in conjunction with adjacent evenaged management activities. Further GDRCo's AHCP establishes a 50-70-foot Inner Zone on all Class I watercourses in which timber harvesting activities are prohibited if the zone contains less-than 15-trees-per-acre less-than 16-inches diameter-at-breast-height (DBH) and requires retention of a minimum of 85 percent shade canopy coverage post-harvest.

GDRCo's AHCP establishes a 75-100-foot buffer along the first 1,000-feet of a first order Class II watercourse, and that the RMZ buffer will be expanded to at least 100-feet downstream of the first 1,000-feet. The AHCP further establishes a minimum 100-foot RMZ buffer along all Class II watercourses of second order or larger. As with Class I RMZs, the AHCP requires retention of a minimum of 85 percent shade canopy post-harvest within all Class II RMZ Inner Zones, and allows for only one harvest entry during the life of the AHCP permit, to be conducted in conjunction with adjacent evenaged management activities; however, no requirement exists to refrain from harvest within a Class II RMZ should the zone contain less than 15-trees-per-acre less-than 16-inches diameter-at-breast-height (DBH) pre-harvest.

Given significant differences in the extent and types and conditions of active management in Class I versus Class II RMZs per the GDRCo AHCP, it is inappropriate, at the very least, to lump these acres together as one and the same for the purposes of accounting for GDRCo conformance with indicators for HC VF.

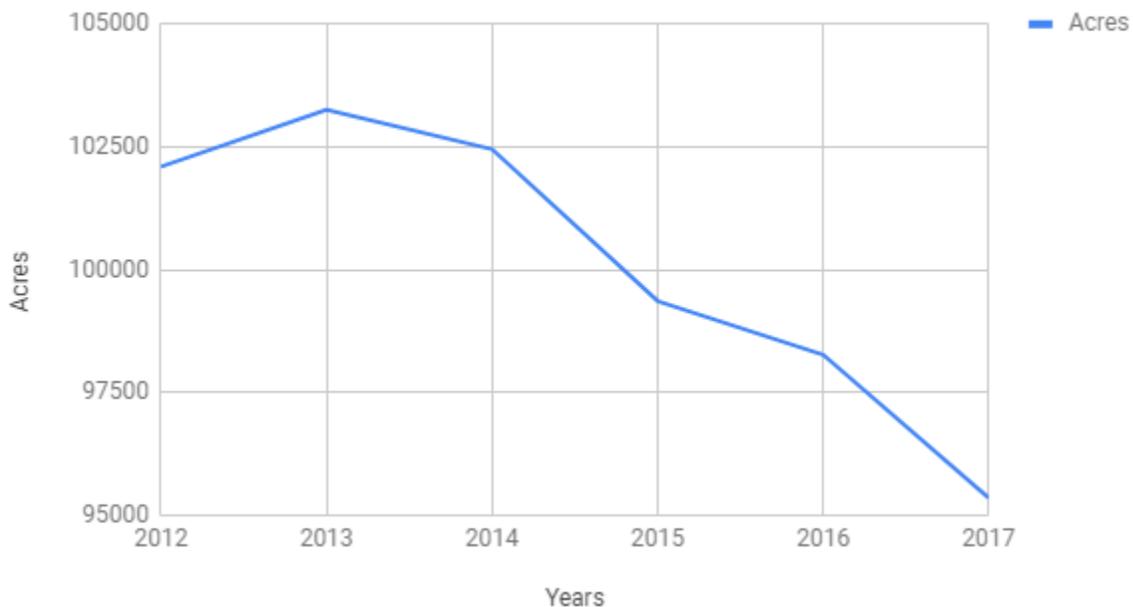
California Forest Practice Rules contain a myriad of regulations governing timber harvest activities in RMZs, known as, "Watercourse and Lake Protection Zones," (WLPZs) in State regulations. Many current California Forest Practice Rules governing activities near streambanks in WLPZs have been enacted by the State Board of Forestry and Fire Protection after the approval of GDRCo's AHCP. Consequently, there is open question whether or not GDRCo's AHCP protection measures and conservation actions in its AHCP RMZs even would meet the minimum baseline currently established in state regulations, most notably, Title 14, California Code of Regulations 916.9, the "Anadromous Salmonid Protection Rules, or, "ASP Rules," that are now applicable to all timber operations in the California Coastal Anadromy Zone.

Additionally, GDRCo's active management in both Class I and Class II RMZs cannot be presumed to conform to indicators requiring maintenance and/or enhancement of HC VF values on a programmatic basis and must be evaluated case-by-case. Green Diamond's management activities within its Class I and II RMZs appears to be plainly inconsistent with the definition, purpose, nature and intent of HC VF as established by FSC.

Finally, SCS’s own certification and surveillance audit reports shows a clear trend of reductions in the overall acreage of Class I and II RMZs under the HCVF designation since initial certification of GDRCo in 2012.

In 2012, SCS’s Certification Audit Public Report indicated that GDRCo was maintaining and accounting 102,100-acres of Class I and Class II RMZs as HCVF for the purposes of demonstrating conformance with FSC HCVF standards and indicators for certification. In SCS’s 2013 audit Public Report for GDRCo, this number increases to 103,257-acres. However, in SCS’s 2014 audit Public Report, the total acreage of Class I and II RMZ accounted as HCVF decreases to 102,454-acres. In SCS’s 2015 audit Public Report, this number dramatically decreases to 99,365-acres. In 2016, SCS’s audit Public Report indicates a further decrease in acres to 98,270-acres. Finally, SCS’s 2017/18 re-certification audit Public Report shows yet another dramatic decrease, to only 95,360-acres of Class I and II RMZ accounted by GDRCo as HCVF. The following table graphically illustrates the increases and decreases in total acres accounted by GDRCo and reported by SCS as being managed as HCVF over time.

Acres vs. Years



FSC indicator 9.3.b for HCVF provides that all management activities in HCVF must maintain or enhance HCVF values. Given SCS’s own accounting demonstrates a reduction in acreage of Class I and II RMZ being maintained as HCVF by GDRCo from 2012-2017, SCS either knew, or should have known that GDRCo’s management activities within Class I and II RMZs accounted as HCVF was inconsistent with the maintenance and enhancement of HCVF attributes and is thereby inconsistent with FSC indicators pertaining to HCVF. It should also be noted that SCS never addresses these decreases in its reports and has issued no Corrective Actions to address the degradation and reduction of GDRCo lands in Class I and II RMZs being

classified as HCVF for the purposes of conform with previously-referenced FSC standards for certification.

Finally, GDRCo is out of conformance based on accounting of both Class I and Class II RMZs as HCVF by allowing the company to account these in more than one category of HCVF for the purposes of attempting to demonstrate conformance standard and indicators for retention of HCVF. To the extent that GDRCo lands do not contain adequate representative sample areas to establish an appropriately suitable HCVF network, this should be cause to withhold FSC certification, not to allow the company to double-and-triple-dip to make the accounting create the illusion of things that are not bone-fide and legitimate.

"NSO Core-Areas"

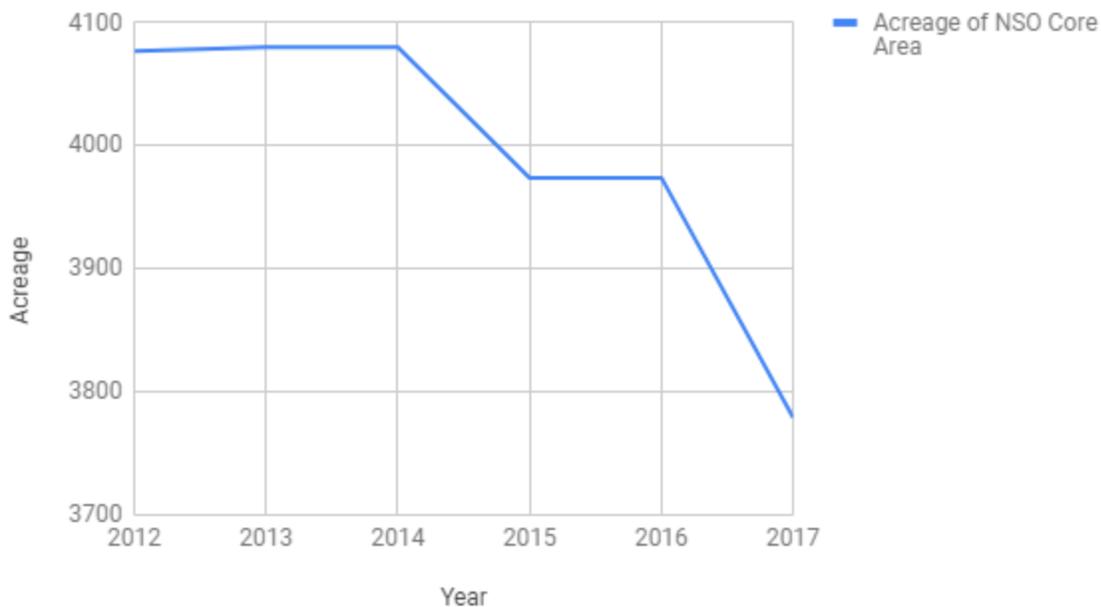
GDRCo is not in conformance with FSC Standards and Indicators for maintaining High Conservation Value Forests (HCVF) in so-called, "NSO Core-Areas." We are unable to find any reference to what, exactly a so-called, "NSO Core-Area" is, what management is or is not allowed, where these "NSO Core-Areas" are located on the landscape, and what, if any special attributes they may contain that would allow the areas to qualify as accounting within the larger network and category of HCVF.

Additionally, as is the case with GDRCOs Class I and II RMZs accounted by the company as constituting part of the HCVF network for the property, SCS's own public reports show a decline in the total acreage accounted as being comprised of "NSO Core Areas," within GDRCo's HCVF network from 2012 and initial certification through the present and 2017-2018.

In the SCS 2012 initial certification Public Report, SCS reports that GDRCo had 4,077-acres of "NSO Core-Areas," to be maintained as HCVF. In 2013, SCS's Public Report indicates an increase of three acres from the 2012 total, to 4,080-acres. This number is maintained in SCS's 2014 Public Report, but then is reduced to 3,974-acres. In 2015, this number is again reduced, this time to 3,974-acres, and remains consistent in the SCS 2016 Public Audit Report. In SCS's 2017/18 re-certification audit Public Report the number of acres accounted as, "NSO Core-Areas," is once again reduced, with a total of 3,779-acres reported.

The table provided below offers a graphic representation of SCS's own reporting demonstrating that acres of "NSO Core Areas" accounted by GDRCo as HCVF are not being maintained or enhanced, but instead being degraded and lost.

Acreage vs. Year



GDRCo's accounting of these so-called, "NSO-Core Areas," as HCVF whatever, and wherever they are and wherever they exist, if at all, is entirely bogus. SCS itself has documented declines, degradation and loss of acres of this category time during the timeframe of the company's FSC certification. FSC calls for maintenance and enhancement of these lands as HCVF if accounted as HCVF. Clearly that is not what is happening based on SCS's own audit reports.

"Type-1 and Type-2 Old Growth"

GDRCo is not in conformance with FSC standards and indicators to establish and retain an HCVF network as part of certification due to a failure to create distinction between Type 1 and Type II old growth in the accounting for the HCVF network.

From 2012-2018, all reports from SCS that are publically available indicate that GDRCo is accounting 659 acres of its commercial timberlands as "Type 1 and Type 2 Old growth" as part of the company's HCVF network. At no point does GDRCo address how much of the 659 acres is classified as "Type 1 old growth," and how much is classified as, "Type 2" old growth.

SCS's Public Audit Reports show that GDRCo is double-counting the aggregation of "Type 1 old growth" and "Type 2 old growth" in categories HCV 1 and HCV 3.

Finally, GDRCo is not in conformance with FSC standards and indicators for its HCVF network because the company has no enforceable policy to protect "Type 2 old growth" and individual large, old and residual old-growth trees from timber harvest activities.

EPIC raised this as an issue of concern during SCS's re-certification audit process in our written comments, dated and Delivered December 11, 2017 to SCS.

Specifically, EPIC raised comments regarding the inadequacy of GDRCo's TREE retention scorecard, which is entirely voluntary and has proven unenforceable by the State agency with whom GDRCo struck the voluntary agreement, the California Department of Fish and Wildlife.

GDRCo's failure to comply with its own TREE scorecard and legacy tree retention policy is significant because it potentially allows GDRCo to degrade or destroy forested areas with legacy stand components that might qualify as "Type 2 old growth as-yet identified and protected as HCVF.

Summary of HCVF Appeal

Substantial questions surround the legitimacy, authenticity, and integrity of GDRCo's HCVF Network based on SCS's own audit reports and other evidence and argument provided herein. We contend that GDRCo does not qualify for Re-Certification given these questions and evidence.

Conclusion

EPIC hereby requests an immediate audience with SCS to redress the Appeals/Complaints articulated herein, and hereby request a formal written response in advance of such a meeting to all points, complaints, and caused raised herein. We further request that SCS arrange for site and field visits of GDRCo commercial timberlands with all parties to this letter to observe and discuss in real-time and real-space issues of dispute in this Appeal/Complaint.

We look forward to your response.

Respectfully Submitted,



Rob DiPerna
California Forest and Wildlife Advocate
Environmental Protection Information Center (EPIC)