

# **Outcome Based Forestry:**

## **An Improvement in Policy**

### **Or More of the Same?**

**By Mitch Lansky**

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The discussions surrounding Outcome Based Forestry (OBF) have, so far, been clouded by many misleading statements and partial “facts.” For those brave readers who want a different perspective—one not currently found in media reports or government websites, I have compiled a series of questions and answers that go into more depth and expose more complications. This document discusses OBF as it is now, not as some would wish it to be. It is up to the reader to assess whether recommendations for change would yield significant public benefits over what exists today. This document gives a baseline against which to make such a comparison.

#### **Highlights**

- The Reward for doing Outcome Based Forestry (OBF) is relief from some provisions of the Forest Practices Act (FPA). Since the FPA regulates the size and distribution of clearcuts, the major motivation for landowners to contract to do OBF is to be free to do bigger clearcuts with less separation zones and without restrictions from the FPA list of allowable justifications.
- The FPA does not protect forests. It allows cutting more than growth, heavy cutting on short rotations, high grading, poor stocking, and lower quality. It does stop “rolling clearcuts,” but allows Overstory Removals without limit and “cookie-cutter” clearcuts that can march across the landscape.
- Landowners who do such practices are not forced to do so by the FPA—they do it because they are maximizing short-term returns and it is legal.
- OBF will not change these trends. Highgraders will not be attracted to OBF because they can already do what they want under current regulations.
- OBF assumes certification is evidence with compliance with expected outcomes. The only change for certified landowners that contract to do OBF is that they can do bigger clearcuts with less separation zones with less justification. Otherwise, why do OBF, since FPA allows anything else?
- Certification is no guarantee that outcomes will be met. Certified landowners have violated outcome goals for years.
- Certification companies have not followed their own guidelines, such as FSC pesticide policy.
- OBF and certification allow cutting on short rotation, a practice which degrades soil productivity and diminishes Late-Successional habitat.

- Political pressure was used to allow big landowners to certify entire holdings. This was not the original intent of the enabling legislation. Political pressure was also used to get the Bureau of Parks and Lands to set an “example.”
- The current technical panel has a bias towards accepting industrial style practices and accepting the findings of certification audits.
- “Scientific forestry” is interpreted differently by different landowners. It can be argued that some Intensive Management practices done on a wide scale violate scientific ecological principles.
- Benefits of OBF are mostly economic. Some of the economic “benefits” listed by JD Irving and the MFS stretch the facts or are part of a strategy of political leverage to influence public policy.
- Current OBF policy is more of same, not a significant improvement.

## **Discussion**

### **What is Outcome Based Forestry (OBF)?**

According to the Maine Forest Service, “‘Outcome-based forest policy’ means a science-based, voluntary process to achieve agreed-upon economic, environmental and social outcomes in the State's forest, as an alternative to prescriptive regulation, demonstrating measurable progress towards achieving statewide sustainability goals and allowing landowners to use creativity and flexibility to achieve objectives, while providing for the conservation of public trust resources and the public values of forests.”

The original concept when the enabling legislation was passed in 2001, was for an experimental program that was limited in size. When first created, the program had a 100,000 acre cap on individual agreements, a 200,000 acre overall cap, and a requirement to include ownerships less than 1,000 acres. The program also had a provision to sunset in five years.

### **Why did the Maine Forest Service think OBF was needed?**

In a 1999 State of Forest report, the MFS wrote: “We have reached the limits of what a command and control regulatory framework has to offer.” “Command and control regulation has many limitations and may result in unintended consequences, such as forest fragmentation and premature harvesting to recover equity in a forest investment.”

The MFS also argued that OBF would “Promote, stimulate and reward excellent forest management yet still provide a baseline of regulatory protection for critical public resources.”

### **What regulations are the problem?**

The major forest regulations in Maine are riparian zone regulations, the Forest Practices Act (FPA), and the Liquidation Harvest rules (LQH). None of these regulations address key, basic issues of silviculture—leaving adequate stocking, improving quality, or cutting less than growth—so it is not clear what limits have been reached. Maybe the MFS is referring to political limits.

The Forest Practices Act is the only regulation that would be affected by OBF. The only issues the FPA addresses are how large clearcuts can be and how far apart they must be separated. The FPA does not address any other silvicultural issues. The reward for adopting OBF is relief from FPA restrictions. The only reason, therefore, that any landowner would adopt OBF is to be allowed to do bigger clearcuts with less separation zones.

### **Why was the FPA created?**

During and after the last spruce budworm outbreak, landowners did extensive “salvage” cuts (clearcuts). The size and intensity of these cuts were magnified as logging shifted to mechanical harvesters and as markets opened for branches and tops of trees for “biomass” markets. During this period (from the late 1970s through the 1980s) some landowners made huge, “rolling” clearcuts that could go on for tens of thousands of acres. A growing segment of the public was upset by the scale of the cutting and wanted to regulate it.

The major purpose of the FPA regulations, which were passed in 1989, was to stop rolling clearcuts.

### **Who created FPA and who enforces it?**

The framework for the FPA was developed by a forum that included representatives of several environmental groups and representatives of the forest industry. The forest industry helped negotiate the terms and had veto power over any results. The final bill was something the industry could live with. Roger Milliken, who represented one of the environmental groups *and* the Maine Forest Products Council, wrote, at the time, that passage of these regulations, “...provides a model of what can happen when we decide as a society to move beyond simplistic divisive rhetoric and address environmental questions as complex, interrelated issues driven by economic forces and social values.”

The regulations have not been imposed on landowners by a government hostile to large-scale forestry. The Commissioner of Conservation, while the concepts were being created, was Robert LaBonta, who came directly out of Scott Paper Company. He was replaced in 1989 by Edwin Meadows, who came directly out of Seven Islands. A number of MFS directors, who administered the rules, have also come right out of the forest industry. These include John Cashwell (who had been with Georgia-Pacific), Chuck Gadzik (who had been with Baskahegan Lands), and now Doug Denico (who had been with Sappi, Scott, and other companies).

It is interesting that the agency that is administering the rules is trying now to undermine them by advocating for the need for OBF, whose major purpose is to override the FPA.

### **What does the Forest Practices Act do?**

The Forest Practices Act defines “clearcut,”<sup>1</sup> how far apart clearcuts must be separated, and what is allowable in the separation zones. It also establishes reasons landowners can use to justify when a clearcut of a certain size is acceptable.

For smaller clearcuts (from 5 to 20 acres) no justification is required.

For larger clearcuts (over 20 acres), however, the rules require a management plan that provides a justification.

There are four major justifications allowed under the FPA (the following language is from the Maine Forest Service):

- (a). Removal of poor quality, intolerant, understocked, short lived or mature overstories where the retention of the residual overstory trees is not justified for further increase in value, as a source of seed, or for protection of the new stand;
- (b). Ecologically appropriate improvement or creation of wildlife habitat, with accompanying prescription and justification from a certified wildlife professional;
- (c). Removal of timber stands that, if partially harvested according to accepted silvicultural practice, are at high risk for windthrow due to factors such as soils, rooting depth, crown ratio or stem quality; or,
- (d). Harvesting of an existing plantation or other forest stands established by or previously treated with precommercial silvicultural activities.

Landowners can also petition the Commissioner of the Department of Conservation for A variance to get permission to operate in a manner inconsistent with these rules.

One problem with option “a” is that in a major outbreak, such as spruce budworm, the required separation zones may be in the same condition as the stands that are being clearcut. A variance might deal with such a circumstance, but it was not well addressed in the rules.

The FPA allows clearcuts that can get as big as 250 acres (4/10 of a square mile), but, because of separation zones, clearcuts cannot roll on for thousands of acres. Separation zones need to be equal in size to clearcuts.

### **If landowners want to maximize volume removals over the landscape, what could they do under the FPA?**

While there are restrictions to the size of clearcuts, there are no restrictions to the size of Overstory Removals (OSR). The major difference between a clearcut and an OSR, is that an OSR has advanced regeneration (450 trees per acre with a height of 3 feet for softwoods or 5 feet for hardwoods). If there is advanced regeneration, landowners can cut all merchantable trees over as big an area as they wish.

Landowners can also stamp out 20 acre “cookie-cutter” clearcuts separated by 250 feet

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<sup>1</sup>An opening over 5 acres that leaves less than 30 square feet of basal area and that does not have adequate advanced regeneration. Basal area is the area of the cross section of a tree trunk at breast height (4.5 feet).

of separation zones. *Separation zones are mainly an issue where landowners are doing multiple clearcuts on the landscape.*

With clearcuts of less than 20 acres, landowners can do an OSR or leave the minimum stocking of 30 square feet of basal area in the separation zone. If the stand started out with 150 sfba, a landowner can remove, using this strategy, over 90% of total volume across the landscape (not including riparian zones). In the early 1990s there were landowners that cut thousands of acres this way in some townships.

Another option is to do bigger clearcuts now, and then cut the separation zones in ten years. But for these bigger clearcuts, landowners have to justify the clearcut and fill out more forms. Larger clearcuts require more stocking in the separation zone—40 sfba of trees over 4.5 inches in diameter, rather than 30 sfba.

Landowners that want to minimize filling out forms and do not want to have to count regeneration (for OSRs) can simply cut the most valuable trees and leave enough lower-valued trees to meet the minimum stocking of 30 sfba. If the starting stocking is 150 sfba, this is still an 80% removal of all the original volume.

The FPA was so abused in 1990s that there were a number of attempts to pass more effective regulations, either legislatively or through referendums. All such efforts failed.

### **Does the FPA force landowners to highgrade or fragment the forest (some of the “unintended consequences” mentioned by the MFS)?**

Landowners who want to do better management—management that improves stocking and quality—can do so whether there are regulations or not. People highgrade (cut the best and leave the rest) because they want to, not because they are forced to. For such people, FPA restrictions are not a limit; they are a target. The FPA allows it. Before the FPA, most cutting consisted of commercial clearcuts and diameter-limit cuts, both of which are a form of highgrading. Such behavior, therefore, pre-dated the FPA and was not caused by the regulations. There is a difference between *allowing* and *causing*.

### **How would Outcome Based Forestry be a change from the FPA?**

With OBF, landowners could do bigger clearcuts with less separation zones, but they would have to meet certain “outcomes” listed by the Maine Forest Service.

### **What “outcomes” are expected for OBF?**

The list of “outcomes” expected by the MFS includes:

- A. Soil productivity;
- B. Water quality, wetlands and riparian zones;
- C. Timber supply and quality;
- D. Aesthetic impacts of timber harvesting;
- E. Biological diversity; and
- F. Public accountability.

### **Wouldn't meeting these outcomes lead to an improvement of existing practices?**

Problem: the Maine Forest Service depends on independent, third party forest certification to determine if a landowner is complying with the OBF standards. If a landowner is already certified before contracting to do OBF, it is, theoretically, *already meeting the outcome goals*. The only thing that would change from adopting OBF would be doing bigger clearcuts with less separation zones. If this is not the intention of the landowner, then there would be no motivation to contract to do OBF.

Being able to do bigger clearcuts with less separation zones could give landowners some benefits. For example, both JD Irving and Plum Creek had three violations a piece of the FPA between 2000 and 2012. With OBF, there would be no more costs from violating rules that apply to everyone else.

OBF would also allow landowners to do large clearcuts that previously could not be justified under the FPA. Thus, landowners could clearcut regardless of the condition of the existing stand, but instead do it because this is a favored cutting option.

For some landowners, doing bigger clearcuts can lower the cost of building roads, moving equipment, spraying herbicides, hiring foresters to mark or monitor stands, or filling out forms.

JD Irving claims, and the MFS repeats in its OBF literature, that adopting OBF has allowed the company to invest \$30 million in a saw mill in Ashland and for contractors to increase their earnings by 21%.

There are a number of problems with these assertions. Even if one assumes that larger clearcuts will somehow lead to better future growth, clearcuts from this year will not yield wood for 40-80 years, but the mill is being constructed now. If the idea is that projections of *higher growth in the future* from improved management *will allow more cutting now* (called the "Allowable Cut Effect), that means Irving will be cutting more than growth *now* and reducing older forests on the landscape *now*. Such behavior seems to be a questionable way to meet some of the outcomes for soil productivity or late succession forests.

Not all the wood to be used by the mill will come from Irving lands in Maine. Some might come from lands in New Brunswick (a province where mills have recently been shut down) and from other landowners. *Investors build mills when they think there is wood supply now—not decades from now.*

Independent contractors working on Irving lands have felt so squeezed in the past that they organized to pass legislation that would allow them to collectively bargain. The legislation passed, but heavy lobbying by industry restricted its impact and changes in Irving contracting policies made the legislation no longer applicable. In any case, decent contractor compensation should not be tied to getting rid of some forestry regulations.

The implication of the mill and contractor arguments is that if the regulatory favors are not given, mill construction and adequate wages will be at risk. This argument uses economic power as leverage over public policy.

Perhaps the most extraordinary claim by JD Irving is that Outcome Based Forestry will allow the company to increase its softwood cut by 70% in 35 years. Irving has already been doing spraying, planting, and thinning for decades under the FPA, and switching to OBF will not be a drastic change—it will allow the company to do the same thing, but on bigger clearcuts. Questions one should ask, therefore, are “Is this projected increase due entirely to switching to OBF? Does increasing the allowable size of clearcuts and having less separation zones really make a 70% difference in growth compared to operating under the FPA? Or are there other explanations for the future expected cut levels?”

One clue that there are other explanations is the 2011 *Sewall Report on the Spruce-Fir Resource in Maine*. That document suggested that the cut of spruce-fir could increase *statewide* by 64% in 20 years. The reason for this is because a huge amount of fir, regenerated from the massive budworm salvage cuts in the 1970s and 1980s, will become merchantable—unless another spruce budworm outbreak causes major mortality during this time period. The Sewall Report’s estimate of a 64% increase was not contingent on all landowners in the state contracting to do OBF. Irving is thus claiming that a statewide trend, discussed in 2011, was caused by practices they adopted in 2012, just on their own land.

In any case, most of the mentioned benefits expected from OBF are economic rather than biological. And some of them are a major stretch.

**But isn’t the main advantage of OBF that it allows “scientific forestry” that cannot be done under FPA?**

Some of what is being called “scientific forestry” by MFS consists in doing large clearcuts, spraying them with herbicides to favor softwood regeneration (or planted spruce monocultures), doing pre-commercial thinning (PCT), and planning for short rotations. Such practices are also called forms of “Intensive Management.”

*The FPA does not prevent any of these IM practices.* Some of these practices *increased* for a while under the FPA. PCT, for example peaked in 2004. Herbicide spraying went down from a peak in 1989, but then went up from 1991-1998. The decline in these practices in the last decade or so occurred because they were mostly done by industrial owners, and most industrial land was sold to various land investment buyers during the late 1990s and early 2000s. These new landowners have different objectives from the former owners.

Some landowners, such as Baxter State Park Scientific Forest Management Area (SFMA), are also claiming to do “scientific forestry” (it is a mandate of SFMA). These landowners are

using few if any of the above-mentioned intensive techniques and are managing for more natural diversity and longer rotations (or multi-aged stands).

Foresters try to meet landowner objectives. For some landowners, the primary objective may be to make a certain return on investment. This is not a scientific goal, it is an economic goal. Using techniques derived through scientific research to meet such a non-scientific goal does not make the management “scientific.”

Advocates of OBF have also argued that the FPA forces landowners to cut more acres to get the same amount of wood and that this is unscientific. This argument is “proven” by showing charts of the decrease in acreage of clearcuts, but an increase in total acreage cut. The FPA, however, does not restrict the total acreage of clearcuts per year, just the size and distribution of individual clearcuts over the landscape. Reducing the total acreage of clearcuts was voluntary, not forced.

The FPA, as previously demonstrated, allows heavy cutting that is not considered “clearcuts.” Using silvicultural reports and processor reports, I calculated the average cut per acre in 2012 at around 14.4 cords per acre. This is about the same average volume cut per acre per year as during much of the 1990s, when landowners were doing *more* clearcuts.

From 2003 to 2008 in the northern three counties of Maine (Aroostook, Piscataquis, and Somerset), the acreage of seedlings and saplings increased by 664,800 acres. These early-successional stands now make up 37% of the forest area of northern Maine—indicating very heavy cutting by whatever name.

Growing simplified, even-aged stands, truncating early succession with herbicides, and truncating late succession through short rotations are problematic if one considers forest ecology a science. Aspects of Intensive Management also violate some key expected outcomes of OBF:

- Intensive Management is designed to shorten cutting cycles by speeding up growth of crop trees. Heavy cuts on short rotations, however, *harm, rather than improve, soil productivity*. Short cutting cycles do not allow “ecological rotations,” the time required for nutrients and organic matter to recover to pre-cut levels. There is also research that shows that soil carbon does not have time to recover and that the forest becomes a carbon source, rather than a carbon sink.
- Short rotations mean that there *is inadequate time for stands to develop late successional structure*. The stands may be re-cut in 60-80 years, but Late Successional characteristics take more than a century to develop.
- Use of herbicides and monoculture plantations mean *less diversity* of native species on the site. This is especially a problem where natural mixedwood sites are replaced by boreal softwoods, such as white and black spruce, that would not normally dominate such sites.



- Concentrated stands of spruce-fir are more vulnerable to spruce budworm and could lead to more pesticide spraying.
- One outcome goal has to do with aesthetics. Maybe the certifiers favor the *aesthetics of large clearcuts* over small clearcuts, but most of the public do not find clearcuts to be all that beautiful. They prefer big trees.
- The *quality of Intensively-Managed wood is inferior*, not superior, to wood from older, bigger trees grown in more natural conditions. Thinning trees can increase diameter faster, but does not normally increase height. So trees grown this way tend to have more taper. The thinned stands often have trees with branches to the ground. This means lumber full of knots and lower grades. Faster growth means fatter growth rings, which lead to weaker lumber.

Ironically, if landowners would cut less intensively and remove less wood per acre, forest stability and productivity could benefit, because doing so:

- Leaves better stocked stands for more optimal growth and quality;
- Leaves stands that are more windfirm and less subject to windthrow;
- Leaves more stand structure to support a wider array of predators and parasites of potential “pests;” and
- Allows landowners to cover more acreage each year, which allows them to manage vulnerable balsam fir stands in less time. Such a strategy can help reduce potential losses to the spruce budworm.

### **If OBF was created in 2001, why were there no takers until 2012?**

Some large landowners were interested, but not if there were acreage caps and sunset provisions. The legislature obliged these landowners by repealing the acreage cap, repealing the requirement to include ownerships with less than 1000 acres, and repealing the sunset provision.

Even then, no landowners signed up. The Department of Conservation and the Maine Forest Service then put pressure on the Bureau of Parks and Lands to “set an example” of how the program could work.

These “examples” had not been previously contemplated because Bureau policies made the need for such an override of the FPA unnecessary.

- Clearcuts are limited to 20 acres;
- Planting is rarely done—the Bureau mostly manages for natural regeneration;
- The Bureau manages for long rotations;
- Most cutting is through uneven-aged management. Rather than start stands from scratch, the Bureau manages existing stands with partial cuts, leaving higher-quality, trees of longer-lived species to put on more value.

Under pressure, however, the Bureau came up with 3000 acres where they could do heavy enough cutting that they would be subject to the FPA.

In some of these stands, such as those dominated by diseased beech, heavy cutting could be justifiable under the FPA and OBF would not be necessary.

In other stands, where there is adequate stocking of long-lived trees, heavy cutting might not be justified under the FPA. Such heavy cutting, however, might not be necessary, as there would be other options for the stand. For example, there are some stands planned for pine “seed tree” cuts that were well stocked with spruce. The Bureau’s OBF plans call for cutting 25-30 cords to the acre of this spruce to “thin” for pine, leaving less than the 30 sfba minimum. One option would be to manage the pine *and* spruce.

By an incredible coincidence, JD Irving Ltd. decided to sign up for OBF just when BPL also was signing up. The two contracts were written up within a day of each other. BPL signed on April 11<sup>th</sup>, Irving signed on April 18<sup>th</sup>. Unlike BPL, however, JD Irving did not sign up for a limited program—their contract was for their entire 1.25 million acres.

### **Does using certification audits as prime evidence of compliance with outcomes assure that goals are being met?**

While regulation punishes landowners for unacceptable behavior, the idea behind certification is to reward landowners for good behavior—meeting desired outcomes. The two approaches do not have to be mutually exclusive. Drivers who are usually safe (and are rewarded with lower insurance rates) sometimes speed, and have to pay fines.

Certification auditors are not looking for violations. They only check a sample of landowner acreage, and do so infrequently. What they are looking for is evidence that practices are “good enough” to meet certification standards. The certification systems are only as good as the standards used and the integrity of auditors to ensure that the standards are being met. In Maine, the results on the ground raise questions about the effectiveness of the certification systems.

Before selling off their lands, all paper companies in Maine were certified by the Sustainable Forestry Initiative (SFI). On many of these lands cut was greater than growth for years. These landowners did the most clearcutting and herbicide spraying of any landowner class. Paper company lands had the lowest volume per acre and lowest growth per acre per year of any landowner class except for large contractors (who buy, cut, then sell land for quick returns). They also had the highest percentage of seedlings and saplings. These are not results that seem very “exemplary” or “sustainable.”

SFI was launched in 1994 by the American Forest and Paper Association. It is a system designed by industry for industry. The hurdles are often vague and sometimes not very high. For example, pesticide users must obey all state and federal pesticide regulations. Last I heard, non-certified landowners need to meet this requirement as well.

A 2009 Federal Trade Commission complaint accuses SFI Inc. of misleading consumers with deceptive marketing practices. The complaint cites various aspects of SFI's marketing, including: its claim that it is an "independent" not-for-profit organization; its dependence on the timber industry for funding; and the vagueness of SFI's environmental standards, which, the complaint alleges, allow SFI-certified landowners to be certified merely because the landowner is complying with state environmental regulations.

The other big certification system is the Forest Stewardship Council (FSC). JD Irving is certified by FSC and SFI. FSC was launched in 1993 and does certifications around the world, including tropical rain forests. Some of these certifications, especially of plantation-style management, are controversial.

FSC first certified JD Irving in Maine in 2002. At the same time, FSC in New Brunswick did not certify the same company doing the same practices. Sierra Club Canada questioned Irving's certification in Maine. A few months later, Irving withdrew from its FSC certification, because, it claimed, it was upset with the certification process in New Brunswick. The company got recertified in Maine in 2010.

The Sierra Club critique claimed that the certifiers were using "grade inflation" to lead to high scores that, based on the criteria, were not warranted. The same argument could be made now. Let's just look at just one issue—the use of pesticides<sup>2</sup>.

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### **Reducing Reliance on Chemical Pesticides?**

JD Irving, in 2011, may have sprayed around 70% of the total acreage of forest herbicides in the state. It is hard to come up with an exact percentage because the acreage for all herbicides used by Irving and listed in the certification document is greater than total herbicide acreage listed in the 2011 MFS Silvicultural Practices report for industrial landowners. The discrepancies are probably due to Irving's use of a mix of herbicides, where several chemicals are sprayed at the same time. The certification document lists acreage for each chemical separately. It can, however, be safely said that JD Irving sprays more herbicides than all other forest landowners in Maine put together.

The state (of which the MFS and thus OBF are a part) is supposed to be promoting a reduced reliance on chemical pesticides, *not endorse or reward the largest users*. This is clearly stated in legislation passed in 1989, §1471-X. *State policy; public and private initiatives to minimize reliance on pesticides*.

A key quote from this legislation is: "The agencies of the State involved in the regulation or use of pesticides shall promote the principles and the implementation of integrated pest

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<sup>2</sup> For a 50 page critique of the 2002 certification, see <http://www.lowimpactforestry.org/> and click on "Grade Inflation"

management and other science-based technology to *minimize reliance on pesticides...*" (my emphasis)

FSC has its own guidelines designed to lead to a reduced reliance on chemical pesticides. I quote these here at length to show how far the auditors strayed from their own policies:

The following are quotes from  
FSC GUIDANCE DOCUMENT  
FSC PESTICIDES POLICY: GUIDANCE ON  
IMPLEMENTATION  
FSC-GUI-30-001 VERSION 2-0 EN  
May 5, 2007

"In relation to pesticides, the FSC Principles and Criteria aim to *prevent, minimize* and mitigate the negative environmental and social impacts of pesticides use whilst promoting economically viable management of the world's forests. The FSC label is a 'green' label, indicating high levels of social and environmental performance. FSC requirements commonly exceed the minimum legal obligations applicable to every company within a particular jurisdiction. FSC takes a *precautionary approach to pesticide use*, in part because experience has repeatedly shown the difficulty of ensuring consistent proper use, and the limits of knowledge of the ecological and environmental impacts of pesticides and the consequent unforeseen consequences of their use."

Criterion 6.6

"(1) Management systems shall promote the development and adoption of environmentally friendly *non-chemical* methods of pest management and *strive to avoid the use of chemical pesticides*."

Criterion 10.7(3)

" Plantation management *shall make every effort to move away from chemical pesticides* and fertilizers, including their use in nurseries."

"The FSC Criteria include three core elements:

- a) The identification and avoidance of 'highly hazardous' pesticides;
- b) *Promotion of 'non-chemical' methods of pest management as an element of an integrated pest management strategy*; and,
- c) Appropriate use of the pesticides that are used.

*To date, FSC policy has focused primarily on the first of these elements: the avoidance of 'highly hazardous' pesticides.*" (my emphases for all quotations)

The fact that FSC certified JD Irving does not mean that Irving has successfully minimized pesticide use or promoted "non-chemical" methods of pest management. This would indeed

lead to a rather absurd situation: a company that uses more herbicides than all other forest landowners put together is setting the example of how to minimize pesticide use!

The key is the last sentence quoted. *FSC has not followed all of its own guidelines*, but, so far, has emphasized avoidance of "highly hazardous" pesticides. The list of such pesticides, by the way, includes pesticides, such as carbaryl , 2,4-D and 2,4,5-T. These chemicals were quite popular with big landowners in Maine not too long ago and were defended vigorously by some of the members of the OBF technical panel.

The critique of Irving's certification in 2002 pointed out that, "Irving is one of the biggest herbicide users in the state. *Choice of management regimes that heighten dependency on pesticides is supposed to be a non-certification threshold*. Yet Irving's choice of plantation-style forestry creates a clear dependency on herbicides. Irving sprays 95% of its plantations. Irving's 25 year plan calls for continued herbicide dependence." Yet Irving got a "90" rating for pesticide use.

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### **Are OBF technical panel members likely to go against conclusions of a certification audit?**

It would be expensive for the MFS to replace the certification process with their own standards, guidelines, and audits. The MFS is quite comfortable relying on existing certification systems. Indeed, the MFS even rewards certified landowners with an exemption to the Liquidation Harvest laws. With one exception (a member of MFS staff), all current panel members have backgrounds in industrial-scale forestry. They are being asked to judge management approaches that they or their colleagues have depended on economically.

- Maxwell McCormack, Jr. ran the Cooperative Forestry Research Unit (CFRU) at the University of Maine. This research organization depends on funding from big landowners and chemical companies and does a lot of research on herbicides and other intensive practices.
- Robert Wagner currently runs the CFRU and is a vocal advocate for Intensive Management practices.
- Mike Dann worked for Seven Islands and was part of the team that certified JD Irving for FSC in 2010.
- Gary Donovan is a retired wildlife biologist from IFW who worked for Champion International and other companies for ten years afterwards and has done third party audits.
- Peter Triandafillou is VP for woodlands of Huber Resources.
- Dave Struble has worked with the Maine Forest Service for years and has an expertise in developing pest management options for forest landowners.

Dave Struble replaced William Patterson, IV, from The Nature Conservancy, who resigned after the OBF program was changed to allow JD Irving to have its entire landholding entered into OBF. On leaving, Mr. Patterson wrote:

“Rather than evaluate specific outcomes or alternatives to the Forest Practices Act (FPA) regulations, the panel has decided that inclusion of land in a recognized forest certification system is, de facto, all that is required for participation in an Outcome Based Forestry experiment. This may or may not be the right approach for the program, but I believe that it is a decision that warrants broader input as it represents a significant change in state policy.”

### **Conclusion**

I agree with Mr. Patterson that big policy changes—accepting entire landownerships into what was supposed to be an experimental program, assuming that third party certification is sufficient evidence of meeting outcomes, or having a technical panel that is balanced towards large landownerships—need more public discussion. I hope that the information in this document is useful for those who think that what happens on 90% of Maine’s land base is worthy of such discussion.

The previous status quo of the Forest Practices Act had unacceptable consequences, not so much because of what landowners couldn’t do, but because of what they could do. Outcome Based Forestry, as it is now administered, will not change that trajectory.