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Governor Brian Schweitzer  
Attorney General Mike McGrath  
Secretary of State Brad Johnson  
Superintendent of Public Instruction Linda McCulloch  
Auditor John Morrison

Dear Land Board Members:

Montana Trout Unlimited is dismayed to learn that the Land Board at its December meeting approved phase II of the Three Creeks Timber Sale in the Swan River State Forest. It is our understanding, based on a review of minutes from the land board meeting February 20, 2007, that this phase would not be approved until DNRC had established a citizen advisory group to review implementation and effectiveness of conservation commitments from Phase I of the project. DNRC, to our knowledge, has never convened this advisory group task.

Montana TU recommends the land board revoke its approval of Phase II until the citizen review group has been convened and been afforded an opportunity to examine with DNRC potential impacts of future phases of this sale. We believe there are a number of compelling reasons to do this:

1. It would engender trust among citizens who, reasonably, expected the commitment to the advisory group process to be fulfilled, but have been disappointed to learn the commitment has been ignored.
2. There is no compelling fiscal reason to complete Phase II at this time. The timber market is slow, and in fact the State might better meet its fiduciary trust responsibilities by putting the timber from Phases II and additional phases up for sale at a later period. Therefore the State can afford a more cautious approach that involves the public in development of Phase II. We understand the 3-year limitation for activity the State faces related to the grizzly bear agreement, but that could still be dealt with by reducing phases on this project. We also recognize that the State has an annual sustained yield target for state lands, but it is not required to meet that objective through this sale. Nor is it required to meet that objective by selling timber at the bottom of the market, thereby possibly foregoing future revenue.
3. There is reason to believe that DNRC might not be completely fulfilling conservation obligations it has made. Changing conditions on the ground, and additional commitments

made by DNRC have not, it appears, been taken into account before the agency asked the land board to approve Phase II. For example:

- The agency is supposed to be soon completing a publicly funded Habitat Conservation Plan that will detail conservation commitments DNRC will adopt for projects such as the Three Creeks Timber Sale in order to avoid an illegal “take” of federally listed endangered or threatened species, or candidate species. In the vicinity of this sale are a number of species covered by this HCP, including grizzly bears, lynx, bald eagles, bull trout and westslope cutthroat trout. We believe the final decision on Phase II or subsequent phases should be informed by the extensive review DNRC specialists have put into developing the HCP.
- After last February’s Land Board meeting but before December’s gathering, DNRC signed a Memorandum of Agreement and a conservation plan – as did Montana TU and federal and state agencies – committing to certain objectives and commitments aimed at protecting Montana’s dwindling populations of cutthroat trout. Westslope cutthroat trout occur on the Swan River State Forest, and thus DNRC, by virtue of its participation in the MOA and conservation plan, should demonstrate that its projects are consistent with commitments it has formally endorsed. Among the prime objectives in the cutthroat plan is to secure from threats all existing conservation populations of this fish. Among the actions that might be necessary to do this is to employ riparian protection standards that exceed those found in Montana’s streamside management zone law. There is no evidence that DNRC consulted the plan it is party to before it asked you to approve Phase II of this plan. However, this is an item that could have been addressed if the advisory group had been convened.
- Since last February, the Swan Valley Bull Trout Working Group, which includes both DNRC and Montana TU, have participated in data gathering for assessing the population trends of introduced lake trout in the Swan Lake system. Lake trout pose a huge threat to native fish species in the Swan, and their presence in Flathead Lake has resulted in a severe crash in populations of bull trout, westslope cutthroat trout and popular introduced kokanee salmon. It has also contributed to a significant reduction in angler-use days on Flathead Lake. Data collected this fall in Swan Lake indicate that the lake trout population there is exploding, and we can reasonably assume it will eventually reduce, probably significantly, the bull trout population in the Swan River and Lake system. Further, data collected in 2006 indicate there is an increasing incidence of harmful hybridization occurring between non-native brook trout and some native bull trout populations in a number of Swan River tributaries. Taken together, the lake trout and hybridization threats will likely significantly reduce bull trout numbers in the Swan watershed, which is among the strongest populations of this fish anywhere in its range. As a result, it is in the State of Montana’s interest, given that the Department of Fish, Wildlife and Parks has yet to decide how to address the issues with the non-native fish, to ensure that all bull trout populations, including those in the vicinity of the Three Creeks timber sale, be provided an added measure of habitat protection beyond the regulatory minimum and voluntary best management practices suggested by DNRC. If the advisory group had been convened, it is probable that DNRC forestry staff might have been apprised of, and perhaps adjusted for, new information that is being gathered on bull threats in the Swan River watershed. Further, as a signatory to

the State of Montana Bull Trout Restoration Plan completed in 2000, DNRC has an affirmative obligation to demonstrate it is staying on top of trends for this species and affording it the appropriate conservation measures. It doesn't appear this is occurring.

- Given DNRC's formal commitments to conserve fish, it seems prudent to examine in a phased, adoptive manner exactly how well the proposed mitigation measures for reducing sediment will work. Concluding that reducing sediment with improvements on existing roads will countervail impacts from 19 miles of new road, and in fact produce a net improvement in water quality and stream habitat, requires a fairly large leap in faith. And therefore we recommend predicted sediment yields be tested with ground-verified information after each phase is completed. That way, DNRC's sediment predictions can be tested over time, allowing for adaptive management should the projections prove flawed. The proposed advisory group could then weigh whether the agency's sediment-reduction hypothesis actually holds.

We are confident DNRC forestry staff, if provided an opportunity to discuss some of these and other items with an advisory group of informed citizens as well as specialists from within their own agency, can design an improved project for Phase II.

Finally, because most of you have endorsed the effort of the conservation-timber partnership that has produced an alternative management vision for the Beaverhead-Deerlodge National Forest – an effort Montana TU is a party to -- you have embraced a greater role for the public in the planning stages of projects affecting public forests. This is a vision whose time has come, and it stretches beyond the perfunctory legal minimums that spin from public involvement requirements in MEPA. We urge you to apply this vision to your decisions affecting the Three Creek Timber Sale and all future forestry activities on state trust lands. Please slow things down. Direct DNRC to talk to the public in more detail and in a more collegial fashion before making decisions.

Please don't hesitate to contact me if you have any questions.

Sincerely,

Bruce Farling  
Executive Director