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April 18, 2022

Via U.S. Certified Mail and E-mail (holly.jewkes@usda.gov)

Ms. Holly Jewkes
Deschutes Forest Supervisor
700 NW Hill St., Suite 1
Bend, Oregon 97703

***Re: West Bend Forest Project;
Please Hit the Pause Button, Again***

Dear. Ms. Jewkes:

On March 24, 2022, we copied you on a letter to Mayor Sally Russell in which, in light of new scientific and controversial tree selection evidence, we asked that all government entities with authority or influence to hit the pause button on the continuation of the logging of a ten-acre tract within the Deschutes National Forest that includes portions of the Phil's Trail network. A copy of that letter is attached as Exhibit 1.

The new evidence included recent published articles raising serious questions about: (1) the impact of the logging of big mature trees (i.e, greater than 21-inches dbh) on climate change, (2) whether "thinning" operations designed to suppress wildfires actually made them more likely and worse, and (3) the impact of such operations on biodiversity, habitat, water quality, soil health and recreational opportunities. We also raised the point that at least 30 big, mature, fire resilient ponderosas were slated for cutting, even though the Record of Decision (2013) specifically mandated their protection (Record of Decision, West Bend Vegetation Management Project and Forest Plan Amendments, December 2013).

Regrettably, T2, Inc, the logging contractor, commenced the cutting at or about the time we sent you the letter. The logs cut included dozens of large diameter, mature, fire resistant ponderosa pines that were greater than 21 inches dbh. See Photos, attached as Exhibit 2. The exact number of the big mature trees cut remains unknown. A public citizen documented at least 30 trees greater than 21 inches, but he spent only a few hours measuring trees and reports that there were many, many more within the tract that he did not have time to measure. [For purposes of this letter, we will stipulate that the big matures cut were "30+", since the actual number is presumed to be far greater]. There remains a vast number of trees still standing within the WBFP, and possibly within the ten-acre tract, that are spray painted with a blue stripe, indicating that they are destined for removal. It is likely that many of these exceed 21-inch dbh.

We would like to learn more about the criteria the USFS applied when marking the trees, whether there was oversight, the extent to which the USFS supervised the cutting of the big mature trees, and whether the USFS, after being notified of the controversy surrounding the big mature trees,

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evaluated alternatives, including a renegotiation of the logging contract with T2, Inc. We are concerned that allowing the big mature trees to be cut violated the ROD and possibly your duties as a trustee of these vital and valuable natural resources.

The intent of the project described in the FEIS (2011) and ROD (2013) was to return this portion of the Deschutes National Forest to conditions that fell within the Historic Range of Variability. The Final Environmental Impact Statement (FEIS; page 4) describes said condition as late and old-structure open canopy ponderosa pine representing 50 – 86% of the landscape. The ROD states that this project (i.e., the West Bend Vegetation Management Project) will promote and sustain late and old structured forest stands, reduce susceptibility to bark beetles and dwarf mistletoe infestation, and reduce the fuels and resultant fire hazard within the West Bend project area, with the intent to return over 55% of the project area to open ponderosa pine stands.

We are not questioning the thinning of lodgepole pine, white fir, and other species less tolerant of fire than ponderosa in the effort to reduce overall susceptibility to wildfire. We are only questioning the rationale to cut the large diameter ponderosa pines that, if left intact, would help achieve the overall objective of returning the forest to conditions described as within the Historic Range of Variability. Additionally, studies and analyses completed after the date of publication of the ROD have documented substantial environmental, climatic, economic and social values of trees 21 inches and larger in diameter. A few of those studies were included as attachments to our letter of March 24.

The ROD recognized that during implementation minor changes may be needed to better meet on-site resource management and protection objectives. It further allowed additional NEPA action and supplements to the existing EIS “in particular, whether the proposed change is a substantial change to the intent of the Selected Alternative as planned and already approved, and whether the change is relevant to environmental concerns.” ROD, p. 15. Additionally, “connected or interrelated proposed changes regarding particular areas or specific activities will be considered together in making this determination. The cumulative impacts of these changes will also be considered.” ROD, p. 15. These provisos specifically emboldened the USFS to consider changes to the contract if and when new data emerged that raised questions about the environmental impact of the logging plan as executed. Yet, this did not happen.

We do not have all the facts. The purpose of this letter is to unearth the facts. We would like to learn from you how the cutting of big mature Ponderosas happened and why. Our questions include, but are not limited to, the following:

When were you aware that the ten-acre tract contained large diameter Ponderosas (greater than 21 inches dbh)? Did you endeavor to confirm or deny with your own survey?

Did you attempt to exclude the large Ponderosas from the contract with T2, Inc?

Did you support an effort by a private citizen to purchase the big mature trees and compensate T2, Inc. from any lost profits? Did you assess the FMV value of the trees in question?

Did the USFS have staff on sight during the removal of the big mature trees?

Did the USFS investigate claims from T2, Inc. prior to the cutting that their equipment had been vandalized? Were you aware that according to the Deschutes County Sheriff's office the alleged vandalism consisted of an unknown liquid found in the cab of a truck, that there was no case opened, no file initiated, no investigation undertaken, no photographs taken, no facts alleged that supported any claim of potential harm to workers or destruction of property, and no evidence to support the claim other than a phone call from the logging company?

Did you review our letter of March 24th, in which we provided new on-site material facts regarding the 10-acre stand-in question and new scientific evidence that questioned the need to cut down the big mature Ponderosas? We never received a reply. Please explain how not responding, not hitting the pause button, and not reviewing the impact of cutting the big Ponderosas complied with the 2013 ROD's provision requiring adjustments in view of substantial operational changes?

Do you agree that the USFS always retained the authority to renegotiate the terms of the logging contract, including the power to exclude or delay the cutting of particular trees?

Do you agree that if the USFS was warned that cutting particular big mature ponderosas was inconsistent with the objectives of the project, had the power to save them or sell to a another party, but allowed said trees to be cut, then the decision cannot logically be dismissed as a "mistake?"

How did the USFS justify the cutting of the big mature ponderosas in question? How does their removal meet the objectives of the West Bend Project in terms of (1) wildfire risk suppression and (2) forest health and resiliency, and (3) preservation of the "world class recreation activities" in the Phil's Trail network that provides a "desirable recreation experience" that is so important to the Bend economy? (ROD, p. 6). Is the USCF aware of research that shows that the non-market value of trees from carbon storage and air pollution removal far exceeds their commercial value from wood products?

Finally, with respect to the USFS' decision to allow T2, Inc to cut the big mature Ponderosas in question, how does that action (1) fulfill your duties "as trustee for the environment for future generations", (2) provide "for a productive and aesthetically pleasing environment," (3) attain "the widest range of beneficial uses of the environment without degradation," (4) preserve "important natural components of the environment, including biodiversity," and (5) enhance "the quality of renewable resources", as required by NEPA (ROD, p. 12)?

We are pleased that John Allen, the Deschutes National Forest Supervisor who signed the ROD, acknowledged that the USFS is the trustee of the publicly owned forest for present and future generations. As such, the Forest Supervisor of the Deschutes National Forest is a trustee of the publicly owned trees, wildlife, water and air within the national forest. This means that you have

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a duty to protect the common resources and adhere to the highest standard of care and loyalty in protecting those resources (i.e., the trust) on behalf of all present and future generations (i.e., the beneficiaries). Your duty also includes supervising logging companies with whom you contracted to cut down trees.

We have concerns about the exercise of your duty of loyalty and care with respect to the removal of the large diameter trees within the ten-acre tract. In our letter of March 24th, we presented scientific evidence that supported the need to preserve the big mature trees as important sinks for excess atmospheric carbon, as well as their role in suppressing wildfires, enhancing biodiversity, maintaining healthy soil, providing scenic quality and joy for recreationalists, and contributing to a balanced forest ecosystem. And yet, during a climate emergency racked by an ongoing severe drought, you chose, we gather, to green light the logging company's removal of the large ponderosa.

In short, in marking the big mature trees for cutting, and allowing them to be cut, did the USFS discharge its duty to protect the forest resources? If cutting the big mature trees did not advance the purpose of restoring the forest, or any other valid purpose, did the USFS allow the waste of a vital natural resource? In allowing the logging contractor to continue cutting, after the issue was raised, did the USFS abridge its duty against privatizing public resources? In short, to channel the question posed by *The Lorax*, the iconic custodian of the trees created in 1971 by Dr. Seuss, did the USFS "speak for the [30+] trees?" See WGC ad, dated April, 2022, Exhibit 3.

As you know, the Worthy Garden Club partnered with the USFS in 2019 on *Operation Appleseed*, our initiative to plant over 1 million trees, targeting damaged forests in the state of Oregon. We pledged \$1 million. To date, with the help of our partners, including the USFS, we have planted 648,269 diverse and native tree saplings. Pursuant to our pledge, we have a remaining balance of over \$300,000 that has been allocated for the purchase of seedlings to be planted by the USFS in the Deschutes and Willamette National Forests.

In view of the above, we have serious concerns about the manner in which you have managed the ten-acre tract near Pine Drops trail. Pursuant to *Operation Appleseed*, the WGC is underwriting an effort to plant small trees so that they will grow up to be the big, beautiful, fire resilient, carbon capturing and storing mature trees that the USFS, in the same forest a few dozen miles away, just allowed to be cut down. We are concerned that, given a chance to allow a citizen to buy out the trees, so that the contractor is made whole, and we continue to enjoy their myriad salubrious benefits, you did not pursue this reasonable alternative. We would like to know how many big mature ponderosas within the WBP are similarly slated for cutting. We would like to know how the USFS evaluates those trees in a timber sale, as well as the FMV of these trees? We would like to follow the money on these questions because the Worthy Garden Club would rather spend the remaining \$300,000 plus budgeted by *Operation Appleseed* to buy from our government the trees flourishing in the ground right now that are our best shot at mitigating the ravages of global warming.

Consequently, we are hitting the pause button on the remaining disbursement unless and until we obtain complete and reliable answers to the questions and concerns raised above.

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We remain hopeful that you will discharge your substantive and procedural duties in the interests of the public at large, as well as the forest and all of the beneficial living things it supports. We would be pleased to sit down with you at your earliest convenience to discuss these issues and answer these important questions. We continue to want to partner with the USFS, but only if we can obtain assurances such lapses never occur again.

Sincerely,

Roger G. Worthington, Esq.
President

Richard Martinson, Ph.D
Executive Director

Enclosures

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