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November 10, 2010

Mr. James Kraft
General Counsel
Plum Creek Maine Timberlands, L.L.C
999 Third Avenue, Suite 4300
Seattle, WA 98104

Dear Jim:

On August 9, 2010, the Forest Society of Maine (FSM) became aware of an apparent violation of the Moosehead Region Conservation Easement (MRCE), which FSM holds, monitors, and enforces. The activity in question was part of a harvesting operation by Plum Creek Timberlands (December 2009 to January 2010) adjacent to Meadow Brook in Frenchtown Township (TA R13 WELS), Piscataquis County. The situation involved a harvesting operation and associated log landing within a mapped rare plant site, which, according to terms of the MRCE and associated Multi-Resource Management Plan (MRMP), requires special consultation and special management considerations. Plum Creek self-reported this apparent violation through a phone call to FSM by Tim Dorrell, Plum Creek's Senior Resource Manager in Maine.

Immediately following that notification, FSM staff members visited the site to begin our investigation. That investigation has involved multiple visits to the site and consultations with your staff, staff of the Maine Natural Areas Program (MNAP), and others. We also asked Maine Natural Areas Program to undertake an evaluation of the site and harvesting activities and report to us their assessment of damage, if any, to the rare plant site.

Following our review of the harvesting activity relative to the rare plant site and based on a review of the terms of the MRCE and MRMP, the Forest Society of Maine has determined that Plum Creek's activities did in fact constitute a violation of the MRCE. Specifically, we find that Plum Creek's activities violated the following terms:

1. The activities were inconsistent with the Multi-Resource Management Plan requirements of section 3.(b)(1)(bb), which requires notice and consultation with MNAP prior to the harvest activities occurring within the mapped area. No notice or consultation occurred with either FSM or MNAP; and
2. The activities were inconsistent with the performance standards set forth in the Multi-Resource Management Plan Section 3.(b)(2)(c)(1) regarding harvesting activities within the mapped area. First, harvesting within the 75 to 250 foot buffer exceeded allowed levels of harvest, and second, harvesting extended into the no-harvest, 0 to 75 foot buffer.

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Our review and MNAP's assessment (enclosed) have found that, Plum Creek's activities, fortunately, did not result in direct damage to the rare plants or their stream-side habitat. That appears, however, to be a result of good luck rather than good planning or adherence to MRCE terms and standards. While in this instance Plum Creek's activities were limited to the buffering areas rather than the rare plant habitat itself, the deficiency in your internal oversight and controls in your operational and harvest planning systems is of great concern to us.

Plum Creek's actions to improve these internal procedures and controls, beginning even before your discovery and reporting of this violation, are noteworthy, and FSM believes that if these improved, internal controls and procedures are adhered to they should minimize the risk of a similar occurrence. We will, however, be tracking Plum Creek's performance and adherence in this regard closely to ensure that is the result, and we will consider further system and procedural failures to be significant deficiencies in your adherence to the terms of the MRCE.

The violation described above occurred after the completion of the most recent certification audit and for that reason is governed by paragraph 3.C.2(e) of the MRCE. Under paragraph 3.C.2(e), the Forest Society of Maine may immediately seek to enforce the MRCE or the Management Plan, and compliance with the MRCE and the Management Plan is to be evaluated based upon the Forest Management Activities conducted and the outcomes thereof..

The Forest Society of Maine's next step will be to formulate recommendations with respect to appropriate remedies in response to this violation. Once you receive this letter, I suggest we find a time to discuss the actions FSM will be recommending to bring resolution to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alan Hutchinson", written over a faint, larger version of the same signature.

Alan Hutchinson,
Executive Director

Cc:

Paul Davis, Plum Creek;
Alan Stearns, BPL
Eliza Townsend, DOC;
Samantha-Horn Olsen, LURC;
Molly Docherty, MNAP
Richard Spencer, FSM
Jake Metzler, FSM

Enclosure: MNAP Report

Site Investigation of Lesser Wintergreen Harvest Site

Frenchtown

August 26, 2010

Andy Cutko & Molly Docherty, MNAP

September 7, 2010

Background:

On August 9, 2010 the Maine Natural Areas Program was informed of a possible easement violation involving Plum Creek harvesting activity within the 250 foot buffer of a rare plant population in Frenchtown (TA R13 WELS). This harvesting activity apparently occurred in December 2009 or January 2010 and was discovered during Plum Creek's preparations for an August 2010 SFI audit.

Site Visit:

On August 26, 2010 a visit was made to the site by Andy Cutko and Molly Docherty (MNAP), Jake Metzler (FSM), and Henning Stabins and Mike Rundell (Plum Creek).

Rare plants: We observed the rare plant, lesser wintergreen (*Pyrola minor*) growing along both sides of the streamshore in three scattered sub-populations covering ~50 meters of stream, totaling 60-80 individuals. This species is ranked S2 (Imperiled) and is listed as Special Concern in Maine, with 16 known populations statewide. Most plants were in leaf, and a small portion had remnants of flowering stems. The rare plants were very close to where they were previously located in July 2001 -- within 18 meters, or likely within the margin of mapping precision of the GPS used in 2001. The population size was similar to that noted in 2001, when about 50 plants were counted. In terms of occurrence ranking, the population will retain its 'B' rank ('good'). We searched another ~100 meters upstream and did not find additional plants. We did not search downstream of the known location, including an area that had been crossed by the new winter road.



Henning Stabins and Andy Cutko at lesser wintergreen site, Meadow Brook (photo courtesy Jake Metzler)



Lesser wintergreen (*Pyrola minor*) at Meadow Brook

We also re-verified a known population of Horneman's willow herb (*Epilobium hornemanii*) further upstream, at the location where it was originally mapped. This species is ranked S1 (Critically Imperiled), State-Endangered, with five known sites in the state. The buffer of this plant was still intact.

Harvesting activity and performance standard: The Multi-Resource Plan of the Moosehead Region Conservation Easement contains a performance standard for rare plants that stipulates no harvest within 75' of rare plant locations and limited harvest (40% volume removal or 50% crown closure) between 75' and 250' from the rare plant site (Appendix D, p. 7). On this site visit we observed a log landing and winter haul road intersecting the buffer. A map created with recent imagery by Plum Creek indicates that the log landing and harvest activity occurred within the 75' mapped no-harvest buffer (see attached map). Both the landing and skid road slope down toward the stream. Both had been re-vegetated and grass was growing on site.

Harvesting impacts: At the time of the visit, there was no apparent impact of the harvest activity to the rare plant population. This plant prefers cool, shaded, mid to high elevation streamshores, and the immediate habitat of the plant has apparently not been compromised. However, longer term monitoring would be needed to determine if any residual impacts occur (e.g., siltation, introduction of invasive species) from the clearing.



Winter road that crosses Meadow Brook downstream of lesser wintergreen site



Log landing west of Meadow Brook.