February 2, 2008

Jean Curtiss, Chair
Missoula Board of County Commissioners
200 W. Broadway
Missoula, MT 59802

Dear Commissioner Curtiss:

Across Montana, and within the Missoula Valley, we are seeing an increase in the loss and degradation of habitats critical to sustaining populations of important native birds and other wildlife. The reasons for this circumstance are varied. Notable among them is the irreversible conversion of land to urban development. In view of this circumstance, the Five Valleys Audubon Society has recently become more engaged in land development activity within our community. One such effort has been that of providing comment during the agency review of prospective land subdivision projects.

Recently, we were asked to comment upon the Pontiac Commercial Development project. Planned for a location in the clay hills west of Missoula, we could see that the undertaking would encompass important avian habitat. Equally significant, it would impact a Long-eared Owl research site and a study that has been in place for over two decades. Unfortunately, when we visited the area as part of our review process, we found that much of the earthworks portion of the project has been completed. Action we hoped could be avoided had already taken place.

At this juncture, our interest is not to offer comment on the merits of the prospective Pontiac Development. Those remarks have been submitted to the applicant's representative and the Office of Planning and Grants as part of the project review process. Rather, we wish to seek your consideration of an overarching issue raised by this proposal. That is, the implications of initiating project development activity prior to receiving the necessary governing body approvals.

It is our understanding that actions such as those that have taken place at the Pontiac Development site are not common. However, when they do occur, the opportunity to provide meaningful project input becomes greatly constrained. Further, it becomes increasingly difficult, if not impossible, to avoid or at least mitigate impacts identified during the prescribed review process. In our view, the purpose in having an agency review is to seek comment from a range of interests and thereby identify issues and

concerns with a potential project. Then, on the basis of such comment, devise action aimed at addressing any problems involved. Moving ahead with a project before all approvals are received hardly allows this to be the case.

We can understand that developers who pursue such courses of action do so at their own peril. The governing body can always require a substantial alteration to what has occurred on the ground. On the other hand, any resource damage that has occurred may prove to be irreversible or at least very difficult to mitigate. That being the case, we would hope there could be some sort of legal mandate addressing this issue. We are not certain what form such a requirement might take. Some sort of excavation permit may perhaps be appropriate. Regardless, if our community is to realize the goals it seeks to realize through the subdivision review and approval process, some sort of action seems necessary.

Sincerely,

Jim Brown, Chair Habitat Protection and Restoration

Copy: Roger Millar
Mike Sehestedt