

CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	EAST SMITH ROAD PRIVATE DRIVEWAY PROJECT
Proposed Implementation Date:	SUMMER OF 2024
Proponent:	EAGLE ROCK ROAD USERS ASSOCIATION, Inc.
Location:	EAST SMITH ROAD, T32N R22W SECTION 32
County:	FLATHEAD

I. TYPE AND PURPOSE OF ACTION

The Montana DNRC, Stillwater Unit, has received a request from Eagle Rock Road Users Association (RUA), Inc. to provide a private driveway access to three landowners. Those landowners include McDowell, Wobick and Eagle Rock Montana, LLC. This access would be in the form of a private driveway easement across State Trust Lands. The location of the proposed road would be near the north end of Whitefish Lake.

Project objectives include:

- Provide a 40-foot right of way for legal access to three adjacent landowners issued for the purpose of private, non-commercial access for single family residences.
- Construct road infrastructure for DNRC, thus providing opportunities for future forest management.
- Replace an existing gate on the East Smith Road and develop additional parking which would accommodate space for a larger parking area for a possible future Whitefish Trail trailhead.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project. List number of individuals contacted, number of responses received, and newspapers in which notices were placed and for how long. Briefly summarize issues received from the public.

DATE:

- July 2021 and October 2022

PUBLIC SCOPED:

- These scoping notices were posted on the DNRC Website: <http://dnrc.mt.gov/public-interest/public-notice>
- Adjacent landowners, interested non-profits and associations, City of Whitefish

AGENCIES SCOPED:

- Statewide tribal governments, Land Board Staffers, and Montana FWP

COMMENTS RECEIVED:

- How many: 32 comments were received for the July 2021 scoping. Many of those comments requested additional information and clarification on the initial proposal. Eight comments were received for the October 2022 scoping. This second scoping notice addressed questions and updates and changes to the July 2021 scoping notice. A summary of the comments from the October 2022 public scoping are below.
- Concerns/Comments:
 1. Comment that Eagle Rock Montana LLC already has legal access as well as a concern that East Lakeshore Drive/Delrey Road does not have an emergency egress route to provide escape from natural disasters. The proposal should consider this threat and provide for public safety by requiring Eagle Rock Montana LLC to grant an easement through their land to the homeowners within the Eagle Creek Subdivision (adjacent and

southeast of proposal). In turn, this commentor would grant emergency access through their private property.

2. Concern over the increased use of motorized vehicles exiting on and off to East Lake Shore Drive from the existing approach.
3. Concern that enforcement of easement conditions will not be adhered to. Request limiting homesites to one per landowner, documenting limitations in the easement and restricting future changes/modifications to the easement into perpetuity.
4. The private driveway should be designed and managed to align with the goals of the City of Whitefish's proposal to purchase a public recreation easement in the Project Area including future development of the Whitefish Trail and proposed recreation amenities such as the East Smith Trailhead.
5. Request signage be installed at the new gate location stating nonmotorized public access is allowed on DNRC land and that the driveway is not publicly restricted.

o Response to Concerns/Comments:

1. Eagle Rock Montana LLC has access to their private property through a term-road access permit issued by the United States Forest Service. . A term-road permit is not considered legal access due to its revocability and is subject to a renewal process which is not guaranteed. The State does not have the authority and thus cannot compel a private landowner to grant access across their property for the benefit of other private landowners. This comment is beyond the scope of the project and therefore dropped from further analysis.
2. Concern addressed in Section 14 – Human Health and Safety
3. The authority to either approve or deny more than one homesite per tract lies with the Montana State Board of Land Commissioners ("Land Board") . Per the Land Board's Access Road Easement Policy, an applicant can request access for multiple residences and, if approved by the Land Board, an easement would be written to reflect the specific number of residences requested. Should further development be proposed in the future, the easement holder would have to apply to amend the easement. A new environmental assessment would be conducted at that time, including additional public scoping.
4. Comment addressed in Section 20 - Access to And Quality of Recreational and Wilderness Activities
5. Comment addressed in Section 20 - Access to And Quality of Recreational and Wilderness Activities

DNRC Specialists: Tony Nelson *Hydrologist*, Victoria Forristal *Wildlife Biologist*, and Patrick Rennie *Archeologist* were consulted for this project.

Internal and external issues and concerns were incorporated into project planning and design.

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

Examples: cost-share agreement with U.S. Forest Service, 124 Permit, 3A Authorization, Air Quality Major Open Burning Permit.

- **Montana Department of Fish, Wildlife and Parks (DFWP)-** A Stream Protection Act Permit (124 Permit) is required from DFWP for activities that may affect the natural shape and form of a stream's channel, banks, or tributaries. Such activities include a culvert installation along a nonperennial stream if necessitated.

3. ALTERNATIVE DEVELOPMENT:

Describe alternatives considered and, if applicable, provide brief description of how the alternatives were developed. List alternatives that were considered but eliminated from further analysis and why.

Action Alternative:

The Action Alternative would grant an easement to Eagle Rock RUA issued for the purpose of private, non-commercial access for single family residences to three adjacent landowners who do not currently have legal access to their private property. Eagle Rock RUA, Inc is requesting access to four single family residences, McDowell Family Trust is requesting access for two single family residences, and the Wobick family is requesting access for one single family residence. The RUA would bear the full cost of the construction of the road. Should the landowners desire their additional residential rights, consideration would be given to the request pursuant to guidance in the Land Board's *Access Road Easement Policy* adopted in 2006.

The entire length of road to be encumbered under the easement would be 1.59 miles in length with a road width right-of-way of 40-feet starting at the junction of East Smith Lake Road and East Lakeshore Drive. The easement would require 1.35 miles of new road construction starting where the proposed new road would leave East Smith Road. See Attachment A – East Smith Private Driveway Map for specific road location details.

The proposed new road would be designed to support typical vehicle use associated with single family residences and forest management activities. The road driving width, with ditches, would average 18 feet wide with 4% to 8% elevation grades. This road, if approved, would have an easement width of 40 feet and would need further review by DNRC and Flathead County should further subdivision ever be requested.

Currently, East Smith Road is managed as non-motorized to the general public. This restriction would continue to be managed as such under this alternative; however, both non-motorized and foot traffic would continue to be allowed on these roads within the DNRC property boundaries. A new gate would be installed approximately 150 feet north of the existing gate location and parking area. Furthermore, as part of this agreement, an additional parking area will be constructed by the proponent. This parking area will be located adjacent to the new gate location and would provide more space for additional parking for an anticipated Whitefish Trail Trailhead expansion. If this trailhead is not built, this new parking is intended to offset vehicles blocking the East Smith Road and/ or gate.

No Action Alternative:

A 40-foot easement would not be granted, and revenue would not be generated for the associated school trusts in the proposed Project Area at this time. Ongoing timber management, general recreational use, fire suppression, noxious-weed control, additional requests for licenses, easements, and other ongoing management requests may occur.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify direct, indirect, and cumulative effects to soils.

The proposed project area contains an existing low-standard gated road that serves as a walking trail to the Smith Lake Dam and as vehicle access to the dam for administrative purposes. This road is low standard, narrow and does not contain any surface drainage features. There is active erosion occurring on this road, but none of this erosion is delivering sediment directly to Smith Lake, Smith Creek or any other stream.

Risks of direct, secondary and cumulative impacts to soil disturbance, soil erosion and subsequent sediment delivery to Smith Lake, Smith Creek or any other stream would likely not be measurable with the proposed road construction and reconstruction project. Reconstruction of 0.24 miles of existing low standard road, bringing it up to a moderate standard would substantially lower the risk of adverse direct, secondary and cumulative impacts

to erosion and soil disturbance issues. All reconstructed segments and all new construction would be surfaced with crushed gravel, which would further reduce the risk of erosion and sediment delivery.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify direct, indirect, and cumulative effects to water resources.

The proposed project area contains an existing low-standard gated road that serves as a walking trail to the Smith Lake Dam and as vehicle access to the dam for administrative purposes. This road is of a low standard, narrow and does contain a few drainage features. There is active erosion occurring on this road, but none of this erosion is delivering sediment directly to Smith Lake, Smith Creek or any other stream. The remainder of the proposed project area has very limited existing roads located away from proposed activity and located away from Smith Lake and Smith Creek.

Risks of direct, secondary or cumulative impacts to water quality from the proposed project would be similar to existing conditions with any differences likely not measurable. Reconstruction and improvement of existing low standard road segments would reduce erosion and sediment delivery from current conditions. Reconstruction would involve widening the road, installing appropriate surface drainage and erosion control features, and surfacing the road with crushed gravel. Surface drainage features would reduce the potential for erosion and subsequent sediment delivery by reducing the erosive power of runoff events. Construction of new road segments would create additional bare soil and ground disturbance. While this may increase the risk of erosion and subsequent sediment delivery, these risks would be reduced by applying all applicable BMPs and crushed gravel surfacing of all new road segments. Overall, risks of direct, secondary and cumulative impacts to water quality from the proposed activity would be low due to mitigation measures and the fact that none of the proposed construction or reconstruction is located within 100 feet of any lake or stream.

6. AIR QUALITY:

What pollutants or particulate would be produced (i.e., particulate matter from road use or harvesting, slash pile burning, prescribed burning, etc)? Identify the Airshed and Impact Zone (if any) according to the Montana/Idaho Airshed Group. Identify direct, indirect, and cumulative effects to air quality.

Minimal effects to air quality are anticipated. If the removal of vegetation requires brush piles to be utilized, smoke particulates from burn piles would likely increase in the short term.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify direct, indirect, and cumulative effects to vegetation.

The Project Area is occupied with a mature timber stand where the overstory dominants are predominantly Douglas-fir and western larch. The stand is well stocked and the structure somewhat multistoried. Low shrubs dominate the understory. Approximately 7.7 acres of timber and understory vegetation would be cleared to accommodate the 1.35 miles of new road construction and 0.24 miles of reconstruction of the existing road.

The location of the proposed road is situated on a moderately steep slope where topography limits current forest management activities. Construction of the road would provide access to these adjacent timbered lands allowing DNRC further commercial forest management opportunities going forward.

Vegetation Mitigations:

- Should the easement be approved by the Land Board, disturbed areas such as cut and fill slopes would be grass seeded with an appropriate grass seed mix during and after construction.,

8. TERRESTRIAL, AVIAN, AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds, or fish. Identify direct, indirect, and cumulative effects to fish and wildlife.

Wildlife habitat in the parcel is primarily comprised of relatively closed canopy ($\geq 40\%$) mature forest. The proposed easement and accompanying new road building would remove approximately 7.7 acres of this habitat. Periodic motorized use of this road could temporarily disturb wildlife in the vicinity. Habituation by most species to motorized traffic would likely occur over time. Continued use of the area by common forest-associated species would be expected. Sensitive species are addressed in Section 9 below. Overall, wildlife species that utilize mature forest with a closed canopy ($\geq 40\%$) would see a minor reduction in habitat quality and a moderate increase in human disturbance.

The Project Area includes white-tailed deer, mule deer, moose, and elk winter range and year-round use by white-tailed deer and elk is likely (DFWP 2008). Construction of the proposed road would remove approximately 7.7 acres of big game winter range and non-winter range habitat, which is a relatively minor impact given the surrounding availability of habitat. Motorized use in the parcel would increase due to residential use. Disturbance from motorized use could extend 500 meters or more beyond the road corridor (Wisdom et al. 2018, McCorquodale 2013, Witmer and deCalesta 1985, Czech 1991) which could reduce big game security and habitat effectiveness. Disturbance from road construction activities would be relatively short-term, but disturbance from residential traffic would exist for the duration of residential use. Approximately 29.5 acres in the parcel and 159.7 acres of adjacent lands could be affected by new disturbance from the proposed road. The impact of disturbance may be diminished if big game habituate to motorized use over time (Naylor et al. 2008, Brown et al. 2012). The proposed road would also facilitate an increase in non-motorized public use of the parcel for recreation and hunting. Disturbance effects from non-motorized use could extend 100 meters from the road corridor and would be additive to motorized disturbance (Wisdom et al. 2018, Taylor & Knight 2003, DNRC Close the Loop EA 2019). New non-motorized disturbance would affect approximately 56.6 acres in the parcel and 11.8 acres on adjacent land. A localized increase in hunting mortality could occur, and off-trail use could further extend disturbance effects of non-motorized use. White-tailed and mule deer are generally more tolerant of human disturbance and likely to habituate more quickly, whereas elk and moose are generally more sensitive to disturbance (Harris et al. 2014). The impacts outlined above would be additive to disturbance/displacement from existing open roads in the parcel (e.g., East Lakeshore Drive) and non-motorized recreation on existing open and restricted roads, as well as potential habitat alteration proposed under The Close the Loop Trail and Public Recreation Use Easement EA (DNRC, January 2019). Direct and indirect impacts on big game is expected to be moderate, while cumulative impacts would be minor.

Fish species present in Smith Lake include eastern brook trout, westslope cutthroat trout and rainbow trout according to FWP's FishMT website. Currently, Montana FWP is regularly stocking Smith Lake with westslope cutthroat trout and rainbow trout. Eastern brook trout are a relic population from historic stocking efforts. No existing sources of sediment delivery to Smith Lake or any other fish habitat in the proposed project area were identified during field reconnaissance. Existing roads in the proposed project area are low standard, and active erosion has been identified in isolated areas. None of this erosion was identified as a sediment source to any fish habitat in the proposed project area. No changes to the existing road system would occur, and no new roads would be constructed. Current impacts to fish populations and habitat would continue to improve or degrade based on natural or pre-existing conditions. Risks of direct, secondary or cumulative impacts to fish populations and habitat from the proposed project would be similar to existing conditions with implementation of the proposed project.

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify direct, indirect, and cumulative effects to these species and their habitat.

The proposed project is within the grizzly bear non-recovery occupied habitat associated with the Northern Continental Divide Ecosystem (USFWS 1993, Wittinger 2002). Occasional use of the area by grizzly bears is likely. The proposed private road would be a gated restricted road and provide legal motorized access for up to

7 single family residences. Construction of approximately 1.35 miles of new road and the reconstruction of approximately 0.24 miles of existing restricted road would remove approximately 7.7 acres of grizzly bear habitat and hiding cover. Motorized activity from road construction and residential use could disturb or displace bears within 500 meters of the road corridor (Procter et. al. 2019). To minimize potential disturbance to grizzly bears during the spring period, motorized road construction activities will be prohibited April 1 through June 15th. However, once built, residential access on the road could occur year-round. New motorized disturbance from the proposed road would impact approximately 29.5 acres in the parcel and 159.7 acres on adjacent lands. The proposed road would also facilitate an increase in non-motorized public use in the parcel. Non-motorized use would likely be concentrated along the proposed road corridor, but off-trail use such as hunting could increase. The increase in non-motorized human use in the area could increase the risk of bear/human conflict and human-caused bear mortality. The impacts outlined above would be additive to potential disturbance/displacement from existing open roads and non-motorized public use, as well as habitat alteration proposed under The Close the Loop Trail and Public Recreation Use Easement EA (DNRC, January 2019). Human-related attractants at adjacent private home sites would continue to be the greatest risk factor to grizzly bears in the area. Direct and indirect impacts on grizzly bears is expected to be moderate, while cumulative impacts would be minor.

Lynx habitat is present in the parcel. Reconstruction of 0.17 miles of existing road and construction of 0.10 miles of new road would remove approximately 1.3 acres of lynx winter forage habitat. Removal of this habitat is unlikely to appreciably alter overall habitat quality or connectivity at the broader scale. Only a small amount of lynx habitat would be directly impacted by the Action Alternative because most habitat in the footprint of the proposed easement is comprised of forest types not preferred or generally used by lynx. Should lynx be present in the parcel, increased motorized and non-motorized activities could disturb and displace lynx from suitable habitat. Lynx habitat removed under this proposal would be additive to potential disturbance and habitat alteration disclosed in The Close the Loop Trail and Public Recreation Use Easement EA (DNRC, January 2019), as well as existing motorized (e.g., East Lakeshore Drive, Smith Lake access road) and non-motorized public recreation disturbance. Due to the large home range size of lynx and the small amount of suitable habitat that would be removed the direct, indirect, and cumulative effects of the proposed action would be negligible.

Proposed activities would reduce potential flammulated owl, fisher, and pileated woodpecker habitats in a portion of the state parcel. Existing habitat conditions and data indicate that appreciable use of the area by flammulated owls and fishers does not likely occur (MNHP 2023). Vegetation clearing and construction/reconstruction of 1.59 miles of road would impact habitat for these sensitive species. The removal of approximately 6.3 acres of potential flammulated owl habitat, 2.9 acres of pileated woodpecker nesting and foraging habitats, and 0.5 acres of potential fisher habitat would not appreciably alter habitat connectivity or the ability of the state parcel to support these species. Remaining forested stands in the state parcel and adjacent ownership would still provide suitable pileated woodpecker, flammulated owl, and fisher habitats. Negligible direct, indirect, or cumulative effects would be anticipated to pileated woodpeckers, flammulated owls, and fisher. Habitats for other sensitive species are either not present and or would not be affected by the proposed activities (MNHP 2023).

Wildlife Mitigations:

- If a threatened or endangered species is encountered, consult a DNRC biologist and develop additional mitigations that are consistent with the Forest Management Rules for managing threatened and endangered species (*ARM 36.11.428 through 36.11.432*).
- Prohibit road construction contractors from carrying firearms while on duty as per *ARM 36.11.432(1)(c)*.
- Construction contractors will adhere to food storage and sanitation requirements as per *ARM 36.11.432(1)(d)*.
- Public motorized access would be restricted at all times and a physical closure (gate) should remain closed at all times on the gated private road easement except when entering or exiting the property. Parking, firewood collection or hunting assisted by vehicles on the road easement would be prohibited
- Prohibit motorized road construction activities more than 100 feet from open roads from April 1 through June 15 per *ARM 36.11.432(2)(c)(iv)*.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine direct, indirect, and cumulative effects to historical, archaeological, or paleontological resources.

None. Should any historical archeological or cultural features be discovered during construction, work would be suspended until the site can be properly evaluated.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify direct, indirect, and cumulative effects to aesthetics.

Portions of the Project Area would be visible both from East Lakeshore Drive County Road and East Smith Road and possibly Whitefish Lake

One observable aesthetic change to the Project Area would be the installation of a new gate, additional parking area and the 1.35 miles of new road construction. The visible impact of the new road would be most obvious to recreationalists either hiking or biking along East Smith Road.

Some recreationalists may consider the new road construction aesthetically displeasing. The most noticeable road features would be areas of cut and fill along steeper slopes and switchbacks. These areas would clearly be seen for the first few years until grass and other shrubs have time to revegetate the disturbed areas.

Aesthetic Mitigations:

- Grass seeding of Cut and fills with appropriate mix and use of natural benches will minimize visibility of road.

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify direct, indirect, and cumulative effects to environmental resources.

No effects to limited environmental resources are anticipated.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state, or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

- **Smith Lake Trail Rehab Project – Scoped November 2022.** This project proposal would include the reconstruction and partial reclamation of a user-built trail that currently accesses the crest of Smith Lake Dam located near the north end of Whitefish Lake. Environmental Analysis for this project is expected to be published by May 1, 2023, with a proposed implementation date of June 15, 2023.
- **Swift Smith Blowdown Timber Project EA – Published June 2020.** Primary objectives included salvage and captured value of blown down and damaged timber, reopen roads and areas to general and licensed recreational uses, lessen the risk and severity of wildfire and limit the spread of Douglas-fir bark beetle. This project was completed in 2021.
- **Close the Loop Trail and Public Recreation Use Easements EA – Published January 2019.** This project originally analyzed for the purchase of a permanent trail easement on 16.7 acres and a Public Recreation Use Easement on 480 acres in the Swift Creek/Smith Lake area. Proposed amendments to the acreage to be encumbered under an easement are currently being discussed between the City of Whitefish, Whitefish Legacy Partners and DNRC. Any proposed changes will need to be additionally analyzed for prior to an easement being granted.

- **Smith Lake Dam Reconstruction Checklist EA – Published April 2010.** This project included replacing the deteriorating concrete spillway built in 1958 with an earthen dam spillway which would allow for the lake to remain at full pool. This project was completed in 2012.

IV. IMPACTS ON THE HUMAN POPULATION

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

Currently, motorized access of East Smith Road is limited to administrative use only. Granting an easement to the RUA would increase the motorized use of this road. The additional use would be limited to typical vehicle use associated with seven single family residences. A Flathead County approach permit may be needed for any planned upgrades to the existing approach onto the county roadway. All work performed under a permit would be supervised by the Flathead County Road Department to protect public safety.

The Project Area is forested land that lies within Flathead County's Wildland Urban Interface ("WUI"). WUI comprises of areas within an "at-risk community" or adjacent to a community within 1.5 miles. Communities at risk consist of a group of homes and other structures with basic infrastructure and services within or adjacent to forested land. Construction of the proposed road would provide motorized access for emergency services to three legally inaccessible(currently) private landowners as well as provide motorized access to DNRC trust land located on moderately steep slopes where engaging a wildfire poses challenges.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

No effects to industrial, commercial and agriculture activities are anticipated.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move, or eliminate. Identify direct, indirect, and cumulative effects to the employment market.

No effects to quantity and distribution of employment are anticipated.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify direct, indirect, and cumulative effects to taxes and revenue.

No effects to local and state tax base and tax revenues are anticipated.

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify direct, indirect, and cumulative effects of this and other projects on government services

No effects to government services are anticipated.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning, or management plans, and identify how they would affect this project.

Smith Lake Dam Emergency Action Plan (DNRC, implemented in 2012 and updated annually)

The purpose of the Emergency Action Plan (EAP) is primarily to safeguard lives and secondarily to reduce property damage to the citizens of Flathead County living near the town of Whitefish, and along Smith Creek and Whitefish Lake, in the event of flooding caused by a failure of Smith Lake Dam.

Whitefish School Trust Lands Neighborhood Plan (WTLAC 2004)

The Project Area is part of the Swift Creek Subarea of the Whitefish Neighborhood Plan. Specific concepts and implementation strategies for this subarea apply, namely the goals of enhancing developed recreation with a multi-use trail system.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify direct, indirect, and cumulative effects to recreational and wilderness activities.

The Project Area receives a moderate level of non-motorized recreational use” by the general public. The area is mostly used for hiking, biking, fishing, hunting, and general access to Smith Lake. Smith Lake is most easily accessible via West Smith Road which is managed as open to motorized use year-round. The Swift Creek section of the licensed Whitefish Trail ends at the West Smith Road roundabout.

The City of Whitefish has proposed to reconstruct and provide improvements to the existing user-built trail that leads down to Smith Lake Dam from the West Smith Road roundabout. The environmental analysis for this project was published and made available online on June 15, 2023. Implementation of this project started mid-July and was completed in September of 2023. This “improvement” project will likely increase recreational use of Smith Lake and subsequently increase traffic on West Smith Road.

The East Smith Road is a gated road managed as restricted to motorized use by the public; however, snowmobile use is allowed behind the closure between December 1st and March 31st. There is an existing parking area adjacent to the gate that can accommodate up to 4-5 vehicles for those wanting to access East Smith Road by foot or non-motorized bicycle.

Should an easement be granted to the Eagle Rock RUA, a new gate would be installed approximately 150 feet north of the current gate location and parking area. Additional parking would be built adjacent to the new gate location which would accommodate space for a larger parking area for a possible future Whitefish Trail trailhead.

East Smith Road would continue to be managed as restricted to motorized use by the public; however, non-motorized use would continue to be allowed within the DNRC property boundaries.

The proposed road easement lies within the boundaries of the proposed Smith Lake Public Recreation Use Easement (“PRUE”) area. The City of Whitefish (“City”) in partnership with Whitefish Legacy Partners (“WLP”) has applied to the MT DNRC for the purchase of a roughly 600-acre easement which would secure public access into perpetuity as well as provide for additional trails and trailheads to be constructed. The easement application submitted by the City includes additional acres to be encumbered under the easement and trail location modifications that were not originally analyzed for under the Close the Loop Trail and Public Recreation Use Easements EA published in January 2019. Additional analysis for this project is necessary before the Smith Lake PRUE can be brought before the Land Board for approval. Public scoping for modifications to the original EA is expected to be released in August of 2023 with the final EA expected to be published in early spring 2024. DNRC remains committed to working with the City of Whitefish and Whitefish Legacy Partners to find solutions where both the Smith Lake PRUE and East Smith Private Driveway easement would be mutually beneficial.

Recreation Mitigations: Install sign at new gate location which state nonmotorized public access is allowed on state lands behind the closure.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify direct, indirect, and cumulative effects to population and housing.

No effects to density and distribution of population and housing are anticipated.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

No effects to disruption of native or traditional lifestyles or communities are anticipated.

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

No effects to any unique quality are anticipated.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify direct, indirect, and cumulative economic and social effects likely to occur as a result of the proposed action.

Should an easement be approved by the Land Board, revenue generated from this parcel would benefit the School for the Deaf & Blind Trust. An appraisal, contracted by a third party reviewed the State's parcel and delivered an appraisal report on November 12, 2023. The estimated return to the trust for the easement is \$334,540.00, based on an estimated land value of \$43,000.00per acre.

Furthermore, additional revenue will be generated from the "conveyance fee" which each tract of record is subject to as outlined in the Land Board's Access Road Easement Policy, September 18, 2006.

A minimum of three lots (three landowners) will be subjected to the fee. This "fee", 1% of the sale price or market value as determined by the Department for lands sold.

EA Checklist Prepared By:	Name: Nicole Porter	Date: July 24, 2023
	Title: Special Uses Program Manager	

V. FINDING

25. ALTERNATIVE SELECTED:

Upon Review of the Checklist EA and attachments, I find the Action Alternative, as proposed, meets the intent of the project objectives as stated in Section I – Type and Purpose of Action The lands involved in this project are held by the State of Montana in trust for the support of specific beneficiary institutions and DNRC is required by law to administer these trust lands to produce the largest measure of reasonable and legitimate return over the long run (Enabling Act of February 22, 1889; 1972 Montana Constitution, Article X Section 11; and, 77-1-212 MCA).

The Action Alternative complies with all pertinent environmental laws, the DNRC SFLMP and HCP, and is based upon a consensus of professional opinion on limits of acceptable environmental impact. This Action Alternative also addresses the 40 public comments received during the public scoping process. For these reasons and on behalf of DNRC I have selected the Action Alternative to be implemented on this project.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

After a review of the scoping documents and comments, project file, Forest Management Rules, SFLMP and HCP checklists, and Department policies, standards, and guidelines, I find that all the identified resource management concerns have been fully addressed in this Checklist EA and its attachments.

Specific project design features and various recommendations by the resource management specialists will be implemented to ensure that this project will fall within the limits of environmental change. Taken individually and cumulatively, the proposed activities are common practices, and no project activities are being conducted on important unique or fragile sites. I find there will be no significant impacts to the human environments as a result of implementing the Action Alternative. In summary, I find that the identified adverse impacts will be controlled, mitigated, or avoided by the design of the project to the extent that the impacts are not significant.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

☐ EIS
 ☐ More Detailed EA
 ☒ No Further Analysis

EA Checklist Approved By:	Name: Dave Ring
	Title: Stillwater Unit Manager
Signature: /s/ David A. Ring	
Date: February 26, 2024	