

## Environmental Assessment Checklist

**Project Name:** Shay Lake Open Road & Non-exclusive Private Driveway Proposal

**Proposed Implementation Date:** Fall, 2015

**Proponent:** Swan Unit, Northwest Land Office, Montana DNRC

**County:** Lake

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### Type and Purpose of Action

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**Description of Proposed Action:**

The Swan Unit of the Montana Department of Natural Resources and Conservation (DNRC) is proposing the Shay Lake Open Road & Non-exclusive Private Driveway Project. The project is located approximately 15 miles south of Swan Lake, Montana (refer to Attachments vicinity map A-1 and project maps A-2a and A-2b) and includes the following sections:

Beneficiary	Legal Description	Total Acres	Road Length Feet
Common Schools	Sec 36, T23N, R31W Sec 31 T23N, R17W	5.70	8270
Public Buildings			
MSU 2 <sup>nd</sup> Grant			
MSU Morrill			
Eastern College-MSU/Western College-U of M			
Montana Tech			
University of Montana			
School for the Deaf and Blind			
Pine Hills School			
Veterans Home			
Public Land Trust			
Acquired Land (Common Schools)	Sec 25, 29 T23N, R18W	2.03	2941

The Swan Unit is proposing to reopen the southern portion of Shay Lake Road to motorized use. A portion of the road to the south would be closed seasonally (April 1<sup>st</sup> to June 15<sup>th</sup>) to avoid damage to that portion of the road during wet spring conditions (see A-2a). To maintain road density thresholds required under the Swan Valley Grizzly Bear Conservation Agreement within the Porcupine/Woodward Subunit, 0.48 mile of the South Woodward Road would be closed to motorized traffic year-long (see A-2b). Also, DNRC is proposing to issue a non-exclusive permanent private driveway easement across State trust land to Mr. Gary Whalen off that same portion of Shay Lake Road (see A-2a). The easement would provide Mr. Whalen access to his private property in the southwest corner of Section 31, T23N, R17W. Opening the Shay Lake Road would again allow the public motorized access to Shay Lake in the southwest corner of Section 6, T22N, R17W.

Mr. Whalen's right-of-way easement would be 30 feet in width with 4088 feet on existing road and 1135 feet on newly constructed road, encumbering approximately 3.6 acres of State trust land. The easement would be issued in the fall of 2015.

Objectives of the project include:

- Compensate the school trusts while allowing for a non-exclusive permanent private driveway easement across State lands on the Swan River State Forest.
- To provide Mr. Whalen a legal route of access to his private property in the southwest corner of Section 31, T23N, R17W.
- To provide the public with motorized access to the southern portion of Section 36 and an opportunity to continue across USFS ownership to access Shay Lake. Trust lands would be compensated for recreational opportunities by a portion of the proceeds from the purchase of state conservation licenses.
- To maintain open road density thresholds required under the Swan Valley Grizzly Bear Conservation Agreement

Proposed activities include:

Action	Quantity
<b>Proposed Harvest Activities</b>	<b># Acres</b>
Clearcut for road right-of-way	0.78
Seed Tree	
Shelterwood	
Selection	
Commercial Thinning	
Salvage	
<b>Total Treatment Acres</b>	
<b>Proposed Forest Improvement Treatment</b>	<b># Acres</b>
Pre-commercial Thinning	
Planting	
<b>Proposed Road Activities</b>	<b># Miles</b>
New permanent road construction	0.21
Closing road year-long to motorized use	0.48
Opening road to year-long motorized use	0.77
Restricted private use only	0.21
Restricted seasonally (April 1 – June15)	0.65
<b>Other Activities</b>	

<b>Duration of Activities:</b>	Permanent
<b>Implementation Period:</b>	Summer, 2015

The lands involved in this proposed project are held in trust by the State of Montana. (Enabling Act of February 22, 1889; 1972 Montana Constitution, Article X, Section 11). The Board of Land Commissioners and the DNRC are required by law to administer these trust lands to produce the largest measure of reasonable and legitimate return over the long run for the beneficiary institutions (Section 77-1-202, MCA).

The DNRC would manage lands involved in this project in accordance with:

- The State Forest Land Management Plan (DNRC 1996),
- Administrative Rules for Forest Management (ARM 36.11.401 through 471),
- The Montana DNRC Forested State Trust Lands Habitat Conservation Plan (HCP) (DNRC 2010)
- Swan Valley Grizzly Bear Conservation Agreement
- West Swan Conservation Easement and accompanying Management Plan
- and all other applicable state and federal laws.

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## Project Development

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### SCOPING:

- DATE:
  - Opened March 24, 2015, closed April 17, 2015
- PUBLIC SCOPED:
  - The scoping notice was posted on the DNRC Website:  
<http://dnrc.mt.gov/PublicInterest/Notices/Default.asp>
  - Adjacent landowners, statewide scoping list.
- AGENCIES SCOPED:
  - FWP, tribes, USFS.
- COMMENTS RECEIVED:
  - How many: Two Comments.
  - Concerns: 1) Adjacent landowner: Road may be located adjacent to property line where there is a wetland. 2) Friends of the Wild Swan: Move toward subunit open road and total road density requirements.
  - Results (how were concerns addressed):
    - Road was moved away from wetland and property line to a better location on higher and dryer ground.
    - Approximately a half mile of road in the upper elevations of South Woodward Creek (see A-2b) was closed year-long to motorized use. The closure was placed in a more secure location to prevent ATV use.

DNRC specialists were consulted, including: Chris Forristal (Wildlife Biologist), Marc Vessar (Hydrologist), Christie Hollenbeck (Right-of-way Specialist).

Internal and external issues and concerns were incorporated into project planning and design and will be implemented in associated contracts.

## **OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS**

**NEEDED:** (*Conservation Easements, Army Corps of Engineers, road use permits, etc.*)

- **United States Fish & Wildlife Service-** DNRC is managing the habitats of threatened and endangered species on this project by implementing the Montana DNRC Forested Trust Lands HCP and the associated Incidental Take Permit that was issued by the United States Fish & Wildlife Service (USFWS) in February of 2012 under Section 10 of the Endangered Species Act. The HCP identifies specific conservation strategies for managing the habitats of grizzly bear, Canada lynx, and three fish species: bull trout, westslope cutthroat trout, and Columbia redband trout. This project complies with the HCP. The HCP can be found at [www.dnrc.mt.gov/HCP](http://www.dnrc.mt.gov/HCP).
- **Montana Department of Environmental Quality (DEQ)-** DNRC is classified as a major open burner by DEQ and is issued a permit from DEQ to conduct burning activities on state lands managed by DNRC. As a major open-burning permit holder, DNRC agrees to comply with the limitations and conditions of the permit.
- **Montana/Idaho Airshed Group-** The DNRC is a member of the Montana/Idaho Airshed Group which was formed to minimize or prevent smoke impacts while using fire to accomplish land management objectives and/or fuel hazard reduction (Montana/Idaho Airshed Group 2006). The Group determines the delineation of airsheds and impact zones throughout Idaho and Montana. Airsheds describe those geographical areas that have similar atmospheric conditions, while impact zones describe any area in Montana or Idaho that the Group deems smoke sensitive and/or having an existing air quality problem (Montana/Idaho Airshed Group 2006). As a member of the Airshed Group, DNRC agrees to burn only on days approved for good smoke dispersion as determined by the Smoke Management Unit.
- **Montana Department of Fish, Wildlife and Parks (DFWP)-** Oversees compliance with the West Swan Conservation Easement requirements. 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.
- **Swan Valley Grizzly Bear Conservation Agreement:** In relation to grizzly bears, cumulative effects of timber management and road construction were analyzed in the Environmental Assessment (EA) and Biological Opinion for the SVGBCA (*U.S. Fish and Wildlife Service [USFWS], 1995a and 1995b*). Timber harvesting and road use related to the proposed alternative would be conducted in accordance with this agreement (*USFWS et al, 1997*).

## **ALTERNATIVES CONSIDERED:**

**No-Action Alternative:** The No-Action Alternative is used as a baseline for comparing the effects that the Action Alternative would have on the environment and is considered a possible alternative for selection. Under this alternative, the proposed opening of Shay Lake Road to motorized use would not occur. No private driveway easement would be issued. Firewood permits, recreational use, fire suppression, noxious-weed control, road and closure maintenance, and other management activities may still occur.

**Action Alternative:** Reopen the southern portion of Shay Lake Road to motorized use, and issue a non-exclusive permanent private driveway easement across State trust land to Mr. Gary Whalen off that same portion of Shay Lake Road.

## Impacts on the Physical Environment

Evaluation of the impacts on the No-Action and Action Alternatives including **direct, secondary, and cumulative** impacts on the Physical Environment.

### VEGETATION:

**Vegetation Existing Conditions:** The proposed easement area consists of a single-storied stand approximately 120 years of age. Species composition is primarily western larch and lodgepole pine. The stand is not classified as old growth.

Vegetation	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
<b>No-Action</b>														
Noxious Weeds	X				X				X					
Rare Plants	X				X				X					
Vegetative community	X				X				X					
Old Growth	X				X				X					
<b>Action</b>														
Noxious Weeds	X					X			X				Yes	N/A
Rare Plants	X				X				X					
Vegetative community		X			X				X				Yes	N/A
Old Growth	X				X				X					

*Comments:* Invasive species could be transported to the site on vehicles, and establish on soil exposed during new road construction. Timber and other vegetation would be removed from 0.78 acre during new road construction.

*Vegetation Mitigations:* Areas where soil is exposed during new road construction would be revegetated by direct grass seeding to prevent the establishment of weeds. A gate will be placed on the newly constructed road that will limit traffic use to only the land owner needing to access his land.

### SOIL DISTURBANCE AND PRODUCTIVITY:

**Soil Disturbance and Productivity Existing Conditions:** Soil Disturbance and Productivity Existing Conditions: The landforms and valley observed today in the Swan Valley are largely a result of glacial and fluvial processes. Soils in the project area adjacent to the valley floor include deep alluvial and glacial deposits on low grades.

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Soil Disturbance and Productivity	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
<b>No-Action</b>														
Physical Disturbance (Compaction and Displacement)	X				X				X					
Erosion	X													
Nutrient Cycling	X													
Slope Stability	X													
Soil Productivity	X													
<b>Action</b>														
Physical Disturbance (Compaction and Displacement)				X	X					X			No	1
Erosion	X													
Nutrient Cycling	X													
Slope Stability	X													
Soil Productivity				X	X					X			Yes	1

*Comments:* 1. New road construction will occur on 0.78 acres. This area would be taken out of forest production due to the compaction associated with permanent roads. Some portions of the existing Shay Lake Road to the south have poor surface drainage due to flat topography. This allows the road to become rutted by traffic.

*Soil Mitigations:* To limit the area of impact, the road would be constructed to the minimum width necessary to safely pass vehicles. The new and existing road would have surface drainage designed to accommodate all-weather use where road use is year-long. A gated closure would be placed on that portion of Shay Lake Road that is poorly drained during the spring. The closure would be in place April 1<sup>st</sup> through June 15<sup>th</sup>.

**WATER QUALITY AND QUANTITY:**

**Water Quality and Quantity Existing Conditions:** Cedar Creek is in close proximity to short portions of the existing Shay Lake Road. Cedar Creek is a low-gradient stream with a groundwater-influenced flow regime. This stream does not fluctuate greatly from base flow to peak flows with a low potential for bank erosion. There are some low depressions and one draw in the vicinity of new road construction that hold surface water during spring snow-melt.

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Water Quality & Quantity	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
<b>No-Action</b>														
Water Quality	X				X				X					
Water Quantity	X				X				X					
<b>Action</b>														
Water Quality	X				X				X					1
Water Quantity	X				X				X					

*Comments:* 1. Gentle slopes and well established vegetative filters greatly reduce any risk of sediment delivery to Cedar Creek, depressions and draws from existing and newly constructed roads.

*Water Quality & Quantity Mitigations:* Revegetated all new road surfaces by grass seeding. New road construction would only occur during dry conditions. The new and existing road would have surface drainage designed to accommodate all-weather use where road use is year-long. A gated closure would be placed on that portion of Shay Lake Road that is poorly drained during the spring. The closure would be in place April 1<sup>st</sup> through June 15<sup>th</sup>. Culvert placement during new road construction would only be done when draws are dry.

**FISHERIES:**

**Fisheries Existing Conditions:** Cedar Creek is in close proximity to short portions of the existing Shay Lake Road. Cedar Creek is a low-gradient stream with a groundwater-influenced flow regime. Cedar Creek is fish-bearing containing bull trout, west slope cutthroat trout, long-nose sucker, eastern brook trout, and rainbow trout.

**No-Action:** No direct or indirect impacts would occur to affected fish species or affected fisheries resources beyond those described in Fisheries Existing Conditions. Cumulative effects (other related past and present factors; other future, related actions; and any impacts described in Fisheries Existing Conditions) would continue to occur.

**Action Alternative (see Fisheries table below):**

Fisheries	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
<b>No-Action</b>														
Sediment	X				X				X					
Flow Regimes	X				X				X					
Woody Debris	X				X				X					
Stream Shading	X				X				X					
Stream Temperature	X				X				X					
Connectivity	X				X				X					
Populations	X				X				X					
<b>Action</b>														

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Fisheries	Impact												Can Impact Be Mitigated?	Comment Number		
	Direct				Secondary				Cumulative							
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High				
Sediment	X				X				X							1
Flow Regimes	X				X				X							
Woody Debris	X				X				X							
Stream Shading	X				X				X							
Stream Temperature	X				X				X							
Connectivity	X				X				X							
Populations	X				X				X							

*Comments:* 1. Gentle slopes and well established vegetative filters greatly reduce any risk of sediment delivery to Cedar Creek, depressions and draws from existing and newly constructed roads.

*Fisheries Mitigations:* Revegetated all new road surfaces by grass seeding. New road construction would only occur during dry conditions. The new and existing road would have surface drainage designed to accommodate all-weather use where road use is year-long. A gated closure would be placed on that portion of Shay Lake Road that is poorly drained during the spring. The closure would be in place April 1<sup>st</sup> through June 15<sup>th</sup>. Culvert placement during new road construction would only be done when draws are dry.

**WILDLIFE:**

**No-Action:** Under the No-Action Alternative, a driveway easement would not be granted, no changes to existing roads would occur and wildlife habitat would not be altered. Thus, no direct, indirect or cumulative effects to terrestrial wildlife species would be anticipated.

**Action Alternative (see Wildlife table below):**

Wildlife	Impact												Can Impact be Mitigated?	Comment Number		
	Direct				Secondary				Cumulative							
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High				
<b>Threatened and Endangered Species</b>																
<b>Grizzly bear</b> <i>(Ursus arctos)</i> Habitat: Recovery areas, security from human activity		X				X					X				Y	1.
<b>Canada lynx</b> <i>(Felix lynx)</i> Habitat: Subalpine fir habitat types, dense sapling, old forest, deep snow zone		X				X					X				Y	2.
<b>Wolverine</b> <i>(Gulo gulo)</i>		X				X					X				Y	3.

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Wildlife	Impact												Can Impact be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
Sensitive Species	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
<b>Bald eagle</b> <i>(Haliaeetus leucocephalus)</i> Habitat: Late-successional forest within 1 mile of open water	X				X				X				N/A	4.
<b>Black-backed woodpecker</b> <i>(Picoides arcticus)</i> Habitat: Mature to old burned or beetle-infested forest	X				X				X				N/A	4.
<b>Coeur d'Alene salamander</b> <i>(Plethodon idahoensis)</i> Habitat: Waterfall spray zones, talus near cascading streams	X				X				X				N/A	4.
<b>Columbian sharp-tailed grouse</b> <i>(Tympanuchus Phasianellus columbianus)</i> Habitat: Grassland, shrubland, riparian, agriculture	X				X				X				N/A	4.
<b>Common loon</b> <i>(Gavia immer)</i> Habitat: Cold mountain lakes, nest in emergent vegetation	X				X				X				N/A	4.
<b>Fisher</b> <i>(Martes pennanti)</i> Habitat: Dense mature to old forest less than 6,000 feet in elevation and riparian	X				X				X				N/A	4.
<b>Flammulated owl</b> <i>(Otus flammeolus)</i> Habitat: Late-successional ponderosa pine and Douglas-fir	X				X				X				N/A	4.

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Wildlife	Impact												Can Impact be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
forest														
<b>Gray Wolf</b> <i>(Canis lupus)</i> Habitat: Ample big game populations, security from human activities		X				X				X			Y	5.
<b>Harlequin duck</b> <i>(Histrionicus histrionicus)</i> Habitat: White-water streams, boulder and cobble substrates	X				X				X				N/A	4.
<b>Northern bog lemming</b> <i>(Synaptomys borealis)</i> Habitat: Sphagnum meadows, bogs, fens with thick moss mats	X				X				X				N/A	4.
<b>Peregrine falcon</b> <i>(Falco peregrinus)</i> Habitat: Cliff features near open foraging areas and/or wetlands	X				X				X				N/A	4.
<b>Pileated woodpecker</b> <i>(Dryocopus pileatus)</i> Habitat: Late-successional ponderosa pine and larch-fir forest	X				X				X				N/A	4.
<b>Townsend's big-eared bat</b> <i>(Plecotus townsendii)</i> Habitat: Caves, caverns, old mines	X				X				X				N/A	4.
<b>Big Game Species</b>														
<b>Elk</b>		X				X				X				6.
<b>Whitetail</b>		X				X				X				6.
<b>Mule Deer</b>		X				X				X				6.
<b>Other</b>														

*Comments:*

1. The project area lies within the grizzly bear recovery zone associated with the Northern Continental Divide Ecosystem (NCDE). The proposed Action Alternative would open approximately 1.4 miles of previously restricted road, close approximately 0.5 miles of previously open road, and construct approximately 0.2 miles of restricted driveway road. Overall, there would be a net gain of approximately 0.9 miles of open road and 0.2 miles of new restricted road. Motorized activities resulting from driveway construction and long-term use, as well as the opening of previously restricted roads could displace bears, should they be in the area. Driveway construction would be less than one month in duration and be localized to a relatively small area (0.8 acres). The private driveway would be treated as a gated, restricted road used only for landowner and guest access to private property. The Action Alternative would increase open road density (ORD) within the Porcupine-Woodward Grizzly Bear Subunit by 0.8 percent and ORD would remain below the 33% threshold mandated in the Swan Valley Grizzly Bear Conservation Agreement (SVGBCA) at 32.3% (see Table WL1 below). Total road density (TRD) within the subunit would increase by less than 0.001 percent. Security habitat would not be affected by the proposed Action. Opening roads and driveway construction would affect an area in close proximity (<0.25 miles) to other private driveways and roads open to motorized disturbance, whereas the South Woodward Road closure area receives less human activity and associated disturbance. Thus, the road closure on South Woodward road would be expected to provide proportionally greater benefits to bears in terms of security and reduced risk factors for bears than the area being opened to motorized use. Additional road restrictions during the spring period (April 1 – June 15) on 0.7 miles of the Shay Lake Road would reduce sources of motorized disturbance to bears when they are most nutritionally stressed. Hiding cover would not be affected by the proposed actions, as vegetation is currently too open in the vicinity of the proposed driveway construction to provide cover but some visual screening is present due to rolling topography. Given the small scale of the new road construction activity, associated mitigations that would be in place, and long-term change in locations used for public motorized access, minor adverse direct, secondary and cumulative effects to grizzly bears associated with this project would be anticipated.

**Table WL1.** Open and total road density estimates using Moving Windows Analysis (Ake 2008) for the Shay Lake Open Road and Non-exclusive Private Driveway Project. Percentages reflect changes in density anticipated at the scale of the Porcupine Woodward Grizzly Bear Subunit.

Action	Open Road Density %	Total Road Density %
No-Action Alternative	31.5	78.3
Action Alternative (June 16- March 31)	32.3	78.3
Action Alternative Spring Period (April 1 – June 15)	26.0	78.3

2. The project area currently contains a mix of suitable and temporarily unsuitable lynx habitat. Under the proposed action approximately 0.5 miles of currently open road in suitable lynx habitat would be restricted, approximately 1.4 miles of currently restricted road in a mix of suitable and temporarily unsuitable lynx habitat would be opened, and approximately 0.2 miles of new road construction would occur in temporary nonsuitable lynx habitat. Only the new road construction would alter potential lynx habitat, and this would occur in habitat that is currently too open to be considered suitable habitat. However because of private driveway construction, approximately 0.8 acres would not grow into lynx habitat for the term of the easement. The proposed driveway area does not contain any landscape features (e.g. streams, ridgelines) that lynx frequently use while hunting or traveling. Suitable forested habitat is abundant in the local landscape and cumulative effects analysis area, thus, removal of trees from these 0.8 acres would not preclude lynx from using the area, or appreciably affect the abundance of snowshoe hares at the scale of a lynx home range. Road clearing would create a relatively narrow opening in the vegetation and would not be expected to appreciably alter overall habitat quality or connectivity for lynx at the broader scale. In addition, the roads that would be constructed or opened under the Action Alternative occur in lower elevation lands adjacent to private lands and areas already subjected to higher levels of human disturbance, whereas the open road to be closed is situated in higher-quality lynx habitat and away from human dwellings. Given the type, scope and location of proposed actions, adverse direct, secondary and cumulative impacts to lynx would be minor.

3. Wolverines could potentially travel through the project area occasionally, however, high elevation persistent snow zones and suitable denning habitat do not occur on the project area or cumulative effects analysis area. Thus, potential for adverse direct, secondary and cumulative effects to wolverines or their habitat would be low.

4. This species was evaluated and it was determined that the project area lies outside of the normal distribution for the species, and/or suitable habitat was not found to be present.

5. Wolves could potentially use the project area. Disturbance associated with logging near den and rendezvous locations can adversely affect wolves. If den or rendezvous sites are encountered during operations or if they are identified by DFWP timing restrictions would be developed and applied (*ARM 33.11.430(1)(a)(b)*). Thus, negligible adverse direct, secondary, or cumulative effects to wolves would be anticipated as a result of the Action Alternative.

6. The project area falls within the distribution of elk, mule deer, and white-tailed deer. Approximately 0.8 miles of Shay Lake road opened to public motorized use could be a source of disturbance to big game, however this restricted road has been receiving some unauthorized motorized use by adjacent landowners for some time. Closure of 0.5 miles of the open South Woodward Road would create new areas free of public motorized disturbance and offset some of the effects associated with opening roads near Shay Lake. Hiding and thermal cover would be affected on approximately 0.8 acres where 0.2 miles of driveway would be constructed. Construction activities could disturb and displace elk and

deer, however, displacement would likely be short term and of short duration. High-quality thermal cover/snow intercept is lacking in most of the area due to widely scattered lodgepole pine being the primary cover type. Private driveway construction activities would take place within 0.25 miles of an existing private road serving multiple properties and home sites directly to the east. The new driveway easement would be gated and treated as a restricted road. Public motorized access would remain restricted during and after the proposed activities, however the new road would provide an additional not-motorized access point to the area for hunting and other recreation. Additional mitigation measures that would be applied include spring closures on 0.7 miles of the newly opened Shay Lake road from April 1 to June 15. No appreciable changes in long-term use of the project area by any of the three species would be expected. Given the scale of the proposed activities, lack of existing high-quality thermal cover in the driveway easement area, short duration of the construction activity and associated mitigations that would be in place, minor adverse direct, indirect, and cumulative effects to elk and deer would be anticipated.

*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 36.11.435*).
- Prohibit contractors conducting operations from carrying firearms while on duty as per *ARM 36.11.444(2)* and *GB-PR2 (USFWS and DNRC 2010)*.
- Contractors will adhere to food storage and sanitation requirements as per *GB-PR3 (USFWS and DNRC 2010)*.
- Public access would be restricted at all times on restricted roads and a physical closure (gate) should remain closed at all times on the private driveway easement except when entering or exiting the property. Parking or motorized hunting on the driveway easement would be prohibited.
- Minimize potential disturbance to grizzly bears during the spring period by restricting public motorized use from April 1 through June 15.

**AIR QUALITY:**

Air Quality	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
<b>No-Action</b>														
Smoke	X				X				X					
Dust	X				X				X					
<b>Action</b>														
Smoke		X			X					X			Yes	
Dust		X			X				X				Yes	

**Comments:** Some smoke would be generated when right-of-way piles are burned. Dust would be slightly increased due to increased vehicle traffic.

*Air Quality Mitigations:* Due to the small size of the project, no increases are expected to exceed standards or impact local population centers if burning is completed within the requirements imposed by the Montana Airshed Group.

**ARCHAEOLOGICAL SITES / AESTHETICS / DEMANDS ON ENVIRONMENTAL RESOURCES:**

Will Alternative result in potential impacts to:	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
<b>No-Action</b>														
Historical or Archaeological Sites	X				X				X					
Aesthetics	X				X				X					
Demands on Environmental Resources of Land, Water, or Energy	X				X				X					
<b>Action</b>														
Historical or Archaeological Sites	X				X				X					
Aesthetics	X				X				X					
Demands on Environmental Resources of Land, Water, or Energy	X				X				X					

*Comments:* There are no visible cultural sites within the easement corridor. A DNRC Archaeologist was contacted during project scoping. There was no indication that there were any known cultural resources on file for this site.

*Mitigations:* A contract clause within the Construction Agreement provides for suspending operations if cultural resources are discovered. Construction can only resume at the discretion of DNRC.

**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.*

- Scout Lake Multiple Timber Sale Project (2012)
- Shay Lake Easement Exchange Project (2013)
- Wood Lion (Proposed)

## Impacts on the Human Population

Evaluation of the impacts on the proposed action including **direct, secondary, and cumulative** impacts on the Human Population.

Will Alternative result in potential impacts to:	Impact												Can Impact Be Mitigated?	Comment Number	
	Direct				Secondary				Cumulative						
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High			
<b>No-Action</b>															
Health and Human Safety	X				X				X						
Industrial, Commercial and Agricultural Activities and Production	X				X				X						
Quantity and Distribution of Employment	X				X				X						
Local Tax Base and Tax Revenues	X				X				X						
Demand for Government Services	X				X				X						
Access To and Quality of Recreational and Wilderness Activities	X				X				X						
Density and Distribution of population and housing	X				X				X						
Social Structures and Mores	X				X				X						
Cultural Uniqueness and Diversity	X				X				X						
<b>Action</b>															
Health and Human Safety	X				X				X						
Industrial, Commercial and Agricultural Activities and Production	X				X					X				Yes	
Quantity and Distribution of Employment		X			X				X					N/A	
Local Tax Base and Tax Revenues	X				X				X						
Demand for Government Services	X				X					X				Yes	
Access To and Quality of Recreational and			X		X				X					Yes	

Shay Lake Open Road & Non-exclusive Private Driveway Project  
Montana Department of Natural Resources and Conservation

Will Alternative result in potential impacts to:	Impact												Can Impact Be Mitigated?	Comment Number
	Direct				Secondary				Cumulative					
	No	Low	Mod	High	No	Low	Mod	High	No	Low	Mod	High		
Wilderness Activities														
Density and Distribution of population and housing		X			X					X			No	
Social Structures and Mores	X				X				X					
Cultural Uniqueness and Diversity	X				X				X					

*Comments:*

- New road construction would remove 0.8 acre from the SRSF timber base.
- New road construction would create short-term work for a local contractor. Access to private property could result in the construction of a private residence possibly impacting the local fire service area if the structure caught fire or had to be protected from wildfire.
- Opening Shay Lake Road to motorize would increase fishing use on Shay Lake. FWP would have more incentive to manage the recreational fishery
- Legal access to public property would likely result in the construction of an additional residence.

*Mitigations:*

- Road could possibly be abandoned in the future and allowed to grow trees again.
- Provide for defensible space around residences in case of wildfire. Lake County subdivision regulations limit the number of property subdivisions and residences that this standard of road can access.
- Maintain Shay Lake Road's year-long motorized use restriction.

**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.*

- DNRC Access Road Easement Policy
- Lake County Subdivision Regulations
- DNRC/FWP 2004 Memorandum of Agreement for Conservation License 2\$ Recreational Use Fee

**Other Appropriate Social and Economic Circumstances:**

Costs, revenues and estimates of return are estimates intended for relative comparison of alternatives. They are not intended to be used as absolute estimates of return. The estimated stumpage is based on comparable sales analysis. The estimate of land value is comparable land sales in the local area.

**No Action:** The No Action alternative would not generate any return to the trust at this time.

**Action:** The DNRC would grant a non-exclusive permanent private driveway easement across State trust land to Mr. Whalen. The easement would permanently encumber approximately 3 acres of State trust lands. Mr. Whalen would compensate DNRC approximately \$27,500 for

that encumbrance. The easement does not change DNRC's land values, or revenue-generating potential in the proposed easement area. Opening the Shay Lake Road to motorized use may slightly increase a demand for fishing licenses to fish Shay Lake. This may slightly increase recreational use fees collected by DNRC. Costs, revenues, and estimates of return are estimates intended for relative comparison of alternatives, they are not intended to be used as absolute estimates of return.

## References

DNRC 1996. State forest land management plan: final environmental impact statement (and appendixes). Montana Department of Natural Resources and Conservation, Forest Management Bureau, Missoula, Montana.

DNRC. 2010. Montana Department of Natural Resources and Conservation Forested State Trust Lands Habitat Conservation Plan: Final EIS, Volume II, Forest Management Bureau, Missoula, Montana.

DNRC 2006. Access Road Easement Policy. Montana Department of Natural Resources and Conservation, Real Estate Management Bureau, Helena, Montana.

**Does the proposed action involve potential risks or adverse effects that are uncertain but extremely harmful if they were to occur?**

No.

**Does the proposed action have impacts that are individually minor, but cumulatively significant or potentially significant?**

No.

## Environmental Assessment Checklist Prepared By:

**Name: Dan Roberson**  
**Title: Swan Unit Manager**  
**Date: 9/9/2015**

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## Finding

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### Alternative Selected

The Action Alternative consists of reopening the southern portion of Shay Lake Road to motorized use, and issuing a non-exclusive permanent private driveway easement across State trust land to Mr. Gary Whalen off that same portion of Shay Lake Road. I have reviewed the correspondence from the public and information presented in this CEA. For the following reasons, I have selected the Action Alternative without additional modifications:

- The selected Action Alternative meets the primary purpose and other management objectives listed in this checklist.

- The analysis of identified issues did not reveal information to persuade DNRC or myself to choose the No-Action Alternative.
- The lands involved in the proposed project are held by the State of Montana in trust for the support of specific beneficiary institutions. These include public schools, State colleges and universities, and other specific State institutions, such as the School for the Deaf and Blind (*Enabling Act of February 22, 1889; 1972 Montana Constitution, Article X, Section 11*). The Land Board and DNRC are required by law to administer these trust lands to produce the largest measure of reasonable and legitimate return over the long run for these beneficiary institutions, as required in *Section 77--1-202, Montana Codes Annotated (MCA)*. The Action Alternative would fairly compensate the Trust for the 3-acre encumbrance required to grant an easement to Mr. Whalen for the purpose of providing legal access to his private property. Trust lands would be additionally compensated for recreational opportunities by a portion of the proceeds from the purchase of state conservation licenses.

### Significance of Potential Impacts

I find that the Action Alternative will not have significant impacts on the human environment for the following reasons:

- The proposed easement grant conforms to the management philosophies of DNRC and is in compliance with existing laws, rules, policies, and standards applicable to this type of proposed action.
- The Action Alternative will not preclude analysis of future actions on State land.
- DNRC does not plan to implement an action that would change the traditional use of these lands. DNRC is not making the decision with this environmental assessment to implement potential additional projects on State land as a result of this proposed granted easement and road use change. DNRC would initiate a unique project proposal with its unique public-involvement process and an environmental analysis for each proposed future action.

Similar to past projects on State lands, the proposed activities would use common practices in the industry and would not be conducted on unique or fragile sites.

### Need for Further Environmental Analysis

EIS

More Detailed EA

No Further Analysis

### Environmental Assessment Checklist Approved By:

Name: *Greg Poncin*

Title: *NWLO Operations Manager*

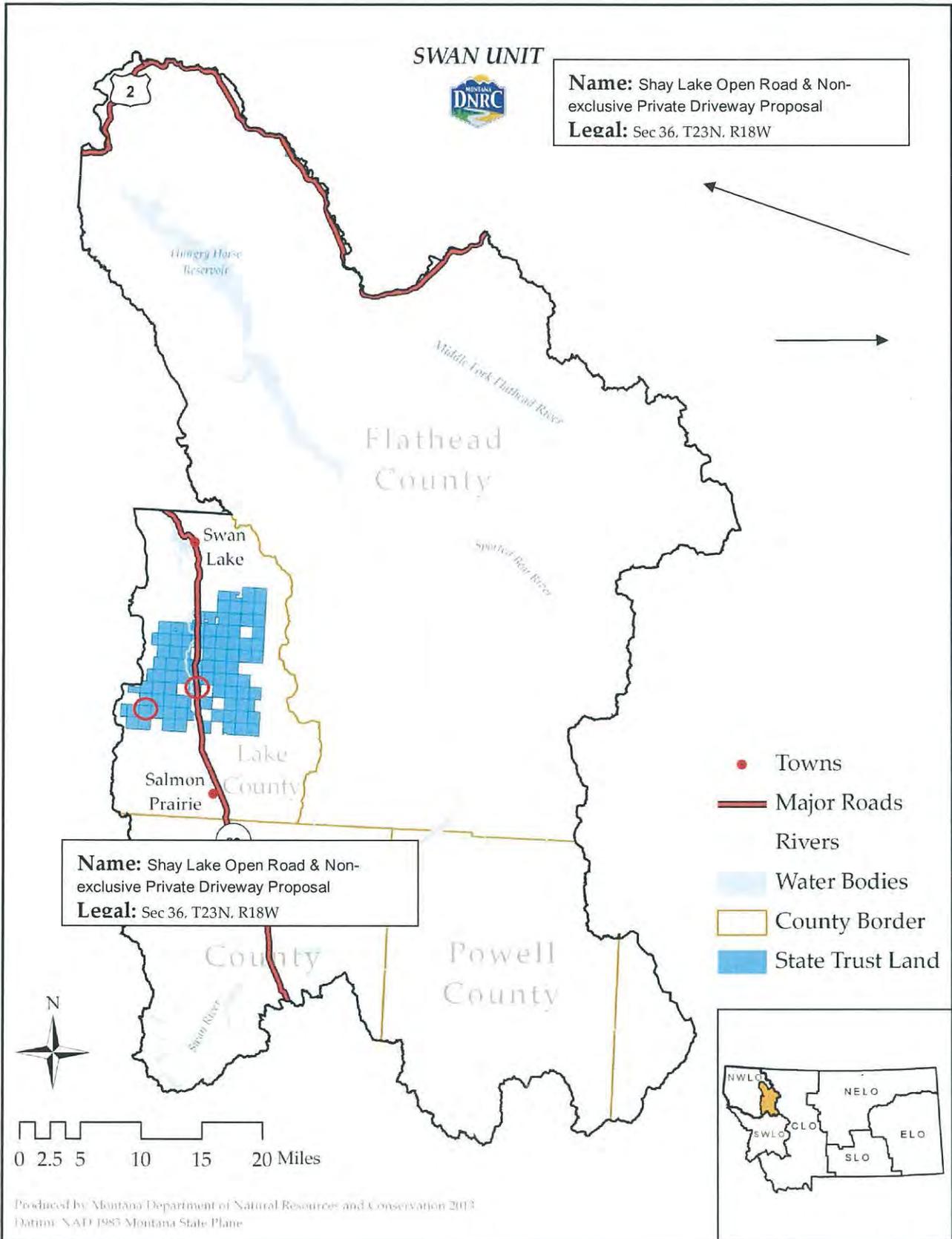
Date: *9/10/15*

Signature: *Greg Poncin*

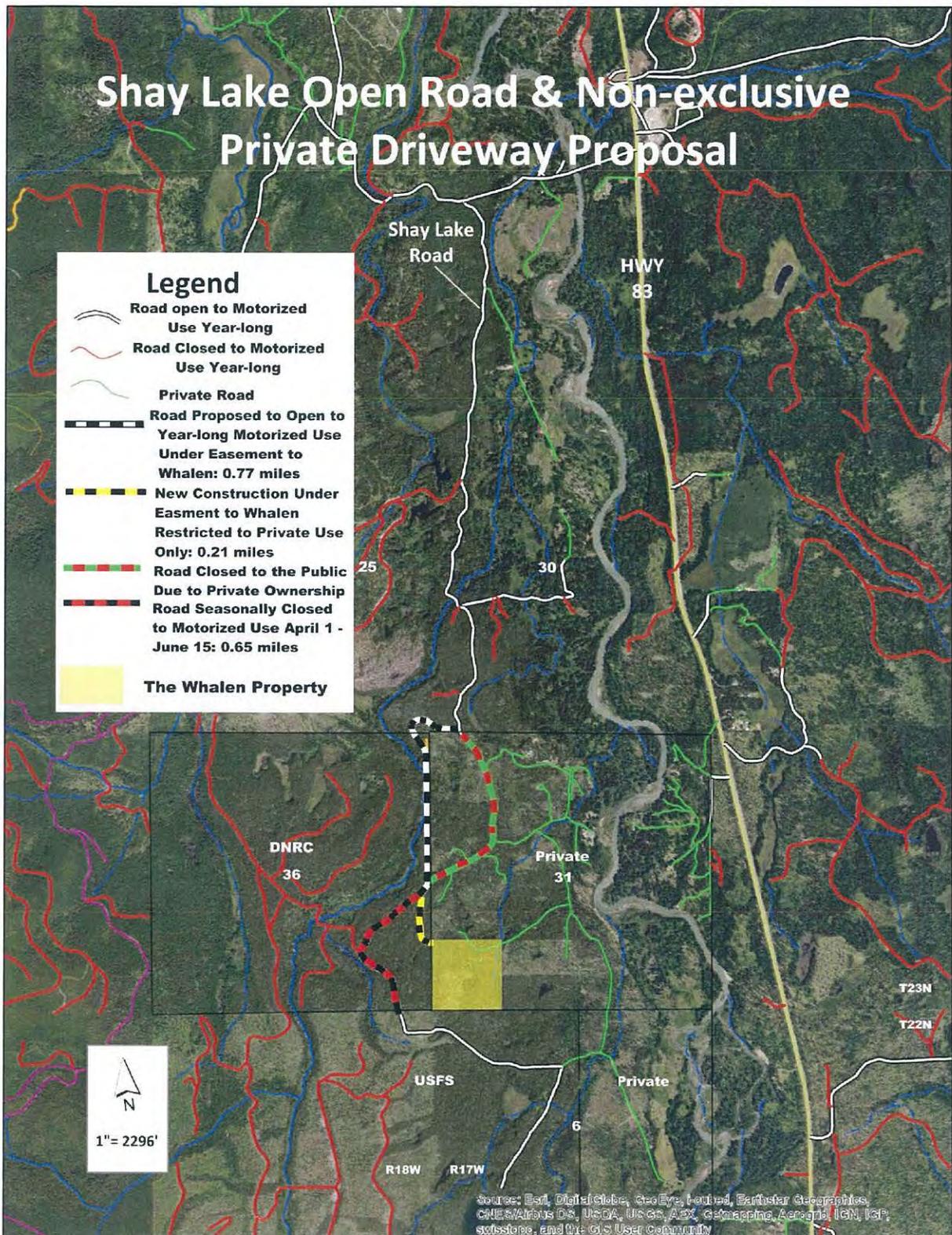
## **Attachment A- Maps**

A-1: Project Vicinity Map

**Shay Lake Open Road & Non-exclusive Private Driveway Proposal Vicinity Map**



A-2a: Project Map



A-2b: Project Map

