

Lands

Introduction

The Hemlock Elk Project Area is characterized by the checkerboard ownership of the Swan Valley. This ownership pattern has led to a number of Special Use Authorizations and Land Transactions.

Analysis Area

Spatial Bounds - Special Use Permits

The area analyzed for potential effects of the activities on Special Uses is all NFS lands within the Hemlock Elk Project Boundary.

Spatial Bounds - Land Transactions

The area analyzed for potential effects of the activities on Lands is all lands within the Swan Valley.

Affected Environment

Special Use Authorizations

Review of District records revealed the following information regarding Special Use Permits at this time.

There are approximately six Special Use Permits issued within and adjacent to the project area. These authorizations are issued primarily to provide access and utilities to privately-owned parcels where alternative routes not crossing NFS lands are unavailable.

- **Special Use Permit** – Road and utility right-of-way (ROW) issued to Missoula Electric Cooperative for operation and maintenance of electrical transmission and distribution lines of 10 and 20 feet in width approximately 2.31 miles in length and the use of necessary access roads located in Sections 14, 25 and 36 of T21N, R17W.
- **Special Use Permit** – Road and utility right-of-way issued to Blackfoot Telephone Cooperative, Inc. for operation and maintenance of electrical transmission and distribution lines of 10 feet in width approximately 7.72 miles in length and the use of necessary access roads located in Sections 14, 15, 16, 25, and 36 of T21N, R17W.
- **Road Easement** – Issued to Missoula County for Cold Creek Road #903 across NFS lands located within Section 15 of T21N, R17W.
- **FRTA Road Easement** – Issued to Montana Department of Transportation for right-of-way for the construction, operation, and maintenance of Highway 83 in Sections 25 and 36 of T21N, R17W.
- **Road Easement** – Issued to Burlington Northern and Santa Fe Railroad for Elk Creek Roads #9591, #9792 and #9597 across NFS lands located within Section 6 of T20N, R17W.

- **Road Easement** – Issued to Burlington Northern and Santa Fe Railroad for Westside Kraft Creek Road #10257 across NFS lands located within Section 28 of T20N, R17W.
- **Road Easement** – Issued to Burlington Northern and Santa Fe Railroad for Elk Ridge Road #9850 across NFS lands located within Section 7 of T20N, R17W.

These currently permitted uses are expected to continue and it is reasonable to assume that a small number of new, additional authorizations would be granted.

Land Transactions

The forested landscape of the Swan Valley is a checkerboard pattern of public and private ownership, a remnant of Federal land grants to railroads over 140 years ago. The majority of private land is held by PCTC, which acquired the land from the railroad in 1989, and has managed its holdings as an industrial forest.

In recent years, the rural Swan Valley has come under increasing threat from subdivision and real estate development of private lands. In 2002, PCTC announced the sale of 20,000 acres of its land in the valley. A group of stakeholders and community members (Swan Lands Coordinating Committee) joined together to develop a long-term strategic conservation plan to protect public access, maintain the working landscape and conserve biological diversity in the Swan Valley. In collaboration with this committee, the Trust for Public Land and PCTC developed strategies to conserve important resource areas and secure funding to implement the strategies. Some land acquisitions of PCTC lands have been funded by the Land and Water Conservation Program (LWCF), which has become the fundamental conservation tool of the Swan Valley. Through this program, the Forest Service is consolidating land management in the Swan Valley, including critical travel corridors linking the Mission Mountains to the Swan Range.

The Flathead National Forest Long Range Acquisition Plan for the Swan Valley identifies land parcels with high public resource values that would be compromised if converted to residential development. These forestlands are logical for inclusion into the NFS, and PCTC has made them available to purchase. These LWCF purchases provide for wide ranging wildlife, including grizzly bears. They also ensure public access to wilderness areas and other public lands for traditional outdoor recreational activities, such as hunting, fishing, hiking, and camping. Complete implementation of the plan will add an estimated 13,825 acres to the Flathead National Forest, providing for multiple benefits.

In 1995, the Swan Valley Conservation Agreement (Project File Exhibit Q-4) was developed to guide the conservation of the grizzly bear and its habitat in the Swan Valley. The USFWS, Flathead National Forest, DNRC, and PCTC are all signatories. The Swan Valley Conservation Agreement directs the timing and location of timber harvest, road use and maintenance, and establishes grizzly bear linkage zones across the valley. Adherence to the agreement and ongoing monitoring of grizzly bear movement in the valley is reported annually.

Under this agreement, PCTC shall not sell any of its lands in any Linkage Zone, other than in a Conservation Land Transaction. This

“Conservation Land Transaction shall mean dispositions of land in the Conservation Area to (i) the U.S. Fish and Wildlife Service, National Marine Fisheries Service, U. S. Forest Service, Bureau of Land Management, or other land management or conservation agency of the federal government that has as one its primary missions the conservation of threatened or endangered species of their habitat; and not-for-profit or non-federal government entity that is created or organized for the bona fide purpose of holding and managing acquired lands for promoting conservation, or for transferring acquired lands to a federal or state fish, wildlife, or conservation agency. Clause (i) above includes state agencies when the land is purchased for a conservation purpose” (Project File Section F).

Approximately 11,489 acres of PCTC lands have been acquired by the National Forest System (Trust for Public Land) within the Swan Valley since 1997. An estimated 480 acres of PCTC lands have been purchased by the State of Montana, and 549 acres purchased by conservation buyers with limited development covenants. In addition, about 3667 acres (20 parcels) of PCTC lands have been sold with development limited by the regulations of Missoula and Lake Counties (Project File Exhibit – Q-1 and Q-12). Five of the 20 parcels have been subsequently divided with the average size of the split parcels being 84 acres. In addition, about 7200 acres in the Swan Valley remain in PCTC ownership but with conservation easements acquired and held by the State of Montana.

The Montana Legacy Project: On June 30, 2008, the Nature Conservancy and The Trust for Public Land announced they reached agreement to purchase approximately 320,000 acres of PCTC lands. The lands in agreement include part of the Swan Valley. The lands would be purchased adjacent to NFS lands, and it is anticipated that much of this land would eventually be conveyed to the Forest Service. The property will be acquired by The Trust for Public Land and The Nature Conservancy in three phases. Phase 1 is expected to close in December 2008, Phase 2 in December 2009, and Phase 3 in December 2010. The sale is subject to financial and other contingencies typical in a sale of this size and complexity. Neither The Trust for Public Land nor The Nature Conservancy plans to retain long-term ownership of any lands. At this time, it is unclear how the existing Flathead National Forest Long Range Acquisition Plan would fit into The Montana Legacy Project.

Environmental Consequences

The Cumulative Effects Worksheet, located in the Hemlock Elk Project File (Project File Exhibit M-2) considers and describes proposed activities in addition to the past, current, and reasonably foreseeable activities listed at the beginning of this chapter in Tables 3-1 and 3-2. Please refer to this worksheet for more detailed discussion on cumulative effects. Those activities that cumulatively affect Lands are discussed below.

Effects Common to All Alternatives Direct and Indirect Effects

Special Use Permits: No lands or recreation special use authorizations would be significantly affected by any of the alternatives. Project managers and contractors would need to become very familiar with the locations of utility corridors during project implementation to ensure activities do not disturb these utilities and to ensure public, contractor, and employee safety.

Land Transactions: Land transactions between PCTC and other agencies, organizations, and individuals would not be affected by any of the alternatives. The Flathead National Forest would still pursue acquisitions to consolidate land management, reduce fragmentation, and protect and restore important wildlife, fish, and wetlands habitat in the Swan Valley through the Land and Water Conservation Fund Program.

Other private land transactions would not be affected by any of the alternatives.

Effects Common to All Alternatives Cumulative Effects

Special Use Authorizations: Private land development in the forest and private land interface would have consequences regarding access to NFS lands. In some areas, easements and ROW agreements transfer when the land sells. In areas where easements and ROWs don't exist, the process to obtain access can take a long time. Some landowners are unwilling to grant access, which

reduces the public's ability to access NFS lands. Unresolved access issues can result in both trespasses by adjacent landowners building structures, roads, and trails on NFS land and the public's trespass through private land to get access to NFS lands.

Private land development and subdividing would naturally increase the need for access and utilities. There would be an increase in demand for infrastructure and services such as fire protection, power lines, water diversions, water and sewer lines, and communication sites.

Land Acquisitions: Use of lands sold to private owners under a conservation easement vary by the specifics of the easement. Such easements allow for continuation of forest management, but allow for limited home site development usually for one home and associated buildings within the area purchased. In these cases, it is anticipated that home site development would occur and that forest management would continue at or below levels that occurred when the lands were owned by PCTC and would still be regulated by State BMPs. As stated above, it is unclear how the Flathead National Forest Long Range Acquisition Plan will fit into The Montana Legacy Project.

Plum Creek Timber Company lands sold to private owners with no conservation easements would likely be developed over time within the constraints of State and County regulations. Deed restrictions on the land sales include setbacks for sanitation guidelines (no outdoor barbecue pits, no birdfeeders within reach of bears, and fenced gardens. Currently, Missoula County has drafted "Proposed Stream Setback Regulations, April 9th, 2007" (Project File Exhibit Q-15). These regulations call for setback on construction of buildings within specified distances of rivers and streams. The Draft Regulations for River Setbacks state:

"The setback area shall include the stream itself and shall extend to whichever of the points described below is farthest from the stream: a) edge of the 100-year floodplain shown on the FEMA map; b) the outer edge of the area of riparian vegetation; c) 200 feet horizontal map distance from the ordinary high water mark on the Swan River; d) 75 feet horizontal map distance from the ordinary high water mark on all streams and stream reaches not named."

Prohibited uses within the setback include residential buildings, outbuildings, sewer disposal systems, rock or earthen fill, recreational camping vehicles, mobile homes, roads and driveways, or parking lots. In addition, no mowing, removal, or destruction of native riparian vegetation may occur within the setback.

According to Missoula County Subdivision Regulations, land may be found unsuitable for subdivision due to flooding, landslides, steep slopes in excess of 25 percent, high potential for wildfire, high water table, and other features that may cause environmental degradation. Land also located within a floodway of a flood of 100-year frequency or land deemed subject to flooding shall not be subdivided for building or residential purposes. Limitations on home site development are limited by the county regulations in which the property resides.

Land transactions and other private land development would bring additional people into the Swan Valley. Development of these lands could reduce potential sensitive plant habitat and increase the likelihood for new weed establishment. In addition, the presence of more dwellings elevates the importance of fuel reduction to reduce the potential loss of life and property. In many cases, landowners have maintained a forested setting in the immediate vicinity of dwellings and structures that is contiguous with forested public lands. In many cases, small private forested areas have not been managed and forests have become densely stocked stands with high quantities of dead trees. These sites are highly vulnerable to insect and disease outbreaks and wildland fire.

Despite the provisions listed above, there is a concern that an increase in private parcels of land in the Swan Valley may further fragment wildlife habitat and increase human-bear encounters. With increased human activity, have come decreased security levels for most wildlife species, including Canada lynx, gray wolf, and grizzly bear.

Regulatory Framework and Consistency

This analysis tiers to the Forest Plan, Forest Plan EIS, and ROD, as amended. Chapter 2 of the Forest Plan establishes Forest wide Lands goals and standards. This project is consistent with Forest Plan direction for management of the Lands Resource.

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