West Swan Valley Conservation Project
Draft Environmental Assessment

Prepared by
Region One Montana Fish, Wildlife & Parks
with assistance from OASIS Environmental, Inc.

August 6, 2010

Executive Summary
West Swan Valley Conservation Project

The Montana Department of Fish, Wildlife & Parks (FWP) proposes to secure permanent conservation management on up to 9,500 acres of important fish and wildlife habitat in the Swan Valley in northwestern Montana. FWP is considering three alternative methods to achieve this outcome, including purchase of a conservation easement, purchase of fee-title ownership, or a combination of conservation easement and fee-title ownership. The land is currently owned by Plum Creek Timber Company (Plum Creek) and under contract for sale to The Nature Conservancy in November 2010.

The project seeks to maintain working forests, protect fish and wildlife habitats, and ensure public access consistent with local community goals and other conservation efforts. These project lands consist of forested valley bottoms rising to steep mountain slopes, with numerous wetland and riparian habitat features. These lands and waters provide important habitat for bull trout, westslope cutthroat trout, grizzly bears, lynx, black bears, deer, elk, moose, and other native wildlife, and are popular for outdoor recreation. Montana Department of Natural Resources and Conservation (DNRC) school trust lands are interspersed throughout the project's lands. The West Swan Valley property is also adjacent to the Confederation of Salish and Kootenai tribal wilderness lands.

These lands are part of the larger Montana Legacy Project, through which The Nature Conservancy and the Trust for Public Land are working to conserve about 300,000 acres of corporate timberland owned by Plum Creek across western Montana. The project area is centered approximately 20 miles south of Bigfork, seven miles south of the town of Swan Lake, 12 miles north of Condon, and is entirely within Lake County. Project lands lie along and west of U.S. Highway 83 and are generally in a checkerboard pattern within the Swan River State Forest.

The total cost of acquiring either the fee ownership or conservation easement on these 9,500 acres will be determined based on an independent appraisal. The anticipated primary funding source would be the Columbia Basin Fish and Wildlife Mitigation Program of the Bonneville Power Administration (BPA), which is making over $15 million available for the project, with additional funding to be provided from other state and federal sources if needed.

The West Swan Valley Conservation Project would complement FWP's existing land interests acquired as part of the North Swan Valley Conservation Project on the east side of the Swan River State Forest and the east side of U.S. Highway 83. The North Swan Valley Conservation Project includes a 7,200-acre conservation easement and 2,240 acres of fee ownership, the final 480 of which are scheduled for purchase by FWP in November 2010.

If FWP decides to pursue the purchase of a conservation easement (assuming BPA funds are available and used), the land would continue to be managed for commercial timber harvest, subject to enforceable conservation easement restrictions designed to protect the integrity of fish and wildlife habitat. These restrictions are specified in the conservation easement and with the Multi-Resource Management Plan (Appendix A). The conservation easement would prohibit residential subdivision of the land. It would establish Riparian Exclusion Zones along 12.3 km of bull trout habitat in Woodward and South Woodward Creeks and the Swan River, and within

these zones timber harvest and related activities would be severely limited for the benefit of fisheries habitat values. Additionally, the conservation easement would preserve proposed DNRC HCP protections and best management practices on all other project lands, as well as increased protection of all other perennial streams through other riparian management commitments. The conservation easement would also provide for continued public access and recreational use of project lands in perpetuity. BPA would retain third party rights of enforcement in the conservation easement.

DNRC has been identified as a potential future buyer of project lands encumbered by this conservation easement. DNRC already has adjoining ownership as well as extensive management expertise that would help in the management of these lands. If such a title transfer occurred, DNRC would be subject to the terms of the conservation easement and the Multi-Resource Management Plan.

Under the second alternative, FWP would use BPA and other available federal or private funding sources as needed to purchase the 9,500 acres in fee directly from The Nature Conservancy. For lands purchased with BPA funds, FWP would simultaneously convey a conservation easement to BPA (Appendix B) and then would complete a resource management plan within one year of acquisition. FWP management would emphasize conservation and enhancement of fish and wildlife habitats and the management of the forest to benefit these species while also allowing sustainable timber harvest consistent with these fish and wildlife conservation goals. FWP would likely continue to manage these lands consistent with existing agreements and other restrictions such as the Native Fish Habitat Conservation Plan and Swan Valley Grizzly Bear Conservation Agreement. Other restrictions could apply to these lands if additional funding sources are used. Long-term ownership of fee-title parcels by FWP would depend on the availability of management funds. In the event of subsequent sale or exchange, the lands funded with BPA dollars would retain the BPA conservation easement or other FWP interest to ensure long-term conservation of fish and wildlife habitat. Any FWP sale or exchange of the parcels would be conducted consistent with established state law and regulations governing land disposal and take into consideration FWP's mission to encourage the stewardship of fish, wildlife, parks, and recreational resources while contributing to the quality of life for present and future generations. This action would be part of a future public review and draft environmental assessment process.

FWP's third alternative would combine the first and second alternatives, some land purchased in fee, some protected by a conservation easement similar to that described above. The fourth alternative is the No Action Alternative. The No Action Alternative would likely result in the sale of project lands to one or more conservation-oriented buyers, DNRC, or one or more other landowners with or without conservation restrictions

The draft Environmental Analysis (EA) examines the effects of FWP purchasing a conservation easement or fee-title ownership or a combination of both strategies as well as the effects of the No Action Alternative on the environment. Based on these analyses, the first three potential alternatives would likely cause positive environmental impacts, the degree to which varies depending on the alternative. The first three alternatives differ in their management and cost implications. The No Action Alternative may result in positive or negative impacts to the environment, depending on the final disposition of the property.

The required federal appraisal for estimating the total cost of acquiring either the conservation easement on, or fee ownership of, these 9,500 acres is currently being prepared by a qualified

appraiser. The results should be available for public disclosure mid to late August.

The public comment period for this draft EA runs from August 6, 2010, through 5:00 p.m. on September 7, 2010. A public meeting is scheduled at the Swan Lake Community Hall on August 19, 2010, at 7:00 p.m.

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DRAFT ENVIRONMENTAL ASSESSMENT
TABLE OF CONTENTS

1 Purpose of and Need for Action....1
- 1.1 Purpose and Objectives....1
- 1.2 Need for This Action....1
- 1.3 Summary of Alternatives....2
- 1.4 Project Location....3
- 1.5 Funding....5
- 1.6 Relevant Plans, EISs, EAs, Regulations, Documents & Programs....5
- 1.7 Decisions(s) That Must Be Made....10
- 1.8 Scope of This Environmental Analysis....10
- 1.9 History of the Planning and Scoping Process....10
  - 1.9.1 Persons Responsible for Preparing Draft Environmental Assessment....11
  - 1.9.2 Issues Raised During Public Scoping....12

2 Proposed Alternatives....13
- 2.1 Description of Alternatives....13
  - 2.1.1 Alternative 1: Conservation Easement Only....13
  - 2.1.2 Alternative 2: Purchase of Fee-title Ownership Only....16
  - 2.1.3 Alternative 3: Conservation Easement and Purchase of Fee Ownership....18
  - 2.1.4 Alternative 4: No Action Alternative....19
  - 2.1.5 Reasonably Foreseeable Relevant Actions Not Part of Proposed Action....19
- 2.2 Process Used to Develop the Alternatives....19
  - 2.2.1 History and Development Process of Alternatives....19
  - 2.2.2 Alternatives Eliminated from Detailed Study....19
  - 2.2.3 Summary Comparison of Alternatives, Predicted Achievement of Project Objectives, and Predicted Environmental Effects of All Alternatives....19
- 2.3 Identification of the Preferred Alternative....23

3 Affected Environment....24
- 3.1 Land Resources....24
  - 3.1.1 Soils and Productivity....24
  - 3.1.2 Water Resources....24
  - 3.1.3 Vegetation/Timber Productivity....24
  - 3.1.4 Fish and Wildlife Resources....25
- 3.2 Social and Economic Resources....26
  - 3.2.1 Noise/Air....27
  - 3.2.2 Land Use/Community Values....27
  - 3.2.3 Risk/Human Health/Safety....28
  - 3.2.4 Public Services/Taxes/Utilities....28
  - 3.2.5 Aesthetics/Recreation....28
  - 3.2.6 Cultural/Historic Resources....30
- 3.3 Description of Relevant Preexisting Factors....30
- 3.4 Description of Areas Related to Indirect or Cumulative Effects....30

4 Environmental Consequences 32
4.1 Predicted Attainment of Project Objectives 32
4.2 Predicted Effects on Relevant Affected Natural and Human Resources of All Alternatives 32
4.2.1 Land Resources 32
4.2.2 Water Resources 34
4.2.3 Timber Productivity and Vegetation Resources 35
4.2.4 Fish and Wildlife Resources 37
4.3 Social and Economic Resources 40
4.3.1 Noise and Air Resources 40
4.3.2 Risk/Health/Safety Hazards 41
4.3.3 Land Use and Community Values 42
4.3.4 Electrical/Utility Effects 42
4.3.5 County/State Financial Impacts 43
4.3.6 Aesthetics/Recreation Values 45
4.3.7 Cultural/Historic Resources 46

LIST OF FIGURES

Figure 1. Proposed West Swan Valley Conservation Project 4

LIST OF TABLES

Table 1. Summary of Project Objectives Met under each Alternative 200
Table 2. Summary Comparison of Predicted Environmental and Other Effects 211
Table 3. Summary of Advantages and Disadvantages of Alternatives ..... 222 & 23
Table 4. Bull trout spawning site inventories for the Woodward/South Woodward Creek drainage, 1982-2009 255
Table 5. Estimated FWP Costs for Fee-title Ownership 45

LIST OF APPENDICES

Appendix A Multi-Resource Management Plan
Appendix B BPA Conservation Easement under the FWP Fee-title Alternative

Draft Environmental Assessment
West Swan Valley Conservation Project

1 Purpose of and Need for Action

1.1 Purpose and Objectives

The Montana Department of Fish, Wildlife & Parks (FWP) proposes to secure permanent conservation management on up to 9,500 acres of important fish and wildlife habitat in the Swan Valley in northwestern Montana. FWP is considering alternative methods to achieve this outcome, including purchase of a conservation easement, purchase of fee-title ownership, or a combination of conservation easement and fee-title ownership. The land is currently owned by Plum Creek Timber Company (Plum Creek) and under contract for sale to The Nature Conservancy in November 2010.

The proposed project seeks to maintain working forests, protect fish and wildlife habitats, and ensure public access consistent with local community goals and other conservation efforts. The proposed West Swan Valley Project lands (project lands) consist of forested valley bottoms rising to steep mountain slopes, with numerous wetland and riparian habitat features. These project lands and waters provide important habitat for bull trout, westslope cutthroat trout, grizzly bears, lynx, black bears, deer, elk, moose, and other native wildlife, and are popular for outdoor recreation.

These project lands are part of the larger Montana Legacy Project, through which The Nature Conservancy and the Trust for Public Land are working to conserve about 300,000 acres of corporate timberland owned by Plum Creek across western Montana. The project area is centered approximately 20 miles south of Bigfork, seven miles south of the town of Swan Lake, 12 miles north of Condon, and is entirely within Lake County. Project lands lie along and west of U.S. Highway 83 and are generally in a checkerboard pattern within the Swan River State Forest.

The primary objectives of the West Swan Valley Conservation Project are to:

- Maintain working forests.
- Conserve important fish and wildlife habitats.
- Maintain public recreational access.
- Implement a conservation strategy that is consistent with community goals and other community efforts in the Swan Valley.

FWP identified three possible alternatives that meet the primary objectives: Alternative 1: purchase of a conservation easement on project lands, Alternative 2: purchase of the project lands in fee, and Alternative 3: a combination of these first two alternatives. If no action is taken, these project lands will likely be sold to other entities, with or without restrictions, and could be used for other purposes that do not meet the primary project objectives.

1.2 Need for This Action

The Proposed Action through Alternatives 1-3, described below, would meet all the objectives of this project. These are consistent with local community goals and other conservation efforts as described below under Section 1.6, Swan Ecosystem Center and Lake County Growth Policy, as well as in the draft EA's socioeconomic section (Section 4.3). Additionally, the proposed project

builds upon FWP's North Swan Conservation Project that is now nearing completion and has conserved Plum Creek lands in the east half of the Swan River State Forest. The use of potentially available funds from BPA would also help satisfy up to 15.5 kilometers of fish mitigation credit for the construction and inundation impacts associated with Hungry Horse Dam.

The West Swan project lands in the West Swan project area provide diverse and high-quality fish and wildlife habitat and support an array of species that depend on contiguous, undeveloped landscapes and watersheds. Habitat types range from remote, rocky mountain slopes to large meadow-wetland complexes to densely vegetated riparian zones along the Swan River and Woodward and South Woodward Creeks. Federally listed threatened species, including grizzly bear, Canada lynx, and bull trout, in addition to other Montana state species of concern, such as westslope cutthroat trout, inhabit project lands. Project lands provide winter range for white-tailed deer, mule deer, and elk along the valley bottom, and seasonal or year-round habitat for a variety of forest carnivores. Recreational opportunities for hunting, fishing, camping, and other activities are enhanced by the protection of high-quality fish and wildlife habitat. Creating a more contiguous, similarly managed, and less disturbed landscape would benefit fish and wildlife species and protect and enhance recreational opportunities.

The Swan Valley is a rich and scenic valley that borders the Bob Marshall Wilderness complex and is an important aesthetic and biological link between the Bob Marshall and Mission Mountain Wilderness complexes. Communities on all sides of this extensive wildland complex, from the east front of the Rockies, throughout the Blackfoot and Clearwater Valleys, and in Swan Valley, are initiating and sustaining significant conservation efforts to maintain important fish and wildlife habitats and the connectivity between the wilderness complexes and other important lands.

The location of Swan Valley proximal to larger cities and towns (e.g., Kalispell, Missoula), the abundance of wildlife, lakes and rivers accessible to fishing, predominance of public and historically open private lands, and aesthetic qualities and other amenities, all make the Swan Valley vulnerable to commercial and residential land-use changes. The initial transfer of land ownership from Plum Creek to The Nature Conservancy in November 2010 will likely protect project lands from subdivision and development in the near term; however, The Nature Conservancy is not in a position to continue to own and manage these lands for the long term. Subsequent conservation easement acquisition or fee-title ownership by FWP would ensure that FWP's habitat protection and enhancement management objectives are part of and consistent with overall community values and goals into the future and would also further the goals and objectives of the Montana Legacy Project.

The proposed action will enhance habitat connectivity, conserve important fish and wildlife habitats, maintain a working forest landscape, and ensure public recreation and access in a timely manner with a willing landowner. Importantly, this project also builds on the growing conservation efforts in the area already completed or in progress, such as the North Swan Valley Conservation and the Montana Legacy Projects.

1.3 Summary of Alternatives

Alternative 1: This alternative is FWP's purchase of a perpetual conservation easement on up to 9,500 acres of former Plum Creek lands in the west half of the Swan River State Forest using the available BPA and possibly other funds. The conservation easement purchased with BPA funds would give BPA third party rights of enforcement on the conservation easement. The underlying title to the lands could be purchased by DNRC or possibly another landowner. This alternative meets the

project objectives to maintain working forest lands, conserve fish and wildlife habitats, and maintain public access with the least cost to FWP. The specific restrictions of the FWP conservation easement and associated Multi-Resource Management Plan were negotiated with The Nature Conservancy, as the future landowner, and with DNRC, as a potential subsequent landowner, and are detailed in Section 1.1 with the full text of the Multi-Resource Plan included in Appendix A.

Alternative 2: Under this alternative**,** FWP would acquire fee-title of these project lands using BPA and other available funding. For BPA-funded lands, FWP would simultaneously convey a perpetual conservation easement to BPA at closing that FWP and BPA have developed (Appendix B). Lands acquired with other funds may have other restrictions held by the funding entities. Implementation of this alternative would also meet the project objectives, but could cost FWP additional funds for managing these lands that need to be obtained from various sources. This alternative requires that FWP place up to 20% or $300,000 for each land acquisition in a legislatively established land stewardship fund dedicated for long-term operations and management of this acquisition.

Alternative 3: Alternative 3 is a combination of Alternatives 1 & 2 and could be used depending on the outcomes of the appraisal and willingness of the landowner who is anticipated to be The Nature Conservancy. Although the precise determination of lands that would be purchased in fee and those that would be protected by conservation easement is not possible at this time, we do expect that some mix of fee ownership and conservation easement could still meet project objectives, subject to the advantages and disadvantages associated with either conservation easements or fee ownership alone (see further discussion of alternatives below).

Alternative 4: Alternative 4 is the No Action Alternative. FWP would not acquire any interest in land in the West Swan Valley Conservation Project area.

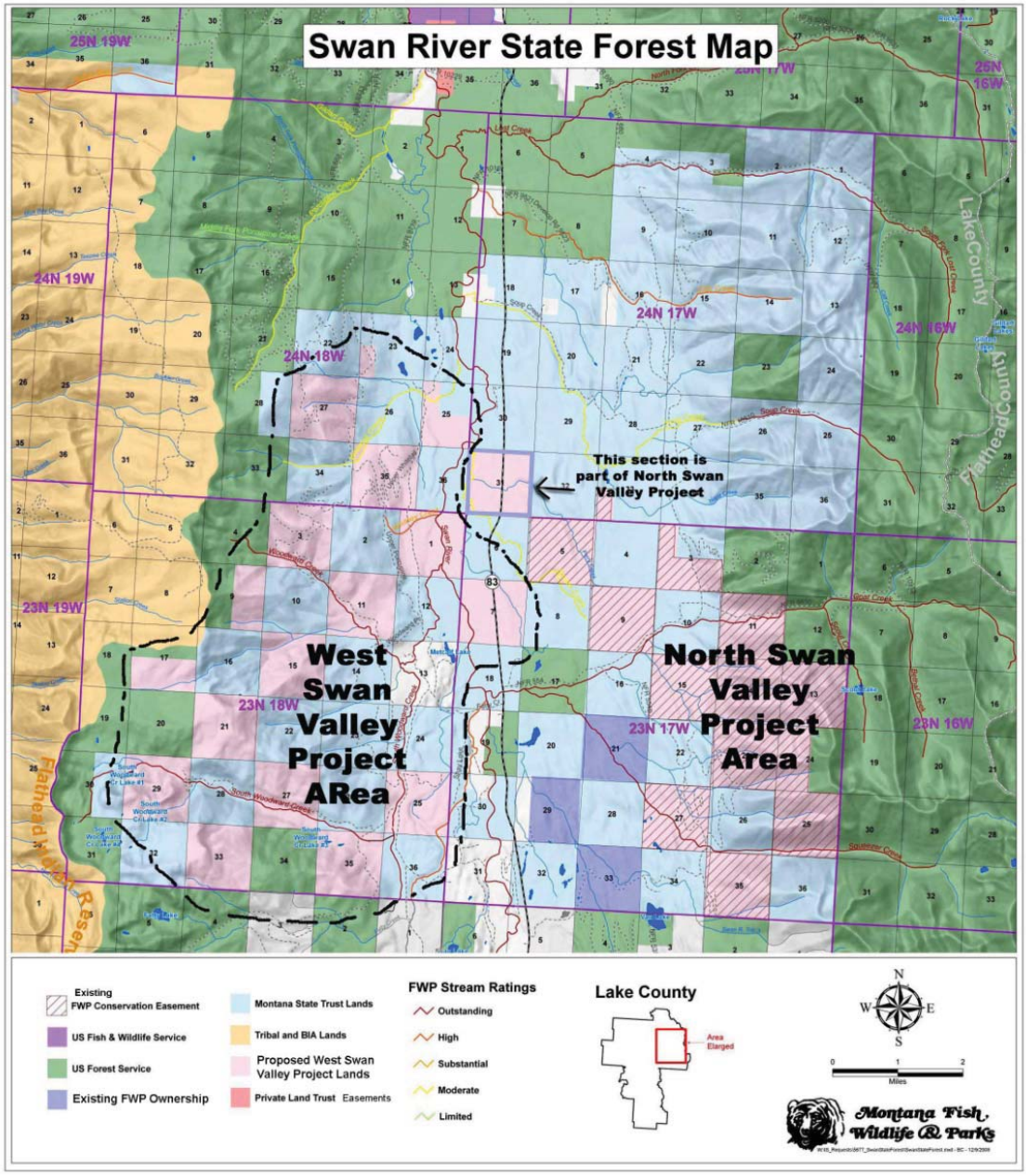
1.4 Project Location

The West Swan Valley project area is centered approximately 20 miles south of Bigfork, seven miles south of the town of Swan Lake, 12 miles north of Condon, and is entirely within Lake County. Project lands lie along and west of U.S. Highway 83 within the Swan River State Forest. The proposed West Swan Valley project area connects to lands already purchased or placed under conservation easement by FWP as part of the former North Swan Valley Conservation Project (Fig. 1). The previous project began in 2005 and included FWP's 7,200-acre acquired conservation easement on Plum Creek lands and fee-title to another 2,240 acres of fee ownership mostly east of Highway 83. The final 480 acres of land acquisition from Plum Creek are scheduled for purchase by FWP in November 2010. The funding for the North Swan project primarily came from the Forest Service's Forest Legacy program, but funds from BPA and Trust for Public Land were also used in that project.

The 9,500 acres of project lands include all or portions of the following sections:

Sections 23, 25, 27, and 35 (T24N, R18W)
Sections 1, 3, 9, 11, 15, 17, 21, 25, 27, 29, 33, and 35 (T23N, R18W)
Section 31 (T24N, R17W)
Section 7 (T23N, R17W)

Fig. 1. Proposed West Swan Valley Conservation Project



1.5 Funding

The total project cost for FWP and other funding sources will depend on whether FWP purchases a conservation easement or direct fee-title ownership in these former Plum Creek lands. BPA has committed funds to Montana for projects such as this because these lands have important fish habitat values that help BPA meet its statutory obligations to the public under the Northwest Power Act and other environmental laws. BPA's funding will be provided in accordance with several agreements entered into with the state of Montana, including the "Memorandum of Agreement between the State, BPA, the U.S. Army Corps of Engineers, and the U.S. Bureau of Reclamation" (also known as the "2008 Montana Fish Accord") executed in May of 2008 and the "Memorandum of Agreement Between the State of Montana and the Bonneville Power Administration for Resident Fish Mitigation in 2010" (which is currently being drafted and will be known as the "2010 Resident Fish MOA"). In accordance with these agreements, BPA would be given mitigation credit expressed as stream kilometers against an established loss statement for the construction and inundation of the South Fork Flathead River associated with Hungry Horse Dam. Accordingly, BPA would receive one kilometer of credit for each $1 million expended on the project. Additional BPA funds may be available in later years for future project management expenses subject to funding availability and recommendations by the Northwest Power and Conservation Council.

If additional funding is required to complete conservation of these lands, the balance would come from other government and private sources acquired with the potential for assistance from The Nature Conservancy and Trust For Public Land, both nonprofit land conservation organizations that have been working on Swan Valley land conservation programs for several years. Other possible funding sources include the Fish and Wildlife Service Section 6 Habitat Conservation Plan program, Forest Legacy Program, additional funds through BPA fisheries mitigation, Land and Water Conservation Funds, and other private organizations. FWP may need to expend license dollars to fund the stewardship or management accounts as required by recently passed legislation for all FWP land acquisitions.

The project lands property and conservation easement values are currently being independently appraised by a qualified appraiser. The estimated cost for fee-title and/or conservation easement purchases will be based on recent market sales, will follow federal and state appraisal standards, and be reviewed by both the state and the funding entities. The results of the appraisal should be available mid to late August 2010 and will be released to the public as soon as the information is available.

1.6 Relevant Plans, EISs, EAs, Regulations, and Other Documents and Relevant Programs

Montana Department of Fish, Wildlife & Parks authority FWP has the authority under state law (87-1-201, Montana Code Annotated [MCA]) to protect, enhance, and regulate the use of Montana's fish and wildlife resources for public benefit now and in the future. In 1987, the Montana Legislature passed HB526 which earmarked hunting license revenues to secure wildlife habitat through lease, conservation easement, or fee-title acquisition (87-1-241 and 242, MCA). The Habitat Montana Program, developed as a result of legislation, provides direction to the FWP Commission for all FWP's wildlife habitat acquisition programs.

Montana State Statute Section 76-6-201, MCA, authorizes the application of conservation easements to protect "significant open-space land and/or the preservation of native plants or animals, biotic communities, or geological or geographical formations of scientific, aesthetic, or educational

interest." Section 76-6-206, MCA, provides for the review of proposed conservation easements by local planning authorities to determine compliance with local growth policies. The proposed conservation easement would be submitted to Lake County in accordance with this requirement.

Per state law, Section 87-1-201(9), MCA, FWP is required to implement programs that address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous acres in any state park, fishing access site, or wildlife management area under the department's jurisdiction. FWP would develop and implement forest management plans for this property to meet the intent of this statute.

FWP is also required to establish a maintenance account for property acquisitions (Sections 87-1-209 and 23-1-127 (2), MCA). Such an account would be used for weed maintenance, fence installation or repair of existing fences, garbage removal, the implementation of safety and health measures required by law to protect public, erosion control, stream bank stabilization, erection of barriers to preserve riparian vegetation and habitat, and planting of native trees, grasses, and shrubs for habitat stabilization. Such maintenance activities should be consistent with the Good Neighbor policy.

Montana Legacy Project The larger Montana Legacy Project is the collective result of collaboration by nonprofit conservation organizations and state and federal agencies along with Plum Creek. This past spring, the Montana Legacy Project conveyed 112,000 acres of former Plum Creek lands to the U.S. Forest Service, including 45,000 acres in the Swan Valley south of the project area to the Flathead National Forest. Other Montana Legacy Project phases include conveyance of former Plum Creek lands in the Clark Fork drainage to FWP (Fish Creek 40,945 acres), Blackfoot drainage to Montana Department of Natural Resource and Conservation (DNRC) (Chamberlain Creek 13,410 acres, Potomac 32,210 acres), and a proposed FWP acquisition in the Clearwater drainage (Marshall Creek 24,170 acres).

North Swan Valley Conservation Project The North Swan Valley conservation easement on Plum Creek lands east of Highway 83 is completed and recorded in Lake County. This conservation easement also includes a completed Multi-Resource Management Plan. Both of these documents provided the template for developing the proposed FWP West Swan conservation easement and associated Multi-Resource Management Plan as described under the FWP Conservation Easement Only Alternative. In addition, the North Swan Valley Conservation Project also includes the fee-title acquisition of 2,240 acres of former Plum Creek lands by FWP.

Northwest Power Act Most of the funds for the acquisition of the West Swan Valley Conservation Project are anticipated to come from BPA's fish mitigation program and the Montana Fish Accord. BPA provides this funding to meet statutory obligations to the public under the Northwest Power Act and other environmental laws. BPA-funded fish and wildlife projects in general serve to mitigate for the impacts to fish and wildlife from the construction and inundation impacts resulting from the federal Columbia River Power System, Hungry Horse Dam in this specific case. Additional BPA funds may be available for future project management expenses subject to funding availability and recommendations by the Northwest Power and Conservation Council.

Forest Legacy Program Most of the lands in the North Swan Valley project were funded by U.S. Forest Service's Forest Legacy Program, which provides federal dollars to protect environmentally important private forest lands that are threatened by conversion to nonforest uses. In 1999, Governor Racicot appointed FWP as the state's lead agency for this federal program. FWP obtained

grant funding from the Forest Legacy Program to help purchase the conservation easement and associated fee-title acquisitions for the North Swan Valley Conservation Project. The proximity of the two projects and the future potential for combined management links the proposed project to the Forest Legacy Program. The proposed conservation project would be consistent with goals of the Forest Legacy Program.

Federal Endangered Species Act

***Bull trout* -** In 1998, the U.S. Fish and Wildlife Service (USFWS) listed bull trout as a threatened species under the federal Endangered Species Act (ESA). Swan Lake and its tributaries were designated as a core area of the Flathead Recovery subunit in the 2002 Draft Bull Trout Recovery Plan and populations within Woodward Creek/South Woodward Creek and the main stem Swan River were identified. In January 2010, USFWS proposed to revise the original 2005 critical habitat designation, to include the Swan River among other river corridors, for bull trout based partly on allegations filed by Friends of the Wild Swan that USFWS failed to designate adequate critical habitat, failed to rely on the best scientific and commercial data available, failed to consider the relevant factors that led to listing, and failed to properly assess the economic benefits and costs of critical habitat designation (75 FR 2272). While this proposed federal critical habitat designation will likely not impact ongoing federal, state, and local protection actions within project lands, it may eventually increase protection in other northwestern Montana drainages.

***Grizzly bear* -** The grizzly bear was listed as a threatened species by USFWS in 1975, and the first recovery plan was approved in 1982, revised in 1993, and supplemented in 2007. In April 2007, USFWS initiated a 5-year review of the federal listing status of the grizzly bear, including the Northern Continental Divide Ecosystem Grizzly Bear Recovery Area, to confirm that the current listing status is still accurate (72 FR 19549). The Interagency Grizzly Bear Committee (IGBC) was formed in 1983 to help ensure the recovery of viable grizzly bear populations and their habitats in the lower 48 states through interagency coordination of policy, planning, management, and research. The IGBC consists of representatives from USFWS, U.S. Forest Service, the National Park Service (NPS), the Bureau of Land Management, the U.S. Geological Survey Biological Resources Division (USGS/BRD), the Canadian Wildlife Service, and representatives of the state wildlife agencies of Idaho, Montana, Washington, and Wyoming. (See also Swan Valley Grizzly Bear Agreement next page.)

***Other species* -** Other species listed under the ESA and known to occur on project lands include Canada lynx (threatened, status currently under review), and the flowering plants *Silene spaldingii* (threatened) and *Howellia aquatilis* (threatened, status currently under review).

State Management and Conservation Plans

***Restoration Plan for Bull Trout in the Clark Fork River Basin and Kootenai River Basin Montana* -** In 2000, the Montana Bull Trout Restoration Team completed a final bull trout restoration plan that identified 115 bull trout core areas and connecting "nodal habitats" within 12 restoration/conservation areas (RCAs), including the Swan River RCA. The plan also identified statewide goals and objectives, objectives within each RCA, criteria for restoration, actions needed to meet those criteria, and established a structure to monitor restoration implementation and evaluate the effectiveness of the plan.

***Grizzly Bear Management Plan for Western Montana* -** In 2006, FWP, with input from the

Montana Grizzly Bear Working Group and other interested parties, issued a Grizzly Bear Management Plan and programmatic Environmental Impact Statement to support the efforts of the IGBC. FWP, in concert with USFWS, National Park Service, U.S. Geological Survey, U.S. Forest Service, the Blackfeet Tribe, and the Confederated Salish and Kootenai Tribes began monitoring distribution and reproductive success and conducting radio-telemetry and DNA studies in 2004 to support state and federal recovery efforts and to serve as a clearinghouse of information for the Northern Continental Divide Ecosystem.

***Montana's Comprehensive Fish and Wildlife Strategy* -** This document was published by FWP in 2005 to identify methods, available data, and data gaps in an effort to identify vertebrate species and habitats in the greatest need of conservation. This strategy is consistent with FWP's mission statement and serves as a guidance document for all FWP management. The Swan Valley is one of northwest Montana's Terrestrial Focus Areas due to its high percentage of wetlands and associated wildlife species.

Habitat Conservation Plans (HCPs) Habitat Conservation Plans or HCPs are agreements between landowners and U.S. Fish & Wildlife Service (USFWS) to address management of endangered species and, upon approval, grants landowners the required incidental take permits under Section 10 of the ESA for management activities across large areas of land.

***Plum Creek Timber Native Fish HCP* -** Plum Creek completed its Native Fish HCP for their lands in Montana, Idaho, and Washington in 1999. Upon purchase, The Nature Conservancy will assume responsibility for the Plum Creek Native Fish HCP and may transfer that to the future landowner. If the lands are acquired by DNRC, the pending DNRC HCP would likely replace the Plum Creek Native Fish HCP once the DNRC HCP is finalized. If the lands are acquired by FWP, FWP would not assume responsibility for the Native Fish HCP, but instead would manage under the guidance of the BPA conservation easement and/or develop its own HCP with the USFWS. The Plum Creek Native Fish HCP is designed to conserve native fish habitat through implementation of 56 different conservation commitments. All of Plum Creek's land management activities, including timber harvesting, road building, and land sales are governed by the plan. Project lands have been managed in accordance with Plum Creek's HCP since its adoption. Because project lands have particularly high native fish and wildlife values and will have previously been subject to Plum Creek's HCP, potential land acquisition expenses may be eligible for funding under the related federal Habitat Conservation Plan Land Acquisition Program. This program, also administered by USFWS, complements existing HCPs by encouraging states, local governments, or private, nonprofit interests to protect the most important threatened or endangered species habitats. HCP Land Acquisition Program grants require a 25 percent nonfederal match.

***Montana Department of Natural Resources and Conservation* -** The DNRC is currently in the process of completing their HCP for forest management activities on forested State Trust lands managed by the Trust Lands Management Division. The HCP includes three species currently listed under the ESA (grizzly bear, lynx, and bull trout), as well as an additional two species of concern that may become listed in the near future: westslope cutthroat trout and Columbia redband trout (redband trout occur only in the Kootenai River Basin).

Swan Valley Grizzly Bear Conservation Agreement Flathead National Forest, DNRC, and Plum Creek signed the Swan Valley Grizzly Bear Agreement with USFWS in 1995, which addresses forest and road management with respect to grizzly bear security and habitat issues. This agreement

covers all lands within Swan River State Forest and includes stipulations such as open road density, hiding cover, and timing of timber harvests. If FWP acquires the underlying fee-title, FWP would follow the intent of the Grizzly Bear Conservation Agreement.

Swan Ecosystem Center The Swan Ecosystem Center is a nonprofit, community organization based in Condon that works cooperatively with multiple interests to address land management and other community concerns. The Swan Ecosystem Center is a key partner in several ongoing projects, actively supports ongoing conservation efforts in the valley, and is expanding its own capacity to undertake land acquisition and other conservation efforts. The Swan Ecosystem Center has developed a detailed Landscape Assessment for the Swan Valley (February 2004) and funded a community survey on conservation priorities in 2003. This survey, conducted by Dr. Jill Belsky, University of Montana College of Forestry and Conservation, indicated strong local support for conservation of forests and wildlife. Results showed that 76 percent of full-time residents and 74 percent of seasonal residents agree that the Swan Valley community should protect Plum Creek lands from development. Ninety-six percent of full-time residents and 99 percent of seasonal residents feel that these lands should be managed for wildlife. Eighty-seven percent of full-time residents and 91 percent of seasonal residents also feel that these lands should be managed for sustainable timber.

Lake County Growth Policy In 2003, Lake County adopted a countywide growth policy as an update to the Lake County General Plan and pursuant to Section 76-1-601, MCA. The policy encompasses the northern portion of the Swan Valley, where the project area is located. The policy includes an inventory of current conditions, projections of growth, community goals and objectives, and implementation mechanisms. Also provided are the following goals and objectives relevant to the project:

- Protect the natural resources and character of the different parts of Lake County.
- Enable the public to take advantage of local recreational opportunities, particularly access to lakes and streams.
- Protect important wildlife habitat and migration corridors.
- Protect and encourage the prosperity of the area's cultural resources.
- Protect lives and property from damage caused by wildfire.
- Protect the area's scenic resources.

Project lands are subject to the provisions of the Lake County Density Map and Regulations, adopted to implement the Lake County Growth Policy and pursuant to the county zoning authority provided for in Section 76-2-205, MCA. The map and regulations are intended to direct growth where public services can be provided in a cost effective manner in order to maintain the rural character of agricultural and timber production areas, and to protect important wildlife habitat, water quality, and natural resources in the county. The regulations provide for an average number of residential, commercial, or industrial units allowed per acre. The proposed project sections or parcels are within either the 40-acres-per-unit density region (generally conforming with a grizzly bear linkage zone) or the 20-acres-per-unit density region. These are the lowest density categories in the planning regulations.

The Trust for Public Land The Trust for Public Land is a national, nonprofit land conservation organization that has been an active participant in land conservation efforts in the Swan Valley since the late 1990s. Trust for Public Land is working with landowners, citizens, resource managers, and local governments to develop and implement long-term conservation strategies that protect the

significant ecological and recreational resources of the Swan Valley and also promote sustainable management of the valley's forest product resources. Trust for Public Land's strategy includes a science-based assessment of wildlife and fisheries resources, timber productivity, recreational activities, and development potential.

The Nature Conservancy The Nature Conservancy is a national nonprofit conservation organization with a stated mission to preserve the plants, animals, and natural communities that represent the diversity of life on earth by protecting the lands and waters they need to survive. The Nature Conservancy of Montana is based in Helena, Montana, and has been active in northwest Montana land conservation since the mid 1980s.

Land and Water Conservation Funds Land and Water Conservation Funds are designated for the protection of important recreation lands across the United States. These funds are allocated annually by Congress and are generated by offshore oil leases. Trust for Public Land and The Nature Conservancy are working with the local communities and U.S. Forest Service throughout western Montana to secure Land and Water Conservation Funds to purchase Plum Creek lands that will ultimately transfer to National Forest ownership. This acquisition effort would focus on lower-elevation parcels proximal to grizzly bear linkage zones that also exhibit high recreation, wildlife and fisheries resource values. Land and Water Conservation Funds could be used to secure conservation on some of the project lands.

1.7 Decision(s) That Must Be Made

The decision that must be made is whether FWP ***should move forward on the West Swan Valley Conservation Project and, by doing so, purchase a conservation easement or fee ownership (or some combination of these two alternatives) from The Nature Conservancy of up to 9,500 acres of former Plum Creek lands in the West Swan Valley (Fig. 1).*** Following completion of the draft EA and public comment period, the FWP Region One supervisor will issue a decision notice that makes a recommendation to the FWP Commission on a course of action. This course of action could be one of the three alternatives or the No Action Alternative or an action that is within the scope of the analyzed alternatives**.**

As with other FWP conservation projects that involve land interests, the FWP Commission and the State Land Board must make the final decisions. This draft EA and the comments FWP receives are part of the decision-making process**.**

1.8 Scope of This Environmental Analysis

This draft EA addresses the environmental effects of FWP's acquisition of either a conservation easement or fee-title lands from The Nature Conservancy, a combination of these alternatives, and the No Action Alternative.

1.9 History of the Planning and Scoping Process

This proposed project is a continuation of FWP conservation easement or land acquisitions of Plum Creek lands in the Swan River State Forest that began with discussions with Plum Creek and Trust for Public Land in 2004. FWP has been participating in community-organized meetings of the Swan Lands Coordinating Committee since that time to keep residents of the Swan Valley and organizations working in the valley informed of progress on this long-term conservation effort. FWP has also continued community outreach through annual Liaison Team meetings for the North Swan conservation easement. The first Swan Liaison Team meeting was held in the community of Swan

Lake in 2009. The FWP Commission gave preliminary approval to FWP to proceed with this project in July 2009.

FWP sent out a news release to area media outlets on June 29, 2010, requesting public input on any specific issues or concerns that the public would like to see addressed in the EA. We also sent the scoping notice to the Swan Ecosystem Center. That organization agreed to send the notice to their electronic mailing list for the Swan Lands Coordinating Committee.

FWP is conducting a formal public review of this draft environmental assessment, Socioeconomic Report and Multi-Resource Management Plan. The public comment period will run 30 days beginning on August 6, 2010, and ending at 5:00 p.m. on September 7, 2010. We will also hold a public meeting at the Swan Lake Community Hall on August 19, 2010, at 7:00 p.m. Comments on the draft EA can be submitted at that meeting or anytime through September 3, 2010. Please use the following means of contact:

- E-mail comments to nivy@mt.gov (Subject: West Swan Valley Project).
- Direct questions to Alan Wood (751-4595) or Joel Tohtz (751-4570)
- Fill out comment forms provided at public meetings and FWP Kalispell Headquarters, 490 North Meridian Road, Kalispell.
- Write to: West Swan Valley Land Conservation Project, FWP, 490 North Meridian Road, Kalispell, MT 59901

1.9.1 Persons Responsible for Preparing Draft Environmental Assessment

An internal first draft of this EA was prepared by OASIS Environmental, Inc., under contract to Trust for Public Land. FWP then reviewed and prepared the public review draft environmental assessment for release in August. The following agency staff members were involved in preparing or reviewing this draft document:

Joel Tohtz, Science Program Manager, Montana Fish, Wildlife & Parks, 490 N. Meridian Road, Kalispell MT 59901 (406-751-4570)

Kris Tempel, Conservation Technician, Montana Fish, Wildlife & Parks, 490 N. Meridian Road, Kalispell MT 59901 (406-751-4573)

Gael Bissell, Habitat Conservation Biologist, Montana Fish, Wildlife & Parks, 490 N. Meridian Road, Kalispell MT 59901 (406-751-4580)

Rob Brooks, Responsive Management Coordinator, Montana Fish, Wildlife & Parks, P.O. Box 200701, Helena, MT 59620 (406-444-5786)

Rebecca Cooper, Environmental Assessment Coordinator, Montana Fish, Wildlife & Parks, P.O. Box 200701, Helena, MT 59620 (406-444

Hugh Zackheim, Lands Program Manager, Montana Fish, Wildlife & Parks, P.O. Box 200701, Helena, MT 59620 (406-444-4029)

Alan Wood, Wildlife Mitigation Coordinator, Montana Fish, Wildlife & Parks, 490 N. Meridian Road, Kalispell, MT 59901 (406-751-4595)

1.9.2 Issues Raised During Public Scoping

We received four letters during the scoping period that ended July 12, 2010. One letter supported the overall project proposal, while the other three letters favored the FWP fee acquisition alternative. Two letters identified several issues pertaining to future forest and road management on the properties and asked for clarification on the Riparian Exclusion Areas relative to cutthroat trout streams including:

1. Effect of the proposed project on threatened and endangered species (lynx, grizzly bears, bull trout) and associated agreements such as the Swan Valley Grizzly Bear Conservation Agreement and related road densities.
2. Effect of the proposed project on big game thermal cover.
3. Riparian stream buffers on all streams and effect on westslope cutthroat trout, water temperature, and sedimentation.
4. Forest management to promote snags, down woody material, and large trees.
5. Public review of the Multi-Resource Management Plan.

These issues have been specifically addressed in the appropriate sections of the draft EA. FWP has included the proposed Multi-Resource Management Plan in Appendix A. The section on the environmental consequences to fish and wildlife include discussion of big game and thermal cover, lynx, grizzly bears, bull trout, and related agreements. The Multi-Resource Management Plan addresses snag retention, but not down woody material or large trees directly. It also limits the harvest of cottonwood and aspen trees.

2 Proposed Alternatives

FWP must consider potential alternatives that meet the project objectives. Under the Montana Environmental Policy Act (MEPA), state agencies are required to disclose and evaluate the impacts of viable alternatives so that the public can see potential tradeoffs among the alternatives. Additionally, this process provides FWP Commission and other decision-makers a range of options to consider.

2.1 Description of Alternatives

Based on the project goals and land availability, FWP has selected four alternatives to consider:

1. Alternative 1: FWP Purchase of Conservation Easement Only
2. Alternative 2: FWP Purchase of Fee-title Ownership Only, Subject to BPA-held Conservation Easement
3. Alternative 3: FWP Conservation Easement and Purchase of Fee-title Ownership (combination of Alternatives 1 & 2 above)
4. The No Action Alternative

2.1.1 Alternative 1: FWP Purchase of Conservation Easement Only

FWP would use the anticipated BPA funds to purchase and hold a conservation easement on all of the 9,500 acres of the proposed project lands. Under this alternative, it is assumed that The Nature Conservancy would then sell the underlying fee-title interest in the lands, subject to the FWP conservation easement and other restrictions (see below), either to DNRC or possibly to another landowner.

Proposed Conservation Easement Terms
The specific terms of the proposed conservation easement in their entirety are contained in a separate legal document that is the "Deed of Conservation Easement." At closing, this document will be recorded at the Lake County Courthouse. The document lists both the landowner's and FWP's rights and restrictions under the terms of the conservation easement that are negotiated and agreed to by both parties. DNRC has preliminarily agreed to the conservation easement terms and associated Multi-Resource Management Plan as described below. TNC and BPA have also been engaged in the development of the conservation easement and associated management plan and have preliminarily agreed to the draft documents.

At this time, Plum Creek does not own the underlying hydrocarbon mineral rights to these lands. Trust for Public Land commissioned a study by a private consulting firm to evaluate the potential for mineral development in the entire Swan Valley. That study indicated that the potential for oil and gas and other hydrocarbons, as well as other mineral development, was so low as to be negligible. The conservation easement cannot prevent the current subsurface rights owner from developing mineral resources, but the mineral assessment suggests that this risk is minimal. Should the surface owner ever reacquire these subsurface mineral rights, the conservation easement would preclude hard rock (including coal) mineral development. It would not preclude hydrocarbon exploration or development, but it would require the fee-title owner to explore and develop these resources in a manner that is protective of the conservation values of the land.

Under the terms of the FWP conservation easement, the landowner would retain the right to:

- Manage, harvest, and sell timber, timber products, and other renewable forest products in accordance with the Multi-Resource Management Plan (Appendix A and text below).
- Construct, remove, maintain, replace, and repair roads and fences, and use motor vehicles and forestry equipment for land management.
- Extract sand, rock, or gravel, provided that the disturbed area is not greater than five acres, there are not more than two active sites open at any one time, the sites are not within Riparian Management Zones, and reclamation is accomplished according to listed reclamation standards.

The easement would restrict or limit the landowner's right to:

- Divide, sell, convey, or exchange the land into no more than three distinct parcels.
- Construct or place any residential or permanent structures.
- Cultivate, farm, or graze lands.
- Use the land for any alternative livestock operation, shooting preserve, fur farm, zoo/ menagerie, or feedlot.
- Dispose of toxic or hazardous wastes.

The easement would give FWP the right to:

- Prohibit commercial timber harvest activities within the 12.3 km (1,108 acres) of designated Riparian Exclusion Areas, which consist of the channel migration zone plus another 80 feet on either side of Woodward and South Woodward Creeks and the Swan River.
- Enter project lands to monitor landowner's compliance and enforce specific restrictions.
- Prevent inconsistent activities as defined in the conservation easement.
- Provide for public access and recreation opportunities.

The easement would also give BPA the right to:

- Enter project lands to monitor landowner's compliance and ensure FWP's enforcement of specific restrictions (or third party right of enforcement).
- To construct, locate, operate, maintain, and access future transmission facilities within the easement area (with measures to address the conservation values of the property) at no additional cost for securing the transmission easement for these purposes.
- To review and approve specific future actions in conjunction with FWP that could influence the conservation values of the property, such as changes to the management plan, certain activities in the Riparian Management Zone, or other actions outlined in the conservation easement.

Liaison Team

The conservation easement would establish a Liaison Team composed of equal numbers of landowners and FWP staff to meet at least once per year to address conservation easement and land management activities, public access issues, and to revise the Multi-Resource Management Plan as needed. The Liaison Team meeting would be open to the public.

Multi-Resource Management Plan

The Nature Conservancy, DNRC, and FWP have developed a draft Multi-Resource Management Plan that identifies and describes objectives and actions that the landowner will take to protect, manage, maintain, and enhance soil, water, range, aesthetics, recreation and

public access, timber, and fish and wildlife resources in a manner compatible with landowner objectives and the terms of the conservation easement (Appendix A). The Multi-Resource Management Plan is not incorporated into the conservation easement, but is a separate document, signed and acknowledged by representatives of the landowner and FWP, who have authority to commit the respective parties to compliance with the plan. Other parties that may ultimately have an interest in the plan (DNRC and BPA) have also been involved in the development of the plan. (Although the plan stands alone, it is also designed to be merged with and supersede the plan associated with the North Swan Valley Conservation Easement, should the DNRC acquire fee-title interest in any or all of the former Plum Creek lands within the Swan River State Forest.)

The Multi-Resource Management Plan would apply to the conservation easement lands. The standards contained in the plan are derived from Montana Forestry Best Management Practices (BMPs), Montana Administrative Rules for Forest Management, and Montana Forested State Trust Lands Habitat Conservation Plan (DNRC HCP, pending final approval) as well as Plum Creek's Open Lands Policy and DNRC's public recreational rules and regulations. This plan includes specific provisions intended to protect key fish and wildlife habitat, including the establishment of Riparian Exclusion Areas and Management Zones, protection of all other perennial streams within the project area, identification and protection of wetlands, consideration of wildlife security needs in forest management practices, prohibition of commercial harvest of aspen and cottonwood trees, maintenance of snags, and public recreational uses. Commercial recreation would be allowed, but cannot adversely affect public recreational uses.

The specific provisions in the Multi-Resource Management Plan are designed to be more flexible than the binding terms of a conservation easement. As science or management approaches change or if new landowners acquire the conservation easement lands, the Multi-Resource Management Plan language may also change. However, any changes to the plan must have the mutual consent of the landowner, FWP, and BPA (assuming BPA funding is used for the acquisition) and would be discussed through the Liaison Team. Should DNRC sell the land that is encumbered by this conservation easement, the new landowner would have the option of keeping or adapting the current Multi-Resource Management Plan upon approval of FWP and BPA.

Conservation Easement Baseline Inventory and Monitoring

FWP would fund and complete a baseline inventory within a year of closing. FWP would then monitor the conservation easement terms each year using funds from state hunting and fishing license sales and possibly BPA's Columbia Basin Fish and Wildlife Program. BPA funding for fish and wildlife mitigation is generated by sales of electric power and is periodically contracted to Montana for projects that mitigate fish and wildlife impacts resulting from the construction and operation of Hungry Horse and Libby Dams.

Anticipated Costs

FWP's estimated cost for the baseline inventory required in the first year following recording of the conservation easement is between $30,000 and $50,000. Annual conservation easement monitoring costs are expected to run less than $5,000 per year. Land management, fire, and other associated costs would be the responsibility of the underlying fee-title landowner.

Past and Present Relevant Actions Not Part of the Proposed Action

FWP recently acquired lands on the east side of U.S. Highway 83 and adjacent to the proposed

project lands as part of the North Swan Valley Conservation Project. The North Swan Valley Conservation Project includes a 7,200-acre conservation easement and 2,240 acres of fee ownership, the final 480 of which are scheduled for purchase by FWP in November 2010. The proposed terms of the current project are similar to those of the North Swan Valley Conservation Project with the exception that the landowner at the time of acquisition will be The Nature Conservancy.

Reasonably Foreseeable Relevant Actions Not Part of the Proposed Action
Upon successful execution of the proposed conservation easement, FWP might consider working with partners and other willing landowners to conserve other habitats in the Swan Valley pursuing either conservation easements or fee-title acquisitions or other partnerships. The Nature Conservancy may pursue sale of project lands with DNRC or other landowners.

2.1.2 Alternative 2: Purchase of FWP Fee-Title Ownership of Project Lands Only, Subject to a BPA-held Conservation Easement

Under Alternative 2, FWP would purchase up to 9,500 acres of project lands directly from The Nature Conservancy using available BPA and other funds as they became available and if needed. Those lands purchased using BPA funds would be subject to a conservation easement held by BPA (summarized below and in Appendix B) to ensure their future management prioritizes fish and wildlife habitat conservation over other uses. Additionally, the conservation easement held by BPA requires that FWP must complete a resource management plan for the acquired lands within 1 year after acquisition. This resource management plan would identify management actions that FWP would be able to take to ensure the proper stewardship and management of the lands consistent with the conservation easement terms as well as with other agreements associated with ownership of these lands. The resource management plan would also include rules for general public access and recreation. There would be an increased focus on the long-term restoration and maintenance of resident fish and wildlife habitat, while also maintaining a working forest that in the long term would generate revenue for ongoing overall management of these lands.

General Terms of the BPA-held Conservation Easement
The easement would restrict the following:

- All residential, commercial, or industrial uses including, but not limited to, timber harvest, grazing, and agricultural production.
- Erecting of any building, facility, billboard, or sign.
- Depositing of soil, trash, ashes, garbage, waste, or any other material except as allowed under applicable federal, state, and local laws.
- Excavating, dredging, or removing of loam, gravel, soil, rock, minerals, sand, hydrocarbons, or other materials.
- Altering the general topography.
- Draining, dredging, channeling, filling, leveling, pumping, diking, impounding, or related activities, as well as altering or tampering with water control structures or devices.
- Granting easement, lien, or other property interest, in whole or in part, without BPA's written consent.

The uses or activities listed above *may be allowed* if these uses or activities do not materially impair any conservation value and are addressed through an approved resource management plan.

FWP may or may not retain long-term ownership of these lands under this alternative. If sold or traded to another entity at some point in the future, these lands would still be encumbered by the BPA conservation easement, associated management plans, other agreements, and/or other instruments that will conserve fish and wildlife habitat, while also allowing continued forest stewardship and management. Public recreational uses and access would be guaranteed in the future through the BPA-held conservation easement or other restrictions and described in the associated resource management plan.

Recently enacted legislation requires FWP to put 20% of the purchase price or a maximum of $300,000 in an FWP permanent and dedicated management account to cover management costs, taxes, and other expenses associated with land stewardship, management, and ownership. FWP would use funds from FWP license account to fund that stewardship account for this property at each closing consistent with new state laws. If other funding sources are used to purchase some of the project lands, these parcels would be subject to the restrictions of those funding programs.

If the purchase price for the 9,500 acres exceeds the available $15.5 million from BPA, acquisitions would be phased in over time. If this occurred, the acquisitions would begin at the south end of the project area and progress northward. This order of acquisition is determined by FWP's priority for protecting fish habitats located on project lands.

FWP would manage the fee-title lands using funds from BPA's Columbia Basin Fish and Wildlife Program, the newly established FWP land management fund, and other state, federal or nonfederal sources as needed and yet to be determined.

Monitoring and Management

FWP would manage the fee-title lands using funds from the state's new land management funding account, BPA's Columbia Basin Fish and Wildlife Program if funds become available, or other state, federal or nonfederal sources as needed and yet to be determined. Management of the fee lands would protect and enhance fish and wildlife habitat, maintain public access and recreational opportunities, and continue forest stewardship and management. FWP would develop a resource management plan detailing overall management goals, objectives, and methods as required by the BPA-held conservation easement within one year of acquisition. FWP would first complete a draft resource management plan along with a draft environmental assessment for public review prior to submitting this plan to BPA for final adoption.

Past and Present Relevant Actions Not Part of the Proposed Action

FWP recently acquired lands on the east side of U.S. Highway 83 and adjacent to the proposed project lands as part of the North Swan Valley Conservation Project. The North Swan Valley Conservation Project includes a 7,200-acre conservation easement and 2,240 acres of fee ownership, the final 480 of which are scheduled for purchase by FWP in November 2010. The proposed conservation easement terms of the FWP conservation easement alternative are similar to those of the North Swan Valley Conservation Project.

Reasonably Foreseeable Relevant Actions Not Part of the Proposed Action

Upon successful acquisition of project lands, FWP would consider working with partners and other willing landowners to conserve other habitats in the Swan Valley. FWP may consider land exchanges with DNRC for the consolidation of intermingling lands, which could simplify management of agency lands.

Anticipated Costs
An independent appraisal is currently being conducted to provide costs for the first two alternatives. This information should be available during the public comment period. Under the fee-title alternative, FWP costs for land management would be much greater than the Conservation Easement Only Alternative due to ongoing commitments of the current landowner, the need for a detailed resource management plan, public access management, and future enhancement and land management activities. FWP estimates initial annual operations and maintenance costs, including payment of property taxes, would be $50,000 in the first year, dropping to approximately $30,000 in each of the subsequent four years. Through other separate agreements, the responsibility of wildfire management of these lands falls under DNRC.

2.1.3 Alternative 3: Combination of FWP Purchase of a Conservation Easement and Purchase of Fee-title Ownership on Lands Only, Subject to BPA-held Conservation Easement

Under Alternative 3, FWP would combine the strategies described above for Alternatives 1 and 2. FWP would hold a conservation easement on some of the lands and acquire title to other parts of the project lands. As in Alternative 2, the lands acquired with BPA funds would be subject to a conservation easement held by BPA. Other funding sources would dictate other possible restrictions on the lands acquired by FWP. FWP and The Nature Conservancy have not determined which parcels would be subject to conservation easement or which might be purchased by FWP under this alternative. BPA funds would likely be first used to acquire an interest in land primarily on those parcels along Woodward, South Woodward, and Swan River main stem.

Monitoring and Management
FWP would monitor the conservation easement lands as stated in Alternative 1 with costs less than $5,000 per year. FWP would need to develop and implement the resource management plan following the acquisition of any lands using BPA funds as described under Alternative 2.

Past and Present Relevant Actions Not Part of the Proposed Action
FWP recently acquired lands on the east side of U.S. Highway 83 and adjacent to the proposed project lands as part of the North Swan Valley Conservation Project. The North Swan Valley Conservation Project includes a 7,200-acre conservation easement and 2,240 acres of fee ownership, the final 480 of which are scheduled for purchase by FWP in November 2010. The proposed terms of the current project are similar to those of the North Swan Valley Conservation Project with the exception that the landowner at the time of acquisition will be The Nature Conservancy.

Monitoring and Management Costs
An independent appraisal is currently being conducted to provide costs for the first two alternatives and would be used if FWP chooses to do a combination of both alternatives. The appraisal information should be available during the public comment period. Under the fee-title alternative, FWP costs for the land management portion would be much greater than the conservation easement portion due to ongoing commitments of the current landowner, the need for a detailed resource management plan, public access management, and future enhancement and land management activities. The costs would be intermediate to those provided under Alternatives 1 and 2 depending on the proportion of project land that is under conservation easement or purchased in fee. Through other separate agreements, the responsibility of wildfire management of these lands falls under DNRC.

2.1.4 Alternative 4. No Action Alternative

Under this alternative, FWP would not pursue a conservation easement or fee-title acquisition of any former Plum Creek lands in the West Swan Valley project area. As the new owner, The Nature Conservancy may try to pursue a conservation outcome with other entities or possibly sell the lands to DNRC. However, The Nature Conservancy may end up selling the lands to private entities without any restrictions. It is not known at this time what effect the No Action Alternative would have on the future management of DNRC lands.

Past and Present Relevant Actions Not Part of the Proposed Action

FWP recently acquired lands on the east side of U.S. Highway 83 and adjacent to the proposed project lands as part of the North Swan Valley Conservation Project. The North Swan Valley Conservation Project includes a 7,200-acre conservation easement and 2,240 acres of FWP fee ownership, the final 480 of which are scheduled for purchase by FWP in November 2010. The proposed conservation easement terms for the proposed West Swan Conservation Project are similar to those of the North Swan Valley Conservation Project.

Monitoring and Management Costs

FWP would not incur any monitoring or management costs. FWP would continue to monitor its conservation easement on the North Swan Valley project area and managed lands previously acquired.

2.1.5 For All Alternatives: Reasonably Foreseeable Relevant Actions Not Part of the Proposed Action

The USFWS has recently initiated a proposed conservation easement program for wetlands and other important lands in the Swan Valley. In addition, the Swan Ecosystem Center and other partners have obtained funding for habitat restoration on Forest Service lands. The community is also pursuing funding for creating and managing a community forest near Condon. FWP will continue to work with partners to further cooperative conservation efforts and may continue to be interested in pursuing other land conservation projects in the Swan Valley with interested landowners.

2.2 Process Used to Develop the Alternatives

2.2.1 History and Development Process of Alternatives

Alternatives were developed based on scoping and internal dialogue, as well as ongoing discussions with The Nature Conservancy, Trust For Public Land, and DNRC. Based on this input, FWP developed 3 viable alternatives that meet project objectives as well as the No Action Alternative.

2.2.2 Alternatives Eliminated from Detailed Study

There were no additional alternatives discussed and eliminated from detailed study.

2.2.3 Summary Comparison of the Alternatives, the Predicted Achievement of the Project Objectives, and the Predicted Environmental Effects of All Alternatives

Table 1 presents a concise summary comparison of whether alternatives meet project objectives. Table 2 is a summary of the advantages and disadvantages of each alternative. Table 3 lists a summary of predicted environmental effects.

Table 1. Summary of Project Objectives Met Under Each Alternative

Objective	1. Conservation Easement Only	2. Fee-Title Ownership Only	3. Conservation Easement and Fee-Title Ownership	4. No Action
Maintains Working Forests	Yes	Yes	Yes	Not Guaranteed
Conserves Fish & Wildlife Habitats	Yes	Yes	Yes	Not Guaranteed
Maintains Public Access	Yes	Yes	Yes	Not Guaranteed
Consistent With Community Conservation Efforts	Yes	Yes	Yes	Not Guaranteed

Table 2. Summary Comparison of Predicted Environmental and Other Effects

	1. Conservation Easement Only	2. Fee-title Ownership Only	3. Conservation Easement and Fee-Title Ownership	4. No Action
Land Resources				
Soils/Productivity	Maintains or improves current conditions.	Improves current conditions.	Intermediate between 1 and 2.	Possible impacts.
Water Resources	Maintains or improves current conditions; expected improvement on streams with designated Riparian Influence Zones and within the watershed.	Maintains and improves current conditions; expected improvement along all water courses over time and within the watershed.	Intermediate between 1 and 2.	Possible impacts.
Timber Production/ Vegetation	Maintains or improves riparian vegetation and forest stand conditions for long-term timber growth and productivity.	Improves riparian vegetation; could improve stand age, density, and diversity for uplands over time.	Intermediate between 1 and 2.	Possible impacts.
Fish and Wildlife	Maintains or improves current conditions particularly for bull trout; will protect aspen and cottonwoods.	Maintains and improves current conditions particularly for resident fish, listed species, and big game, & other fish & wildlife.	Intermediate between 1 and 2.	Possible impacts.
Social/Economic Resources				
Air/Noise	Maintains or improves current conditions.	Maintains or improves current conditions.	Same as 1 and 2.	Possible impacts.
Risk/Health/Safety	Maintains status quo.	Improves current conditions.	Intermediate between 1 and 2.	Could maintain status quo.
Land Use and Community Values	Removes potential for land conversion to residential or commercial.	Removes potential for land conversion to residential or commercial.	Removes potential for land conversion to residential or commercial.	Possible impacts.
Electrical/Utility	Removes potential for future development except allows for large transmission lines.	Removes potential for future development except allows for large transmission lines.	Removes potential for future development except allows for large transmission lines.	Could increase demand.
County/State Financial	Maintains tax base if the underlying land is not purchased by DNRC. Under DNRC no taxes would be paid.	Maintains status quo.	Intermediate between 1 and 2.	Possible impacts.
Aesthetics/ Recreation	Maintains access in perpetuity; aesthetics maintained or improved over time.	Maintains or access in perpetuity; aesthetics likely to improve over time.	Maintains access in perpetuity; aesthetics may improve over time.	Possible impacts.
Cultural/Historic	Maintains or improves status quo.	Maintains or improves status quo.	Same as 1 and 2.	Possible impacts.

Table 3. Summary of Advantages and Disadvantages of Alternatives

Alternative I Conservation Easement Only	Alternative II Purchase of Fee-title Ownership Only	Alternative III Conservation Easement and Fee-title Ownership	Alternative IV No Action
ADVANTAGES - Conserves the maximum amount of habitat for the potential least cost. - Offers enhanced protection of riparian zones, wetlands, & other important habitats. - Protects 12.3 km of bull trout stream and riparian habitat plus permanent measures for overall watershed protection. - Benefits big game, bull trout, westslope cutthroat trout, grizzly bears, and other wildlife species. - Enhances habitat connectivity. Decreases human-wildlife conflicts. - Supports community goals. - Maintains permanent right of public access and recreational opportunities; -Mainatins greater timber harvest opportunities subject to the conservation easement and management plan than other alternatives. -Provides potential cost-savings with continuity of land management across project and adjoining lands. -Maintains future timber resources. - Protects potential cultural resources.	**ADVANTAGES** -Offers greater protection of riparian zones, wetlands, and other important habitats in comparison to Alternative 1. - Offers greater benefits to big game, bull trout, grizzly bears, and other wildlife species. - Protects all streams and riparian habitat beyond the 12. 3 km in Riparian Management Zones. - Enhances habitat connectivity and reduces fish and wildlife habitat fragmentation. - Decreases human-wildlife conflicts. - Supports community goals. - Maintains permanent right of public access and recreational opportunities. - Protects limited timber harvest opportunity. - Protects potential cultural resources.	**ADVANTAGES** -Offers greater protection of riparian zones, wetlands, and other important habitats intermediate between Alternatives 1 & 2. - Would have benefits to big game, bull trout, grizzly bears, and other wildlife species intermediate to Alternatives 1 & 2. - Protects streams, riparian habitat, and watershed beyond the five miles included in Riparian Management Zones. - Enhances habitat connectivity. - Decreases human-wildlife conflicts. -Supports community goals. - Maintains permanent right of public access and recreational opportunities. - Protects limited timber harvest opportunity intermediate between Alternatives 1 & 2. - Protects potential cultural resources.	**ADVANTAGES** - Allows FWP to redistribute funds committed to Montana from BPA fish mitigation program to other FWP projects. - Possibly increases residential or conservation property tax revenues versus timberland tax revenue.

DISADVANTAGES	DISADVANTAGES	DISADVANTAGES	DISADVANTAGES
- Least expensive alternative to FWP. -Increases easement monitoring costs for state. - Limits future potential development in project area.	- Potentially most expensive alternative to FWP. - Increases management costs for FWP. - Limits future potential growth in project area. - Less continuity of natural resource management across the landscape.	- Intermediate costs to Alternatives 1 & 2. - Intermediate increase in management costs for FWP. - Limits future potential development in project area. -Less continuity of natural resource management across the landscape.	- Impacts to fish and wildlife habitats. - Habitat fragmentation. - Loss of productive timberland to conservation or development. - Increased human-wildlife conflicts. - Increased conflicts between forest management activities and residential development. - Loss of recreational opportunities/access. - Potential impacts to cultural resources. - Increased human-wild land interface with attendant wildfire dangers. - Potential for increased costs of service provision to dispersed rural development.

2.3 Identification of the Preferred Alternative

Acquiring some property interest in former Plum Creek lands is preferred to the No Action Alternative because acquiring these rights best meets overall community goals and ensures a desired conservation outcome. However, because conservation easements and fee ownership have different advantages and disadvantages, none of the three potential action alternatives to achieve these property interest acquisitions is identified as preferred at this time.

3 Affected Environment

This chapter will describe the natural and social resources or values potentially affected by all alternatives.

3.1 Land Resources

3.1.1 Soils and Productivity

The soils of the West Swan Valley Conservation Project area range from mesic and wetland soil types to cold, shallow soils on steep slopes. The most productive sites are found in the lower elevations along the Swan River and its tributaries and along foothill-bench topography. Overall, project lands at lower elevations are characterized by deep, productive soils. Higher elevations contain some deep soil types along foothill benches and major drainages with shallower, less developed soil types found on the steeper and higher slopes.

The Trust for Public Land commissioned a study by the Montana Bureau of Mines to evaluate the potential for mineral development in the entire Swan Valley. That study indicated that the potential for oil and gas, as well as other mineral development, was so low as to be negligible.

3.1.2 Water Resources

The proposed project lands include 2.3 km of Woodward Creek, 6.2 km of South Woodward Creek, and 3.8 km of the Swan River main stem, as well as 0.6 km of Whitney and Whitetail Creeks (Figure 1). South Woodward Creek Lake 1 and portions of Lakes 2 and 3 are also located within project lands. The project area is characterized by a well developed system of glacial potholes, wet meadows, seeps, and riparian connections. This complex of meadows and ponds is most developed from along Woodward Meadows (on Woodward Creek) and provides connectivity for numerous plant and animal species along upland terraces. Plum Creek does not own or have any water rights on these lands.

3.1.3 Vegetation/Timber Productivity

Forest types on project lands range from wet riparian forest to drier ponderosa pine/snowberry communities to more sparsely forested areas dominated by subalpine fir. Cottonwood, aspen, and birch commonly surround wetland and riparian areas and are present on other wet upland sites as well. Cottonwood and spruce dominate much of the Swan River's floodplain. Most of the lower elevation upland areas consist of mixed-conifer forest dominated by Douglas fir, western larch, and ponderosa and lodgepole pine. Other common species include grand fir and subalpine fir, which are found in increasing proportions as elevation increases.

Project lands have all been logged under Plum Creek ownership. Stand types on most low-elevation project lands range from regenerated seedling and pole stands to mixed-aged stands of mature timber. Plum Creek estimates that approximately 90 percent of forested lands in the lower elevation project lands are in early-to-mid-successional condition, with one or more age classes represented. Typical forest rotations for saw timber in these areas range from 50 to 75 years. Rotations for saw timber in higher elevation areas range from 60 to 80 years. In general, there is little unmanaged old growth on Plum Creek lands, but there may be many places with some old growth along riparian corridors.

According to Trust for Public Land's analysis of timberland productivity using data from the Flathead National Forest Land Type database, some of the most productive timberlands in the state are found on the lower elevation parcels. According to Trust for Public Land's analysis of timberland productivity using data from the Flathead National Forest Land Type database, some of the most productive timberlands in the state are found on these lands. Approximately 26% of the project lands are ranked as high, 64% as medium, and about 10% as low for overall timberland productivity. Approximately l 6% of the moderately productive lands are considered limited by wet soil conditions and are found primarily along the Swan River.

Noxious weeds occur on project lands. Plum Creek, DNRC, and the Forest Service have developed and implemented cooperative weed management plans with Lake County to control and manage noxious weeds.

3.1.4 Fish and Wildlife Resources

The proposed project includes about 10 km of core bull trout habitat in the Woodward/South Woodward Creek drainage and another 2.3 km along the Swan River main stem. These important tributaries provide essential spawning and rearing habitat for this core population. Based on annual bull trout redd counts, FWP biologists have confirmed that Woodward/South Woodward Creek supports a significant portion of the annual bull trout production in the Swan River drainage (Table 4). These same stream reaches also support westslope cutthroat trout. Westslope are also found in 0.2 km of Whitney Creek that falls within the project area. Brook trout occur in both Whitney Creek and 0.6 km of Whitetail Creek that fall within the project area as well as in other parts of these the project area streams and Swan River.

Table 4. Bull trout spawning site inventories for the Woodward/South Woodward Creek drainage, 1982 to 2009.

Year	No. redds	% of total redd count in all drainages surveyed in the upper Swan drainage	Year	No. redds	% of total redd count in all drainages surveyed in the upper Swan drainage
1982	--	--	1999	53 [a]	8
1983	5	2	2000	76 [a]	11
1984-1990	--	--	2001	55 [a]	8
1991	44	9	2002	54 [a]	10
1992	8[a]	2	2003	116 [a]	20
1993	--	--	2004	58 [a]	10
1994	--	--	2005	67 [a]	11
1995	96	13	2006	69 [a]	11
1996	72 [a]	10	2007	114	15
1997	72	9	2008	92	15
1998	81	10	2009	58	12

[a] Counts may be low due to incomplete survey. -- No survey conducted.

The main stem Swan River provides the nodal or migratory habitat that links over-wintering habitat in Swan Lake to spawning, rearing, and other habitats in major tributaries that are critical to all life-history stages of the Swan River bull trout population. The proposed conservation easement and/or fee-title acquisitions include about 2.3 km of the Swan River main stem.

The upper Swan River also supports a strong recreational fishery for both native trout, including westslope cutthroat trout and bull trout, as well as introduced species, including rainbow trout and brook trout. Three lakes connected to South Woodward Creek are stocked every two to three

years with westslope cutthroat trout. The upper reaches of the tributaries to Woodward Creek may also support genetically pure westslope cutthroat trout. There is some concern about the effects of introduced brook trout on native bull trout populations and about the effects of rainbow trout on the genetic integrity of westslope cutthroat trout, which is listed as a Montana Species of Concern.

Project lands fall within the Northern Continental Divide Ecosystem Grizzly Bear Recovery Area. The grizzly bear is federally listed as threatened in Montana. The northern half of the project area lies within a grizzly bear linkage zone developed by USFWS and managed through a cooperative agreement between USFWS, Flathead National Forest, DNRC, and Plum Creek. This agreement, called the Swan Valley Grizzly Bear Conservation Agreement, integrates timber, recreation, road, access, and bear management across the mixed ownership matrix of the Swan Valley. Based on the 2004 Swan Valley Conservation Agreement Monitoring Report, the cooperators have all met or exceeded the standards for open road densities, timing of timber harvest, and maintenance of hiding cover as required by the agreement within the project area. Twelve of the proposed 18 sections that contain project lands are located within a Grizzly Bear Linkage Zone.

Based on results of black bear and grizzly bear research (R. Mace, FWP, pers. comm.), the entire project area is used by both grizzly and black bears during the spring, summer, and fall. The wetland and riparian corridors described above under Water Resources are important to bears, and large cottonwood trees provide black bear denning habitat. The forests and wetlands are also important for many species of neotropical migratory and cavity-nesting birds.

Canada lynx, which are federally listed as a threatened species, also occur within the project lands and tracks have been recorded by FWP wildlife biologists. Based on harvest, sighting data, and habitat information, fisher, marten, and wolverine also likely use the higher elevation lands and may seasonally move to project lands at lower elevations (J. Vore, FWP, pers comm.)

The gray wolf was delisted from the ESA as of May 4, 2009. Gray wolves are protected and managed in the state as a Montana Species in Need of Management. FWP has the primary responsibility to conserve and manage wolf populations under Montana's Nongame and Endangered Species Act (87-5-101-112, MCA). At least two active wolf packs are known to occupy the Swan Valley (K. Lauden, FWP, pers. comm.).

A portion of the Swan Valley's white-tailed deer and elk winter range falls within proposed lands, particularly the lower elevation sections along U.S. Highway 83 and the Swan River. Wildlife move north and south as well as up and down the project area's elevational gradients during the various seasons. The entire project area supports moose, mountain lions and black bears. Other wildlife present in the project area include bobcat, beaver, mink, river otter, waterfowl, native grouse, shorebirds, and amphibians and reptiles, as well as other nongame mammals (J. Vore, pers. comm.).

3.2 Social and Economic Resources

Project lands lie in a fairly remote area of Lake County and are over 60 miles away from the county seat in Polson. The closest town is Swan Lake, located about eight miles north. The small community of Salmon Prairie is about four miles south and the larger community of Condon is located about 12 miles from the project area, also to the south. The Salmon Prairie K-8 School and Bigfork High School serve the residents of Salmon Prairie and the Swan River State Forest area.

3.2.1 Noise/Air

Noise levels are relatively low and air quality is relatively good in the project area most of the time. U.S. Highway 83 traffic levels, timber harvest and transportation activities, as well as hunting, periodically affect noise. Noise may also be high during hunting seasons or gravel excavation activities. Wildfire, slash burning, residential wood burning, and traffic along Highway 83 can affect local air quality. There are no timber processing mills or other industries in the project area, but they do occur within the valley.

3.2.2 Land Use/Community Values

Most of the land in and surrounding the project area is currently owned or managed by federal, state, or corporate entities for the purpose of timber production (Figure 1). These lands are also important for recreation. In 2010, U.S. Forest Service acquired nearly all the former Plum Creek land south of the project area.

Inside the 106 square miles of Swan River State Forest ownership, there are currently seven parcels of noncorporate private land totaling about 1,500 acres; two of these parcels (approximately 175 acres) are encumbered by donated conservation easements (Figure 1). Of several of the other private parcels along the highway and river, most include residential developments.

Project lands (and surrounding state lands) have been assigned the lowest density allowed under Lake County's Growth Policy: one home per 40 acres for those parcels within the designated Grizzly Bear Linkage Zones or one home per 20 acres outside of designated linkage zones. Of proposed project lands, 5,700 acres fall within the 1/40 density, which could provide for up to 142 new residences on those sections. Another 3,800 acres fall within the 1/20 recommended density, which could provide up to 190 home sites. Under current allowed densities, a maximum of 332 new houses could potentially be developed on proposed project lands without additional protection measures. Land divisions of these sizes would be subject to subdivision review by the county, wherein other criteria would also be examined regarding the impacts of specific proposals.

The Swan Ecosystem Center is a nonprofit citizens' group located in Condon, which cooperatively manages the Condon Forest Service Ranger Station. The mission of the Swan Ecosystem Center is to "…maintain a strong, vital community, one involved in setting its own destiny through partnerships that encourage sustainable use and care of public and private lands." They collect and provide information, actively educate community members about local ecosystems and land management on public and private lands, and facilitate collaboration between diverse stakeholders to maintain the Swan Valley's wild and scenic character while enabling and protecting sustainable economic activities. Although the Swan Ecosystem Center does not represent everyone's point of view in the Swan Valley, the organization does offer information and outreach to everyone and uses collaborative methods to help define community opinions. Through the efforts of Swan Ecosystem Center, various agencies and organizations working in the Swan Valley continue to work together to refine and implement conservation efforts and to address the issue of conversion of corporate timberland to private development. Several meetings have taken place in Condon and Swan Lake to discuss local and regional efforts to this effect. A 2003 survey completed by the University of Montana of Swan Valley residents, nonresidents, and seasonal residents indicated strong support for conservation of forests and wildlife.

The community of Swan Lake has its own town organization, post office, and community center, but no specific department working on land conservation issues at this time. The Swan Ecosystem Center has developed a mailing list and held public meetings in Swan Lake.

Plum Creek, as a real estate investment trust corporation, recognizes the high value of its real estate in the Swan Valley and has sold thousands of acres over the last few years for real estate development. Plum Creek also recognizes the important habitat and community values of these lands and has sold or contracted to sell all their remaining lands in the Swan Valley to The Nature Conservancy and the Trust for Public Land as part of the Montana Legacy Project.

3.2.3 Risk/Human Health/Safety

The project area is currently managed as a commercial forest that carries inherent risks to human health and safety associated with wildfire, logging, and commercial transportation. In addition, the entire area is used by the public for a multitude of recreational activities including off-highway vehicle travel, hunting, trapping, snowmobiling, camping, wildlife viewing, hiking, firewood cutting, and berry picking. All these activities have some degree of risk associated with outdoor use and the use of various types of outdoor equipment.

3.2.4 Public Services/Taxes/Utilities

Electrical and communication systems for the Swan Valley are located along the U.S. Highway 83 corridor and serve most private, noncorporate lands. There are no public water or sewage disposal systems in the project area. Private landowners in the Swan Valley primarily use individual wells and septic systems. Fire and police services are extended from the Swan Lake, Salmon Prairie, or Condon communities.

Plum Creek currently pays slightly less than $1 per acre for property taxes on project lands or approximately $9,500 per year.

3.2.5 Aesthetics/Recreation

The Swan Valley, with its scenic vistas of both the Mission and Swan Mountains, pristine rivers and streams, myriad lakes, and abundant public or open lands, has high aesthetic and recreational values and serves many Montana communities including Missoula, Helena, Great Falls, Polson and Kalispell. The Swan Valley is listed in local, state, or federal landscape inventories as "distinctive and noteworthy" and is a well-travelled scenic driving route. Two scenic mountain ranges and wilderness areas surround the Swan Valley: Mission Mountain Wilderness on the west and Bob Marshall Wilderness along the Swan Mountain crest.

The presence of relatively intact fish and wildlife habitat for species listed as threatened under the ESA, along with abundant big game and other wildlife, is one of the project areas most pronounced characteristics and valuable resources. Other notable values that are a part of fish and wildlife resources include excellent water quality, an abundance of wetlands and lakes, presence of important wildlife population exchange and migration corridors between the Mission and Swan Mountains, and overall high biological diversity.

Between the communities of Swan Lake and Salmon Prairie (about 14 miles), U.S. Highway 83 extends through land owned predominantly by U.S. Forest Service and DNRC and exhibits very little development. This stretch of road is the longest undeveloped portion of Highway 83 between Seeley Lake and Kalispell.

The Swan Valley provides numerous opportunities for recreational activities including camping, hunting, berry picking, mushroom foraging and wildlife viewing. The Swan River National Wildlife Refuge is located approximately five miles north of the project area. Historically, because of extensive federal, state and corporate land ownership, most of the Swan Valley has been open to traditional public use for many years. The valley also provides several major access points to the Bob Marshall Wilderness and links to an extensive trail access system for the Mission Mountain Wilderness. DNRC manages two campgrounds in the Swan River State Forest: Pleasant Point along the Swan River and Soup Creek on the east side of U.S. Highway 83.

The proposed project area has a well-developed road system as a result of timber harvest operations with key loop roads open year-round. The U.S. Forest Service, DNRC, and Plum Creek have cooperatively managed the open roads.

The Swan River is popular with anglers and receives a substantial amount of commercial outfitting use. Stocked westslope cutthroat trout occurring in South Woodward Lakes 1, 3, and 4, as well as introduced brook trout and other native fish species, provide a diversity of angling opportunities on the Swan River and its tributary streams and lakes. In 2007, the upper Swan River (from Swan Lake to its headwaters [river mile 23 to 91]) accumulated an estimated 2,477 days fished (one angler fishing one body of water in one day). Currently, the upper Swan River system ranks 28th among 332 water bodies monitored for fishing pressure in northwestern Montana during the summer. In previous years, the number of days fished has been significantly higher, and this number has been affected by environmental conditions such as drought and wildfire.

The entire project area is popular with hunters and trappers due to access and lack of development. The Swan Valley annually produces mature white-tailed deer, mule deer, mountain lions, and black bears. The Swan Valley is one of the most popular white-tailed deer hunting districts in the region. During the 2008 season, resident and nonresident hunters spent a total 17,241 hunting days (one hunter hunting in one district for one day) and harvested approximately 1,121 deer (96% of which were whitetails) in Hunting District 130, which covers the Swan Valley south of Swan Lake.

Although roads can be used by snowmobilers during winter, there are no developed or groomed snow mobile areas within the proposed project area. These roads and lands may also be used by cross-country skiers and other winter users for recreation and trapping.

It is not known what percentage of hunting in Hunting District 130 takes place within the bounds of project lands. Based on open access to public hunting across the entire project area, the network of major access roads, high deer/elk populations and local knowledge, it can be inferred that a significant amount of hunting takes place within or proximal to the project area. Based on a survey of hunters bringing deer through the Swan and Bonner check stations, FWP estimates that hunters traveling to the Swan Valley come primarily from Flathead (70%) and Lake Counties (22%), and also from Missoula County (6%), other Montana counties (1%), and from out of state (1%). These estimates exclude people coming from east of the Continental Divide along Highway 200 where there are no check stations.

3.2.6 Cultural/Historic Resources

The Swan Valley and surrounding mountains are an area rich in cultural history arising from pre-settlement tribes and, more recently, from early explorers, trappers and loggers. A number of recorded archaeological sites occur in the valley from early occupation by the Kootenai, Salish and Pend d'Oreille Tribes who frequented the Swan River Valley for hunting, fishing and gathering purposes. The tribes would spend several months a year in the valley, but rarely over-wintered there. Campsites, culturally scarred trees and stone tool sites have been identified. The Salish and Pend Oreille Tribes have been researching and compiling data on place names in the Swan Valley area. Oral histories indicate that the Swan was a central corridor of traditional seasonal use for thousands of years. Native American trails extended from the Mission Valley, across the mountains and Swan Valley, eastward to the plains.

Based on a Cultural Resources Information System report from the State Historic Preservation Office, four cultural resource sites were identified within the greater project vicinity. These sites relate to historic roads or trails, historic fur trade, and Euro-American structures. None of the identified sites are located on project lands, but not all lands have been surveyed due to corporate and other private land ownership and management. Based upon the presence of these sites, there is a potential for other cultural resources to occur in the area.

3.3 Description of Relevant Preexisting Factors

The amount of corporate private land in the Swan Valley and the recent disposal of these corporate lands over the previous several years have resulted in additional housing and recreational developments across the landscape. The Swan Valley is one of the most diverse and productive wildlife areas in the state and provides important habitat for a number of threatened species. State, community, and other partnerships have already completed a number of land acquisitions, primarily through the Land and Water Conservation Fund, to help maintain and improve habitat conditions and sustainable economic practices. The U.S. Fish and Wildlife Service has recently proposed a conservation easement program into the Swan Valley.

3.4 Description of Areas Related to Indirect or Cumulative Effects

The proposed project lands lie within a checkerboard ownership pattern with DNRC, and the project could have indirect or cumulative effects on how DNRC may be able to manage their lands in the future. If DNRC acquires the underlying fee-title to these lands subject to FWP's conservation easement, administrative and management/access issues would likely be fewer than with lands owned by a private entity. If FWP acquires the former Plum Creek lands in fee, management across the area may still be fragmented to a degree due to differing missions between state agencies, but perhaps better than if the lands are conveyed to a private entity.

Under the conservation easement alternative, DNRC would follow their HCP guidelines as detailed in the Multi-Resource Management Plan as well as likely adopt their pending HCP restrictions for all their lands in the Swan River State Forest. This action would still allow State Trust lands to be harvested, but they would be applying more restrictive stream and watershed protection across all the Swan River State Forest. If completed, this project would accomplish another phase of the Montana Legacy Project as well as complement the conservation achieved through FWP's adjoining North Swan Valley Conservation Project.

Under the No Action Alternative, the project lands could be transferred to a private third party with or without encumbrances. The result could be the status quo or the new landowner could choose not

to comply with local conservation agreements and/or the new landowner could develop the lands. This last scenario could have an effect on adjoining lands owned by DNRC. Any effects would be evaluated by DNRC as they continue to implement land management activities in compliance with the Montana Environmental Policy Act and other rules and regulations.

4 Environmental Consequences

This section describes the degree to which each of the alternatives meets project objectives, as well as the predicted effects on various resources. The key results of this analysis showing the overall advantages and disadvantages of the alternatives are summarized in Section 2.3, Table 3.

The objectives of the West Swan Valley Conservation Project are to:

- Conserve important fish and wildlife habitats.
- Maintain public recreational access.
- Improve geographic continuity of land management practices.
- Contribute to the assemblage of public, private, industrial, and community efforts to conserve the Swan Valley's natural values and its tradition of public access to fish, wildlife, and other recreational resources.

4.1 Predicted Attainment of Project Objectives

A table summarizing the degree to which each of the alternatives meets project objectives can be found in Section 2.3, Table 1. All alternatives, except the No Action Alternative, meet the project objectives.

4.2 Predicted Effects on Relevant Affected Natural and Human Resources of All Alternatives

This section describes the predicted effects of each of the alternatives on the natural and human environment. A table summarizing the effects of the four alternatives on natural and human resources can be found in Section 2.3, Table 2.

4.2.1 Land Resources

Alternative 1: FWP Conservation Easement Only
Under the Conservation Easement Only Alternative, soil integrity would be maintained or improved. Forest harvest, road building, road maintenance, and related activities would be allowed under the terms of the conservation easement and associated Multi-Resource Management Plan (Appendix A). In the event of successive ownership by DNRC, lands would be managed under the guidance of DNRC's pending HCP. In the event of successive ownership by another entity, land-disturbing activities would still be guided by the terms of the conservation easement and associated Multi-Resource Management Plan. Most of the terms of the Multi-Resource Management Plan incorporate the commitments in the pending DNRC HCP. Under the Conservation Easement Only Alternative, regardless of who owns the land, the Riparian Exclusion Areas along Woodward and South Woodward Creeks and the Swan River would be precluded from timber harvest except for the sole purpose of benefiting fish and wildlife habitat.

The conservation easement would allow for limited removal of rock, sand, and gravel for road and existing structure maintenance in accordance with applicable laws. Such mining activities could only disturb two sites, each with an area not greater than five acres at any one time. The overall impacts of these activities are expected to be low because they would be undertaken according to the state's BMPs and conservation easement restrictions and would be precluded from Riparian Management Zones. In all future landowner cases, site-specific BMPs would be followed as outlined in the Multi-Resource Management Plan and/or under an applicable HCP. Precautions would be taken to limit increased sediment input into streams.

FWP's conservation would require the completion of a road inventory within 5 years to establish an initial baseline map, and determine class and condition of the road segment and effectiveness of closure structures. Road classifications would be identified as open, restricted, abandoned, reclaimed, or temporary. The landowner would provide road building proposals to FWP for review. Additional road maintenance responsibilities are defined in the Multi-Resource Management Plan (Appendix A).

The leasing, construction and maintenance of communication or utility sites on conservation easement lands may be allowed, but prior approval by FWP would be required and structures would have to be constructed with minimal impacts to existing conservation values and resources.

Anticipated consequences of this alternative to land resources, such as soils, are that current conditions would be maintained or improved through the implementation of the Multi-Resource Management Plan. Improvement may occur through a variety of commitments extracted from the pending DNRC HCP and described in the Multi-Resource Management Plan. Activities to maintain land resources include erosion control, reclamation of existing roads, revegetation, improved soil stability, and reduction of erosion and sediment into nearby streams.

Alternative 2: FWP Purchase of Fee-title Ownership Only, Subject to BPA-held Conservation Easement

If FWP pursued this alternative, there would be fewer impacts to land resources in comparison to the Conservation Easement Only Alternative because FWP would manage lands for the primary purpose of fish and wildlife habitat and compatible recreational opportunities, not for active production of commercial forest products. FWP would engage in little ground-disturbing management activities without completion of a detailed management plan subject to review by BPA and the public. The BPA conservation easement under this alternative would allow some forest management to maintain forest health, long-term overall benefits for wildlife, habitat diversity, habitat sustainability, and to generate income for land stewardship.

FWP would likely maintain the status quo with respect to open year-round and closed roads consistent with existing interagency agreements. FWP would manage closed roads through use of existing gates and berms. FWP expects to prohibit the extraction of sand, gravel, or rock within the acquired lands, which is consistent with the terms of the BPA conservation easement. Additionally, BPA's conservation easement would prohibit any residential, commercial, or industrial uses of the property not consistent with the conservation easement or future resource management plan.

If FWP retains ownership or sells or exchanges their interest in these lands, the future landowner would still need to periodically engage in some ground-disturbing management activities consistent with the conservation easement and associated management plans. The degree and frequency of these ground disturbing activities would likely be less than under the status quo, or the Conservation Easement Only option, or possibly the No Action Alternative.

Alternative 3: FWP Conservation Easement and Purchase of Fee-title Ownership

The impacts for this alternative would be intermediate to those for Alternatives 1 and 2, depending on which sections would be subject to which action.

Alternative 4: No Action
The effects of this alternative could be anywhere from very little disturbance to land resources to significant disturbance depending on the outcome of The Nature Conservancy's property disposition. Some or all of the project land area could eventually be sold on the private market and eventually developed to one degree or another. This might cause additional land disturbance for the construction of additional roads, driveways, and structures.

The lands could also eventually be sold to DNRC without the conservation easement and would likely be managed for timber harvest to generate long-term revenue for trust beneficiaries. Commercial activities such as gravel extraction or mining may also occur.

If a conservation-oriented individual or organization purchased these lands with an encumbrance, they may be managed as a private or community forest. It is possible under this scenario that land-disturbing activities would be reduced from current commercial harvest levels.

4.2.2 Water Resources

Alternative 1: FWP Conservation Easement Only
It is likely that impacts to water quality and quantity will be positive or beneficial because the conservation easement permanently restricts timber harvest in the 12.3 km of Riparian Exclusion Areas along Woodward and South Woodward Creeks and the main stem Swan River, and requires the landowner to comply with specific streamside management practices outlined in the Multi-Resource Management Plan. This alternative also prohibits agricultural land uses or commercial feedlots that may degrade water quality.

Further, the conservation easement limits the mining of rock, sand, or gravel from the Riparian Management Zones (designations along all other perennial streams) and prohibits commercial and residential development. Keeping lands in large ownership blocks increases the chance for better cooperation between landowners and resource agencies to address water quality and water quantity issues and implement management actions. There could be cumulative indirect benefits to water resources should DNRC adopt their pending HCP.

Under the terms of the conservation easement, the landowner is required to initiate a cumulative watershed effects analysis on all forest management projects, which would be submitted to FWP for evaluation to ensure the projects would not increase impacts beyond the physical limits imposed by the stream system for supporting its most restrictive beneficial user(s).

In the event of successive ownership by DNRC, water resources would be subject to the terms of the conservation easement and management practices outlined in the Multi-Resource Management Plan. No harvest would occur in 12.3 km of Riparian Influence Zones. In addition, other commitments in the Multi-Resource Management Plan are based on their pending HCP and are designed to protect water quality, watershed integrity, and reduce sedimentation.

Alternative 2: FWP Purchase of Fee-title Ownership Only subject to BPA-held Conservation Easement
Under this alternative, effects on water resources would be positive. The BPA-held conservation easement would ensure that FWP or future landowner maintained long-term benefits to aquatic resources. The required resource management plan would need to be consistent with the BPA conservation easement. Management emphasis would be on long-term maintenance and improvement of future forest health, habitat diversity and sustainability, and water quality, as

well as ensuring benefits for fish and wildlife. Active timber harvest could occur, but impacts to water resources would not be significant. FWP would likely need to undertake appropriate forest stewardship activities that might reduce risks of catastrophic wildfires. See Section 4.2.3 for additional discussion of timber and vegetation resources.

Alternative 3: Conservation Easement and Purchase of Fee-title Ownership
The impacts for this alternative would be intermediate to those for Alternatives 1 and 2 depending on which sections would be subject to which action.

Alternative 4: No Action
The impacts under this alternative are uncertain due to the wide range of potential future uses that future landowners may implement on the land. The negative impacts to water quality and quantity could increase under this alternative if development on both the lower elevation lands and possibly the higher elevation lands occurred over time. Private landowners could remove native bench and streamside vegetation for views, lawns, septic systems, or pastures. In areas where landowners or developers remove riparian or forest vegetation near streams, the banks may begin to erode and reduce water quality. Bank stabilization materials such as riprap may be installed to prevent erosion and ultimately result in the channelization of stream energy downstream, thus producing more erosion elsewhere, which may prompt other landowners to take similar actions. Stream temperatures could also increase as a result of vegetation removal. Under the above described scenario, water quality and stream function can become slowly degraded.

If The Nature Conservancy or another conservation-based organization managed project lands, it is likely that impacts to water resources would be positive compared to current commercial harvest levels; however, there would be no guarantee that future landowners would not subdivide, develop, or manage for timber production.

Under this alternative and future ownership by one or more landowners other than DNRC, it could be difficult to obtain sufficient cooperation between multiple landowners and state or federal officials to develop a comprehensive water quality management plan and the cumulative, indirect benefits to management of DNRC lands may also not be realized.

4.2.3 Timber Productivity and Vegetation Resources

Alternative 1: FWP Conservation Easement Only
Timber productivity potential on most of the project area would be retained and the lands could still be managed for their forest and timber values so long as forestry practices follow the terms of the conservation easement, BMPs, and the Multi-Resource Management Plan, including restrictions within riparian zones. Plum Creek has managed project lands primarily for fiber production and has generated both even-aged and multi-aged stands with varying age classes and species. The goals and objectives under DNRC ownership would shift from primarily fiber production to generating income over the long-term for school trust beneficiaries subject to DNRC's overall Forest Management Plan, pending HCP, and the terms of FWP's conservation easement. Old growth retention would not be a primary goal of the conservation easement although, in time, mature forest stands could develop along the major streams and rivers.

Prior to any harvest activities in designated stream reaches, a fisheries biologist or water resource specialist would be required to analyze site-specific parameters of the harvest unit and provide suggestions to the landowner regarding the harvest prescription to ensure stream temperature

goals are achieved. After the harvest, the landowner would be required to monitor stream temperatures up to one summer season (June 19 – Sept. 5). Per the terms described in the Multi-Resource Management Plan, commercial harvest of cottonwood and aspen trees would be prohibited. Removal of cottonwood and aspen for the overall improvement of wildlife habitat may be permitted with prior approval from FWP.

None of the West Swan Valley property has been managed as rangeland in the past nor has commercial grazing occurred on it. Under FWP's Conservation Easement, livestock grazing would not be permitted.

Noxious weeds would still be the landowner's responsibility and the landowner can apply chemical or biological agents in accordance with applicable laws. Plum Creek has developed a cooperative weed management plan with adjoining landowners and Lake County because of the prevalence of some species of noxious weeds. The Nature Conservancy or the subsequent landowner may continue to manage weeds on project lands according to the cooperative plan in place, or may choose other noxious weed management strategies. While conservation easements cannot require landowners to control noxious weeds, state and county laws and regulation still apply.

Under Alternative 1, with DNRC ownership, fire and diseases would be professionally managed using DNRC's resources. If the underlying fee were conveyed to another entity, that landowner could professionally manage fire risks and insect diseases according to BMPs and applicable regulations. Management actions for fire risks, insects, disease and timber management would need to be consistent with FWP's conservation easement.

Alternative 2: FWP Purchase of Fee-title Ownership Only, Subject to BPA-held Conservation Easement

Long-term timber productivity would be maintained in perpetuity, but the actual long-term management of timber and vegetation resources would be subject to future decisions. FWP does not anticipate active forest management in the near future but recognizes forest management actions will be required in the future to maintain a healthy forest, reduce vulnerability to forest insects and diseases, and possibly reduce risks of high intensity forest fires. Most of the forests on these lands have been logged or subject to other forestry activities within the last 5 to10 years and would likely not need active management and thinning for a few years. FWP would complete the required resource management plan for the BPA-held conservation easement within the first year of acquisition that would spell out overall management goals and objectives. In addition, FWP would need to develop specific forest management plans and associated environmental documents before conducting any forest management activities. FWP could undertake minor activities such as individual removal of fallen or diseased trees should they interfere with gates, access, or roads, or if needed for emergency purposes.

FWP acquisition of the proposed West Swan Valley property would reduce or eliminate any timber harvest within the riparian corridors thus reducing effects of sedimentation, runoff, and rises in water temperature from removal of riparian vegetation, and provide opportunity for future riparian corridor restoration activities

Fire suppression within the target property would fall under the DNRC jurisdiction. Wildfires would likely be subject to immediate suppression upon detection. In an attempt to prevent human-caused ignitions, FWP and DNRC may institute temporary measures to progressively

restrict open campfires and public access to the property if and as summer-fall fire danger intensifies in some years.

FWP would complete detailed vegetation assessment and a weed inspection per 7-22-2154(1), MCA, which requires nonfederal government agencies to obtain a weed inspection by the county weed district and requires the development of a weed management plan to ensure compliance with district noxious weed management programs. Through the implementation of FWP's 2008 Integrated Noxious Weed Management Plan (available at *http://fwp.mt.gov/content/getItem.aspx?id=32626*), FWP would comply with district programs and develop the property's weed management plan by the fall of 2010.

FWP anticipates a decrease in noxious weeds and an improvement in overall habitat health over time after the plan's implementation. Following this plan, FWP would actively treat weeds through the use of herbicides and biological control agents. As an additional preventive measure, FWP would confine wheeled, motorized traffic to the previously described road system and would otherwise avoid disturbance of the soil surface.

Fee-title to FWP lands could be sold or traded to another entity over time; in the event of subsequent sale or exchange of the lands, BPA (or other funding entities) would retain a conservation easement or other restriction on these lands to ensure long-term conservation of fish and wildlife habitat. Such divestment of FWP land interest would require approval of BPA (assuming BPA funding used to acquire the property), the FWP Commission, and the State Land Board and would be subject to environmental analysis and public review.

Alternative 3: FWP Conservation Easement and Purchase of Fee-title Ownership
The impacts for this alternative would be intermediate to those for Alternatives 1 and 2, depending on which parcels of land would be subject to which action.

Alternative 4: No Action
If no action were taken, the forest-production value and vegetation characteristics of the project area may change depending on the objectives of future landowners. The lands might be sold to a conservation entity with conservation encumbrances. They would likely continue managing forest resources to provide income and other economic benefits. Alternatively, The Nature Conservancy could sell the land on the private market unencumbered. Future conditions could be a mixture of forest and nonforest types, from pastures and residential, fire-resistant stands to clear cuts, mature timber, and small, managed woodlots. Commercial activities such as mining sand, gravel, rock, or other minerals, as well as residential development, could convert land from forest lands to other uses.

Under this alternative, noxious weeds could become the responsibility of multiple new landowners. Existing laws would continue to apply to each new landowner and a comprehensive management plan would be unlikely. Increased activity due to potential development could aid the spread of noxious weeds.

4.2.4 Fish and Wildlife Resources

Alternative 1: FWP Conservation Easement Only
This alternative will maintain and protect the most important fish and wildlife values across project lands. The conservation easement would maintain connectivity between the higher and lower elevation lands for fish and wildlife, as well as maintain a forested corridor along

Woodward and South Woodward Creeks and the main stem Swan River through the designation of the Riparian Exclusion Areas along these streams within project boundaries.

The habitat conservation efforts outlined above will benefit bull trout populations, as well as maintain and improve habitat for other native and nonnative salmonids such as westslope cutthroat trout, rainbow trout, and brook trout. Riparian Management Zones on other streams or around lakes would follow applicable guidance from DNRC's draft HCP and be captured in the FWP conservation easement and Multi-Resource Management Plan (Appendix A). The cumulative effects of protective riparian rules and upland timber-harvest/ground-disturbing rules in the Multi-Resource Management Plan should result in increased shade, nutrient input, and the enhancement of microhabitats for fish and other aquatic life.

The landowner would be required to complete an inventory of all stream crossing structures located on stream segments that support native fish species to assess levels of fish connectivity within 5 years of the conservation easement. Following the completion of the inventory, the landowner and FWP would develop a timeline and schedule for improving, replacing, or removing existing stream crossing structures that are impeding connectivity during low to bank-full stream flows.

The conservation easement would enable and encourage long-term cooperative management agreements between landowners and others stakeholders to protect and improve habitats for threatened and endangered species and other fish and wildlife values. Habitat fragmentation would be reduced from current conditions. Grizzly Bear Linkage Zones would continue to be protected, and additional habitat may be created as Riparian Management Zones are maintained and lands containing wetlands are protected.

Commercial timber management and other land disturbances may favor species that are more adaptable to managed forest conditions, such as moose, white-tailed deer, and elk. A conservation easement will ensure that housing and commercial recreation developments are not located on the project lands, some of which are important big game winter ranges, which will diminish the potential for human-wildlife conflicts associated with feeding, salting, pets (e.g., dogs), game damage, creation of attractants (gardens, fruit trees, pet food, garbage, etc.) and other similar problems. Forest management under the terms of the Multi-Resource Management Plan does not address white-tailed deer thermal cover (dense conifer stands) on conservation easement lands, thus potentially limiting the number of deer that may survive a severe winter. However, there may be sufficient thermal cover in other parts of the white-tailed deer winter range to help maintain a sufficient number of white-tailed deer over time.

Other big game species such as black bears and mountain lions will benefit from the continued maintenance of open space and the avoidance of potential human-wildlife conflicts that often result from development. The Conservation Easement Only Alternative also prohibits agricultural land uses or commercial feedlots that can cause conflicts or impacts to wildlife. Indirect cumulative benefits to wildlife would occur if development does not occur in and around DNRC lands and DNRC lands are maintained and managed for forest production under the guidance of the pending HCP.

The conservation easement should benefit most forest carnivores such as weasels, coyotes, bobcats, fisher, wolverine and the endangered Canada lynx by maintaining open and undeveloped lands within the project area. If lands are acquired by DNRC, they may or may not

include these lands in their pending HCP, which has management standards for Canada lynx. The proposed Multi-Resource Management plan primarily focuses on fish habitat protection, patterned after the North Swan Valley Multi-Resource Management Plan, and does not have specific Canada lynx standards. Retention of mature forests along streams and in other areas as required by DNRC's pending HCP and other agreements, including the conservation easement, may help maintain some denning habitat for marten or Canada lynx.

Alternative 2: FWP Purchase of Fee-title Ownership Only, Subject to BPA-held Conservation Easement

The lands acquired by FWP would be managed with the overall objective of protecting fish and wildlife habitat. If FWP retains ownership of these parcels, FWP would likely implement sound professional forest management activities that would be needed to improve, restore, or maintain habitat for various species. FWP will likely manage for overall forest health particularly if stands become vulnerable to significant diseases, fire, or other situations that could cause catastrophic loss of habitat values. If FWP did not retain fee-title, but exchanged or sold the underlying fee value, the BPA conservation easement or similar instrument would ensure overall protection of fish and wildlife habitats. The overall impact to fish and wildlife species under this alternative would be the most beneficial of all the presented alternatives. BPA would retain their conservation easement in the event of future sale; other funding entities would likely do the same. These instruments would ensure long-term conservation of fish and wildlife populations and habitat.

FWP ownership along with BPA's conservation easement would protect habitat within project lands and improve landscape connectivity by removing development rights and changing focus of management more towards fish and wildlife conservation. Continuity with respect to management of the grizzly bears would continue through management consistent with the Swan Valley Grizzly Bear Conservation Agreement. Improved management of bull trout and other fish habitats would continue through terms of the BPA-held conservation easement.

Alternative 3: Conservation Easement and Purchase of Fee-title Ownership

The impacts for this alternative would be intermediate to those for Alternatives 1 and 2, depending on which sections would be subject to which action.

Alternative 4: No Action

No action will result in The Nature Conservancy ownership of project lands at the end of 2010 and potential ownership by one or multiple other landowners. Protecting and enhancing fish and wildlife habitat on these previously logged sections would not necessarily be a priority. In the event of successive ownership by DNRC, lands would be managed according to DNRC's overall Forest Management Plan, but could also be used for other revenue-generating purposes; however, these activities would be managed under the guidance of existing Grizzly Bear Conservation Agreement and pending HCP, which are designed to limit negative impacts to listed threatened and endangered species. In the event of successive ownership by other conservation-based entities, land-disturbing activities would likely be reduced from current commercial harvest levels, thus lending some additional habitat protection.

If The Nature Conservancy sold these lands to an entity without any encumbrances, the lands could be subdivided or developed for residential or commercial purposes in an area that currently has very little of this type of land use. Potential likely impacts under this scenario include increases in human-wildlife conflicts, particularly with deer, elk, mountain lions, and bears,

direct impacts to critical bull trout habitat, possible loss of habitat connectivity, and possible lack of standards for grizzly bears, lynx, and other species. Development within big game winter ranges could lead to game-damage issues that often result in unpopular season structures, specialized permits, and other actions that ultimately reduce game populations. Increased development and a mixed pattern of land ownership by private owners could increase habitat fragmentation across the project area, negatively impacting grizzly bear populations, wildlife corridors, fish populations and a host of other species and habitats.

4.3 Social and Economic Resources

4.3.1 Noise and Air Resources

Alternative 1: FWP Conservation Easement Only
Impacts to air and noise resources would be the same or slightly less over the status quo due to restrictions in some commercial and timber uses of some of the lands by the conservation easement and associated Multi-Resource Management Plan. The conservation easement would restrict activities in Riparian Exclusion Areas and Riparian Management Zones, limit sand and gravel extraction, and possibly limit mineral development. The future landowner would be subject to the conservation easement and Multi-Resource Management Plan, and would likely continue to follow BMPs with respect to air and noise resources associated with timber harvest. Ground-disturbing activities under the conservation easement option would still occur, but air quality effects would be short-term and minor and would be regulated by various agreements and regulations.

Alternative 2: FWP Purchase of Fee-title Ownership Only, Subject to BPA-held Conservation Easement
Under FWP ownership, FWP would develop a comprehensive resource management plan for project lands that would emphasize overall benefits for fish and wildlife; however, forest management would eventually be needed to address previous harvest and other management issues, improve or retain healthy forests, and maintain a diversity of habitats, which would require management of slash and generate standard forest management noise. The effects of this alternative on noise pollution and air quality, if fee-title is retained by FWP, would be diminished in comparison to other alternatives because the frequency and intensity of timber and forest management activities over time would likely be less.

Alternative 3: FWP Conservation Easement and Purchase of Fee-title Ownership
The impacts for this alternative would be intermediate to those for Alternatives 1 and 2, depending on which sections would be subject to which action.

Alternative 4: No Action
Impacts to air quality and noise from this alternative could remain the same as under Plum Creek ownership or change with the land use changes. If these lands were sold unencumbered and developed at allowable densities, smoke from wood-burning stoves could occur. Vehicle traffic could either increase or decrease depending on the nature of future development for residential or commercial recreational purposes. If DNRC purchased these lands without any encumbrances, they may continue sustainable forest management. Under this scenario, air quality and noise levels could be expected to be similar to current levels.

4.3.2 Risk/Health/Safety Hazards

Alternative 1: FWP Conservation Easement Only
This alternative could potentially reduce safety hazards as they relate to sand and gravel extraction or possible development of mineral resources. Timber harvest and gravel extraction could still occur under the Conservation Easement Only Alternative, although gravel extraction within Riparian Influence Zones is restricted by the conservation easement. Under the Multi-Resource Management Plan, the landowner would likely minimize wildfire risks through proper disposal of slash, careful management of logging activities during fire seasons, and the ability to impose restrictions on certain public uses during extreme fire seasons.

Other health and safety risks currently present are associated with public travel on roads used for logging, and public hunting, fishing and other recreational activities. These risks would not change under the Conservation Easement Only Alternative.

Alternative 2: FWP Purchase of Fee-title Ownership Only subject to BPA-held Conservation Easement
With less intense forest management anticipated with FWP ownership of project lands, safety hazards as they relate to logging would be less than Alternative 1. Other health and safety risks currently present are associated with public travel on roads used for logging, and public hunting, fishing and other recreational activities. These would not change under the Purchase of Fee-title Only Alternative. Wildfire risks and hazards could increase as fuel loads increase and understory species are allowed to proliferate in younger forest stands. Under FWP ownership, this would be reduced periodically through professional forest management strategies.

Alternative 3: FWP Conservation Easement and Purchase of Fee-title Ownership
The impacts for this alternative would be intermediate to those for Alternatives 1 and 2, depending on which sections would be subject to which action.

Alternative 4: No Action
Under this alternative, the lands may be sold to other entities, with or without restrictions or encumbrances. Subdivision and development could eventually occur, thereby altering current land uses and management regimes. Timber production may or may not continue in some or all of the project area. With less timber production, there could be fewer health and safety risks associated with resource management activities. With increased timber production, health and safety risks may be the same as they are now.

The risks associated with public hunting and other recreational activities may be reduced on lands if they were no longer open to public use.

Wildfire risks and hazards could increase if fuel loads increase and understory species are allowed to proliferate in younger forest stands and/or around developed areas. The potential for multiple, new landowners in the project area could increase the number and frequency of activities that can cause wildfire, alter the ability to use prescribed fire to reduce fuel loads, and potentially make it more difficult and expensive to suppress wildfires. Additionally, the public costs to protect any new structures could dramatically increase.

4.3.3 Land Use and Community Values

Alternative 1: FWP Conservation Easement Only
The Conservation Easement Only Alternative would protect fish and wildlife habitat and retain working forests while ensuring public recreational opportunities such as hunting and fishing would continue on these lands in perpetuity. These goals are consistent with overall community values as recorded during the 2003 public survey as well as with multi-organizational conservation efforts throughout the Swan Valley. This alternative is also consistent with the Lake County Growth Policy that recommends protection of key wildlife migration areas and other natural resources. While timber harvest in the region has historically been a major land use and has provided employment opportunities for many years, the declines of timber values over the last decade have encouraged private commercial forest landowners to explore other land uses as well as the sale of private forest lands. This alternative would maintain historic land uses and values in place rather than encourage other land uses.

Alternative 2: FWP Purchase of Fee-title Ownership Only, Subject to BPA-held Conservation Easement
FWP ownership would have similar impacts on land use and community values as the Conservation Easement Only Alternative. This alternative would retain open space, improve fish and wildlife habitat, maintain a working forest landscape, and retain public recreational benefits consistent with community goals and objectives for these lands.

Alternative 3: FWP Conservation Easement and Purchase of Fee-title Ownership
The impacts for this alternative would be intermediate between those for Alternatives 1 and 2.

Alternative 4: No Action
The No Action Alternative will result in The Nature Conservancy or other ownership of project lands. The Nature Conservancy's management policy is to protect ecologically important lands and waters for nature and people, which is consistent with community values and other conservation efforts in the greater project area. However, if a conservation buyer or public agency cannot purchase these lands, The Nature Conservancy may need to sell the lands unencumbered. Future subdivision and development and/or loss of public recreational uses and access could be possible outcomes under this alternative. These outcomes are not consistent with community goals or the project objectives.

4.3.4 Electrical/Utility Effects

Alternative 1: FWP Conservation Easement Only
Under the Conservation Easement Only Alternative, the demand for extension of utilities on project lands would be minimal as this alternative restricts all future development. It may or may not affect the demand for extension of utilities on intermingled state and private lands. Major transmission lines across the project lands could be allowed under the terms of the conservation easement subject to BPA's agreement in the conservation easement to avoid or reduce environmental impacts.

Alternatives 2: FWP Purchase of Fee-title Ownership Only, Subject to BPA-held Conservation Easement
The effects of this alternative on electrical and utility infrastructure are similar to those for Alternative 1. Since BPA would retain a conservation easement (or other funding parties would retain appropriate encumbrances) in the event of future sale, long-term limitations on electric and

utility development would be conserved. Major transmission lines across the portions of project lands funded by BPA could be allowed.

Alternative 3: FWP Conservation Easement and Purchase of Fee-title Ownership
The effects of this combination alternative on electrical and utility infrastructure would be the similar to Alternatives 1 and 2.

Alternative 4: No Action
Under this alternative, future development of project lands by another landowner could occur. Based on the Lake County Density Map and Regulations, there is a potential that up to 332 new homes could be constructed, thus requiring a significant expansion of utility infrastructure. Development for commercial recreation could also result in a modest expansion of utility infrastructure. Development on these lands could affect DNRC's future management on portions of the Swan River State Forest, possibly increasing demand for utilities.

4.3.5 County/State Financial Impacts

Alternative 1: FWP Conservation Easement Only
Under the Conservation Easement Only Alternative, FWP would acquire a conservation easement on 9,500 acres of land using some or all of $15.5 million potentially available from BPA. Under the FWP Conservation Easement Only Alternative, property tax revenues could vary depending on future ownership. While The Nature Conservancy is a tax-exempt, nonprofit organization, it would pay state property taxes as assessed by Lake County under the terms of their internal policy. If DNRC were to acquire project lands, the lands would be exempt from state property taxes because all the revenues generated from State Trust lands are dedicated to funding public schools or other designated trust beneficiaries. DNRC's direct support for the designated public institutions typically exceeds revenues generated by property taxes. If another tax exempt landowner were to purchase conservation easement land, then the payment of state property taxes would depend on that specific landowner's tax designation and internal policies. Currently, property taxes are just under $1/acre for forestland property for a total value or just under $9,500/year. This alternative would not result in increased demand for government services. Subsequent sale of conservation easement lands to DNRC or another landowner could impact state and county property tax incomes.

FWP anticipates it will incur a modest increase in demand on its resources for long-term monitoring and management of the conservation easement. Actions are required to ensure that the landowner and potential future landowners will comply with the terms of the conservation easement, including working with the landowner on various aspects of the Multi-Resource Management Plan through the Liaison Team. These additional monitoring and management demands may be funded by state hunting and fishing license sales, potentially from future BPA mitigation funding or by other state, federal or non-federal sources yet to be determined, as needed. An initial, required baseline inventory and other specialized monitoring costs associated with the Conservation Easement Only Alternative may also be funded by the current or a future BPA mitigation contract, by using interest earned from the Wildlife Mitigation Trust Fund, or by other federal or non-federal sources yet to be determined, as needed. FWP estimates the initial baseline cost to be approximately $15,000 to $30,000, with annual conservation easement monitoring costs to be less than $5,000 each year.

Alternative 2: FWP Purchase of Fee-title Ownership Only, Subject to BPA-held Conservation Easement

BPA has agreed, subject to their final review and due diligence, to provide up to $15.5 million in funding for either a conservation easement or fee-title acquisition on project lands by FWP. Under the Fee-title Only Alternative, BPA would fund the $15,000-$30,000 baseline inventory for their conservation easement rather than FWP.

Due to recently passed legislation, FWP must place 20% of the fee-title purchase price or a maximum of $300,000, whichever is less, into an FWP land management account for every fee-title transaction. FWP can then use those funds to pay property taxes, costs of habitat restoration, public access management, and stewardship of the lands acquired. If this acquisition occurs in phases, payments equal to 20% of the purchase price of each phase, capped at $300,000 would be made to the management account. Funding for the management account deposits would not come from BPA, but likely from the agency's license accounts. FWP can apply to BPA for funding to enhance and restore fish and wildlife habitat and implement other management activities. These applications for operation and maintenance are competitive, and reviewed and approved annually by BPA. FWP may also be able to use future revenues generated from project lands for operations and maintenance or enhancement of these lands.

For the parcels FWP acquires in fee, FWP would make a payment equal in value to the taxes previously paid by the landowner. FWP would continue to pay property taxes on the land while in their ownership. The tax rate on the fee-title lands would likely not increase under this alternative except with statutory changes to existing property tax rates.

In addition to costs listed above, FWP will need to pay for development of the resource management plan and drafting of the associated EA within the first year of ownership. FWP will also need to complete or review other forest and wildlife inventories to complete the plan. FWP estimates the cost of developing and completing the required resource management plan to be at least $15,000 in the first year.

FWP may also need to coordinate land ownership activities with adjoining landowners and share in cooperative costs associated with weed control and road and gate maintenance. FWP would also have to comply with all applicable laws and regulations, BMPs, various federal and state agreements, the federal endangered species act, and other numerous laws as a major landowner. These annual costs could be as high as $20,000 per year if no significant road or culvert problems occur. The costs could be much higher if a road or culvert or other significant event occurs.

The costs of wildfire fighting and management are typically borne by DNRC for all FWP lands in the Swan. However, if a wildfire occurred on these lands, this event also could require significant participation by FWP staff during fire fighting and subsequent restoration activities. FWP would also need to develop public information, signs, maps, and other materials that guide public uses on these lands. Costs for these materials are estimated to be at least $5,000 initially and could be at least $1,000 annually.

Although FWP is not anticipating active timber management in the near term, these actions will be needed over time. FWP estimates the cost for each of the first four years of ownership and management of the fee-title lands, including taxes, to be about $50,000 in the first year and $30,500 in each subsequent year (Table 5). Revenue generated from the future sale of timber products eventually could help with land management costs over time.

Table 5. Estimated FWP costs for fee-title ownership.

Year following purchase	Estimated Taxes	Resource Mgt Plan	Weeds, Roads	Public Use	Total
1	$9,500	$15,000	$20,000	$5,000	$49,500
2	$9,500	0	$20,000	$1,000	$30,500
3	$9,500	0	$20,000	$1,000	$30,500
4	$9,500	0	$20,000	$1,000	$30,500
Total	$38,000	$15,000	$80,000	$8,000	$141,000

Alternative 3: FWP Conservation Easement and Purchase of Fee-title Ownership
The impacts for this alternative would be intermediate to those described for Alternatives 1 and 2, depending on which lands are subject to which action.

Alternative 4: No Action
FWP cannot predict exactly what effects the No Action Alternative will have on county and state financial resources. It is possible that lands that will be acquired by DNRC could limit property tax revenues while increasing State Trust revenues. It is also possible that these lands could be sold for residential or commercial development at some point in time. Using the current Lake County Density Map and Regulations, there could be up to 332 new residences on project lands if they were all subdivided and developed. The cost of providing services for this amount of growth may or may not be greater than what the county would receive in assessed tax revenues.

4.3.6 Aesthetics/Recreation Values

Alternative 1: FWP Conservation Easement Only
The Conservation Easement Only Alternative would maintain and enhance aesthetic and recreation values by reducing some of the visual effects of commercial harvest on project lands, protecting riparian zones and fish and wildlife habitat, and maintaining public access. Although timber harvest and other resource extraction activities could continue as specified in Multi-Resource Management Plan, no residential or commercial development could occur. The conservation easement will help prevent the conversion of current working forestlands to nonforest uses and preserve the notable scenic qualities of the northwestern Swan Valley. Protection of the two parcels transected by U.S. Highway 83 will enhance the scenic experience of travelers by protecting visible plant communities and wildlife corridors.

Public recreation and access would continue similar to current Plum Creek policies and by provisions of the conservation easement and associated Multi-Resource Management Plan (see pages 20-21 in Plan for specifics). In the event of sale to DNRC, persons who possess a valid Montana Conservation License from FWP are authorized to engage in hunting, fishing, and trapping on legally accessible State Trust lands. In the event of sale to another landowner, the Multi-Resource Management Plan could be revised, but must provide at least equivalent recreation opportunity, and these changes would have to be approved by FWP and BPA. Annual take allowances for big game would continue subject to state and regional regulations.

Snowmobiling within the property would be allowed from November 15 through March 15 on designated road and trail system.

Alternative 2: FWP Purchase of Fee-title Ownership Only subject to BPA-held Conservation Easement
Impacts to aesthetic and recreational resources under this alternative are similar to those for Alternative 1. Because FWP ownership will likely result in less intense forest management over time, scenic vistas may be further enhanced by the establishment of older forest communities and increased wildlife use. FWP's intention to retain a conservation easement or other interest in the event of future sale would ensure long-term conservation of these resources. FWP and all future landowners would ensure continued public access for recreation. The specific rules for public use would be developed as part of the resource management plan and would likely focus on maintaining dispersed public recreational opportunities. Commercial uses would be subject to the BPA conservation easement and FWP's commercial use regulations.

Alternative 3: Conservation Easement and Purchase of Fee-title Ownership
The impacts for this alternative would be intermediate between those for Alternatives 1 and 2.

Alternative 4: No Action
Under this alternative, public access would not be guaranteed on any project area lands. Some of the project area lands could be leased for exclusive recreational use. Fishing and boating opportunities would continue on the Swan River, but access to adjacent lands could be restricted. Some portion of recreational income could be generated for private entities.

Possible development of project lands could impact the area's current high aesthetic value as project lands transition from timber and open land areas to interspersed forest and residential or possibly commercial land uses. The impacts of structures, lights, and other aspects of development would be greatest if constructed on exposed sites such as ridges or steep slopes. Development close to Highway 83 may also impact views and vistas from this highway.

It is not known what the indirect effects would be on the management of DNRC's forestlands if DNRC does not acquire project lands under the No Action Alternative. It is entirely possible that if subdivision and/or development were to occur that DNRC may consider similar means of ensuring financial returns to the State Trust. One of those options may be leasing of recreational rights or selling lands for development.

4.3.7 Cultural/Historic Resources

Alternatives 1, 2, and 3: FWP Conservation Easement Only, FWP Purchase of Fee-title Ownership Only or combination of FWP Conservation Easement and Purchase of Fee-title Ownership
As part of the public review process, FWP will provide the Confederated Salish and Kootenai Tribes and the State Historic Preservation Office (SHPO) with this draft EA. While no known cultural resources are located on the proposed project lands, it should be noted that there have been limited opportunities for cultural resources surveys because of private ownership. Because the proposed conservation easement and fee-title acquisitions maintain the status quo and limit development on these lands, all of these alternatives would decrease potential impacts to cultural resources. During the public review process for the adjacent North Swan Valley Conservation Project neither the Confederated Tribes nor SHPO felt that a cultural or historical resources survey was required. It is anticipated that the consensus for the current project will be the same.

Because the landowner of the conservation easement lands would still be allowed to continue timber management and extract rock, sand, or gravel, there could be potential impacts to cultural resources from these activities.

By Montana law (22-3-433, MCA), all state agencies are required to consult with the State Historic Preservation Office on the identification and location of heritage properties on lands owned by the state that may be adversely impacted by a proposed action, i.e., timber harvest. The SHPO recommends that if any cultural resources are discovered on project lands, the state office should be contacted.

Alternative 4: No Action

Under this alternative, development for residential and other purposes could potentially lead to greater impacts to unknown cultural resources than the other alternatives, and because the lands are private they could be sold in current configurations without any cultural review.

In the event that DNRC acquires project lands, there would be no effect on cultural resources as any development on these lands requires a cultural resources survey.

Appendix A

MULTI-RESOURCE MANAGEMENT PLAN

Standards for Resource Management

Swan Valley Conservation Project

(8/4/2010 Draft)

This Multi-Resource Management Plan ("Plan"), dated as of Date _, 20XX, is entered into by **The Nature Conservancy**, a District of Columbia nonprofit corporation, whose principal address is 4245 North Fairfax Drive, Suite 100, Arlington, Virginia 22209 (hereinafter referred to as "Landowner") and the **Montana Department of Fish, Wildlife and Parks**, whose address is 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701 (hereinafter referred to as "Easement Holder").

This Plan is being entered into pursuant to Section XX of that certain Deed of Conservation Easement (the "Easement") granted by TNC to the FWP on Date _, 20XX, and pursuant to Section II.G of that certain Deed of Conservation Easement granted by Plum Creek Timberlands, L.P. to FWP on September 1, 2006. This Multi-Resource Management Plan modifies the North Swan Valley Conservation Project and the West Swan Valley Conservation Project, and is subsequently referred to as the Multi-Resource Management Plan for the Swan Valley Conservation Project.

The lands involved in the Plan possess montane forests and riparian vegetation communities that support diverse terrestrial wildlife populations, and stream habitat for native fish species, including westslope cutthroat trout, and bull trout. The lands have a history of forest management, and maintain the opportunity for a productive forest management program that sustains and enhances fish and wildlife habitat that is of statewide and local importance. The intent of the Swan Valley Conservation Project (the 'Project') is to preserve the conservation values upon the Land, which are the native plant communities, fish and wildlife habitat, natural and scenic open space, and public recreational opportunities ("Conservation Values), as further described and provided for the conservation easement.

A portion of the funding for the Project is provided by the Bonneville Power Administration (BPA) to implement the permanent protection and mitigation of resident fish habitat to help fulfill BPA's duties under the Northwest Power Act. Specifically, the Project would partially mitigate the direct construction and inundation impacts of Hungry Horse Dam based on the *Fisheries Mitigation Plan for Losses Attributable to the Construction and Operation of Hungry Horse Dam*, March 1991; and *Determination of Fishery Losses in the Flathead System Resulting from the Construction of Hungry Horse Dam*, January 1987. The Council adopted the losses for Hungry Horse into the Council's program in 1993.

The Project is also funded through the Forest Legacy Program ("FLP"), Administered by the U.S. Forest Service pursuant to Section 1217 of Title XII of the Food, Agriculture, Conservation and Trade Act of 1990 (16 USC Section 2103C) created " to protect environmentally important

private forest lands threatened with conversion to non-forest uses". An intent of the Project is to effect the purpose of the FLP in accordance with the provisions of Title XII of the Food, Agriculture, Conservation and Trade Act of 1990 (16 U.S.C. 2103c), to protect environmentally important forest areas that are threatened by conversion to non-forest uses and therefore also protect important scenic, cultural, fish, wildlife, recreational resources and riparian areas.

A further intent of the Project is to perpetuate the Lands as forest land; to ensure the long term, professional management of the forest resources through forestry activities permitted hereunder; and to provide for commercial production of forest products in a manner compatible with the conservation of water quality, fish and wildlife habitat, recreation and other conservation values (as defined in the Easement).

I. PURPOSE

The purpose of this Management Plan is to meet the requirements of the Easement Holder to protect and mitigate resident fish and wildlife habitat, and provide for continued public access pursuant to various grant agreements. The Easement Holder requires this Plan to identify and describe objectives and actions that the Landowner will take to protect, manage, maintain, and enhance soil, water, range, aesthetic quality, recreation and public access, timber, fish, and wildlife resources in a manner compatible with landowner objectives and the terms of the conservation easement.

II. GENERAL DESCRIPTION

The Lands that are the subject of this Plan consist of approximately 16,700 acres of former Plum Creek Timber Company ownership with a conservation easement on them within Townships 23 and 24 North, and Ranges 17 and 18 West in the northern Swan Valley in Northwest Montana. TNC is the fee-simple landowner. The Lands are presently intermingled with Swan River State Forest lands owned and managed by the DNRC and some National Forest lands.

The Lands are located approximately 50 miles east and south of Kalispell, Montana. The Lands are bordered on the west by the National Forest and Confederated Salish and Kootenai Tribal lands. To the north, the Lands are bordered by additional DNRC ownership. They are bordered to the east by National Forest land and the Bob Marshall Wilderness. To the south, the Lands are bordered by National Forest lands, including the Mission Mountain Wilderness to the southwest. All of the Subject Lands are within Lake County.

The Lands are forested valley bottoms and mountains that have been managed for timber production over the last 100 years. Elevations vary from 3,150 to 7,000 feet. The Swan River and various large creeks cross several of the subject tracts. The Lands also include numerous tributaries, streams and small wetland areas.

Forestland dominates the landscape. It is a mixed conifer forest with dominant species of Douglas-fir, western larch, lodgepole pine, true firs, and spruce. Ponderosa pine, western white pine, hemlock, and cedar are also evident in some areas, and there are some cottonwood and

aspen along creeks and near wetland areas. The stands vary in age from young regeneration to mature.

The Lands contain several miles of river and tributary streams with associated riparian areas. In addition, the glaciated pothole character of the Valley provides additional wetlands providing important fish and wildlife habitat values. Two important native fish species of special concern thrive in the project lands: the federally listed bull trout and westslope cutthroat trout. Bull trout habitat mapping identified several tributary streams within the project area that are important staging or major spawning reaches (Goat, Squeezer, Woodward and South Woodward Creeks). The Swan River itself is identified as important for staging and as a migration corridor. The streams show excellent water quality and the Swan River is one of only two rivers in the state to support healthy, stable bull trout populations. Westslope cutthroat trout are also found in some of these stream reaches; however, a similar compilation of detailed mapping is not available at this time.

The North Swan River Valley area also provides habitat important for bald eagle, lynx, wolf and grizzly bear, all of which are threatened species under the Endangered Species Act. Other species present that are under consideration for Threatened and Endangered listing include the wolverine, fisher, harlequin duck, westslope cutthroat trout, and four plant species, which are locally rare. The project area also provides important habitat for whitetail deer, mule deer, moose, elk, black bear, mountain lion, bobcat, beaver, muskrat, pine marten, ermine, and a wide range of other species.

III. FOREST MANAGEMENT

The following standards are derived from Montana Forestry Best Management Practices (BMPs), Montana Administrative Rules for Forest Management, and Montana Forested State Trust Lands Habitat Conservation Plan (HCP).

A. Timber Harvest Best Management Practices

1. The Landowner will provide the easement holder with notification of all forest management activities. This will consist of an initial notification to declare an intent to conduct forest management activities with general descriptions of the project area and potentially affected streams and road systems. This notification shall serve as the starting point and an invitation to submit comments regarding development of the project. Subsequently, the Landowner will submit to the easement holder a project-level timber management plan which will consist of a detailed description of proposed activities and maps depicting harvest unit boundaries and any proposed changes to the road network.
2. The Landowner will design and implement Forestry Best Management Practices (BMPs) and other site specific mitigation measures to reduce the risk of sediment delivery to streams from timber harvest activities.
3. When timber harvests are conducted on potentially unstable slopes, the Landowner will modify harvest prescriptions and/or design and implement mitigation measures to avoid increasing the risk of mass failure.

4. Landowner contracts addressing timber harvest activities will include these standards, BMPs and other site-specific mitigation measures designed to avoid, minimize, or mitigate the risk of sediment delivery to streams.
5. The Landowner will administer actively occurring timber harvest activities on a weekly basis to ensure that contract specifications, BMPs, and other resource protection requirements are met.
6. On sites where management actions result in unacceptable levels of impact to soil or water resources, appropriate mitigation and/or rehabilitation measures will be implemented by the Landowner as soon as possible.
7. The Landowner will complete BMP audits and contract administration inspections to monitor the implementation and effectiveness BMPs and other mitigation measures utilized to reduce risk of sediment delivery to streams. The Landowner will notify the Easement Holder of scheduled BMP audits and other monitoring activities in order to allow the Easement Holder's participation. Scheduling of audits and other monitoring will not necessarily be dependent on accommodating the Easement Holder's participation. The Landowner will provide the Easement Holder with updates on the results of monitoring activities.
8. The Landowner will take corrective action on BMP implementation and effectiveness departures determined during contract administration and/or BMP audits as soon as possible. Progress at the legacy road and legacy stream crossing structures (existing roads and stream structures that existed prior to this conservation easement and do not meet current BMP and DNRC HCP fish passage standards) will be communicated annually to the Easement Holder through the Liaison Team.

B. Timber Management in the Riparian Management Zone

1. The Landowner will follow guidelines established within its Habitat Conservation Plan's Riparian Timber Harvest Conservation Strategy on all streams with the exception of Goat Creek, Squeezer Creek, South Woodward Creek, Woodward Creek, and the Swan River which will have special management provisions as described in: **C. Riparian Exclusion Areas.**

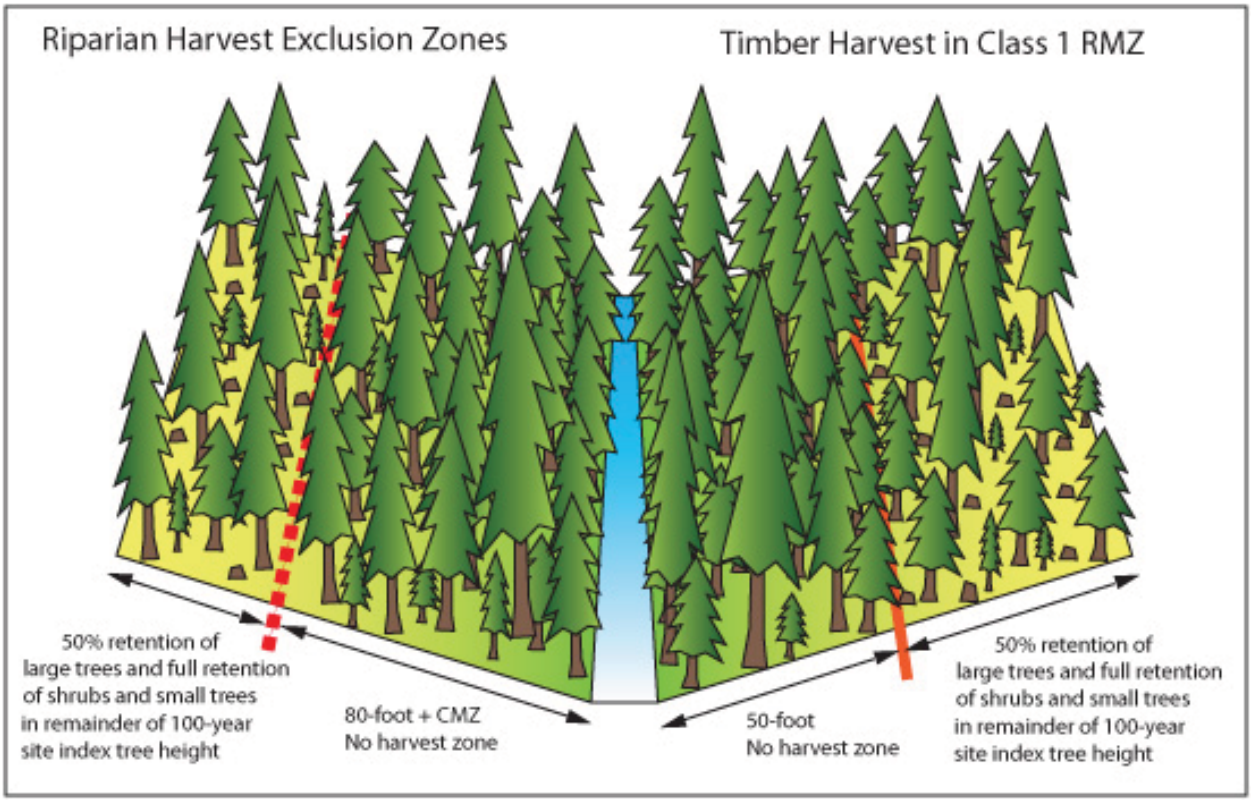
2. **Class 1 stream segments:** A class 1 stream segment is defined in Montana Streamside Management Zone (SMZ) law as a portion of a stream that supports fish; or a portion of a stream that normally has surface flow during 6 months of the year or more (perennial) and that contributes surface flow to another stream, lake, or other body of water.

    a. The Landowner will establish a Riparian Management Zone (RMZ) with a minimum width equal to the 100-year site index tree height (usually 80 to 110 feet in the Swan) for timber harvests immediately adjacent to Class 1 streams. The 100-year site index tree height will be determined at the project level by field sampling the age and height of several site trees within the stand and comparing those values to locally or regionally developed site index curves.

b. The Landowner will maintain a 50-foot-wide no-harvest buffer within Class 1 RMZs. This buffer will start at the edge of the ordinary high water mark (OHWM) and extend across the RMZ to a slope distance of 50 feet when measured perpendicular to the stream. Within the 50–foot wide no-harvest buffer, it may be necessary to allow corridors associated with cable logging systems used to fully suspend logs across streams. In these situations, the minimum corridors spacing will be 150 feet with no more than 15 percent of the 50-foot buffer affected.

c. Harvest prescriptions within the remainder of the RMZ (from 50 feet to a distance equal to the 100-year site index tree height) will retain shrubs and sub-merchantable trees to the fullest extent possible, and a minimum of 50 percent of the trees greater than or equal to 8 inches dbh (see Figure 1).

Figure 1



d. To ensure protection of native fish species from increased stream temperatures, the Landowner will classify specific stream segments as temperature-sensitive reaches and provide additional protections for Class 1 RMZ harvest. This will be achieved by committing to no statistically significant ($p \geq 0.05$) increase in stream temperature attributable to the Landowner's timber harvest activities in temperature-sensitive reaches The landowner will use the most current 303(d) list prepared by the Montana Department of Environmental Quality to identify temperature sensitive stream reaches.

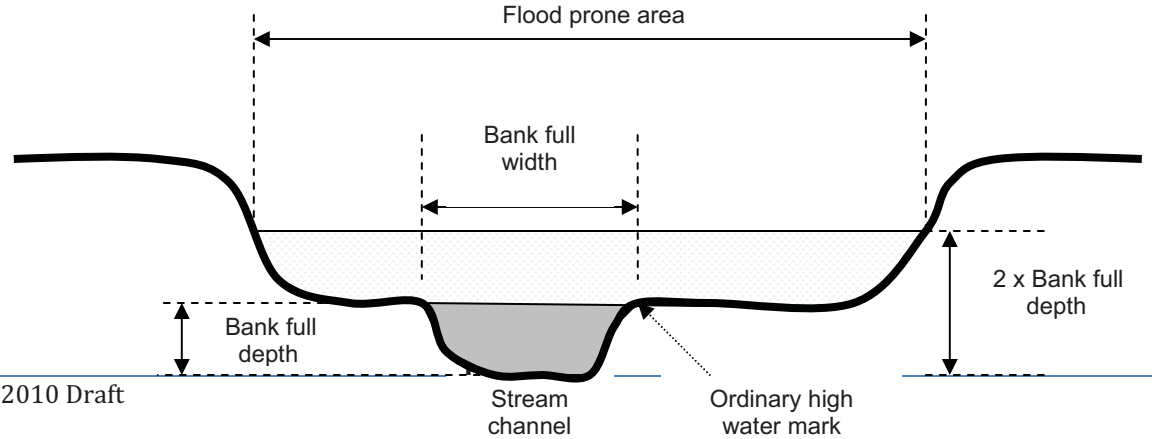
Prior to harvest activities, in a designated temperature-sensitive reach, a fisheries biologist or water resource specialist will analyze the site-specific physical parameters of the harvest unit (topography, stream width, existing shade, etc.). The specialist will suggest appropriate modifications to the standard Class 1 RMZ harvest prescription to ensure the goal of no statistically significant ($p > 0.05$) change in post-harvest stream temperatures is achieved. Potential additional protections that may apply include an increase in the no-cut buffer width or an increase in the overall RMZ width.

The landowner will monitor stream temperatures when timber harvest occur within a RMZ established for a Class I stream segment that has been classified as temperature sensitive. The landowner will monitor stream temperature by using the mean weekly maximum temperature data from the post-harvest monitoring. DNRC will perform statistical analysis of variance to check for significant temperature differences between the control and treatment sites. This analysis will compare the variance within days with the variance between sites. Only data points where the adjusted temperature increased from upstream to downstream will be used for the analysis. If the analysis of variance indicates no significant ($p > 0.05$) post-harvest differences between the control and treatment sites, it is assumed that the monitoring goal of no statistically significant change in post-harvest stream temperature has been achieved. If the analysis of variance indicates that there are significant post-harvest differences between the control and treatment sites, the monitoring goal has not been achieved, and post-harvest monitoring will continue through a minimum of one more summer monitoring period (June 19 through September 5).

e. The Landowner will extend SMZs to include adjacent wetlands, where the normal SMZ boundary intercepts a wetland (ARM 36.11.302). Retention tree requirements for the adjacent wetland are the same as the requirements for the first 50 feet of the SMZ (ARM 36.11.305).

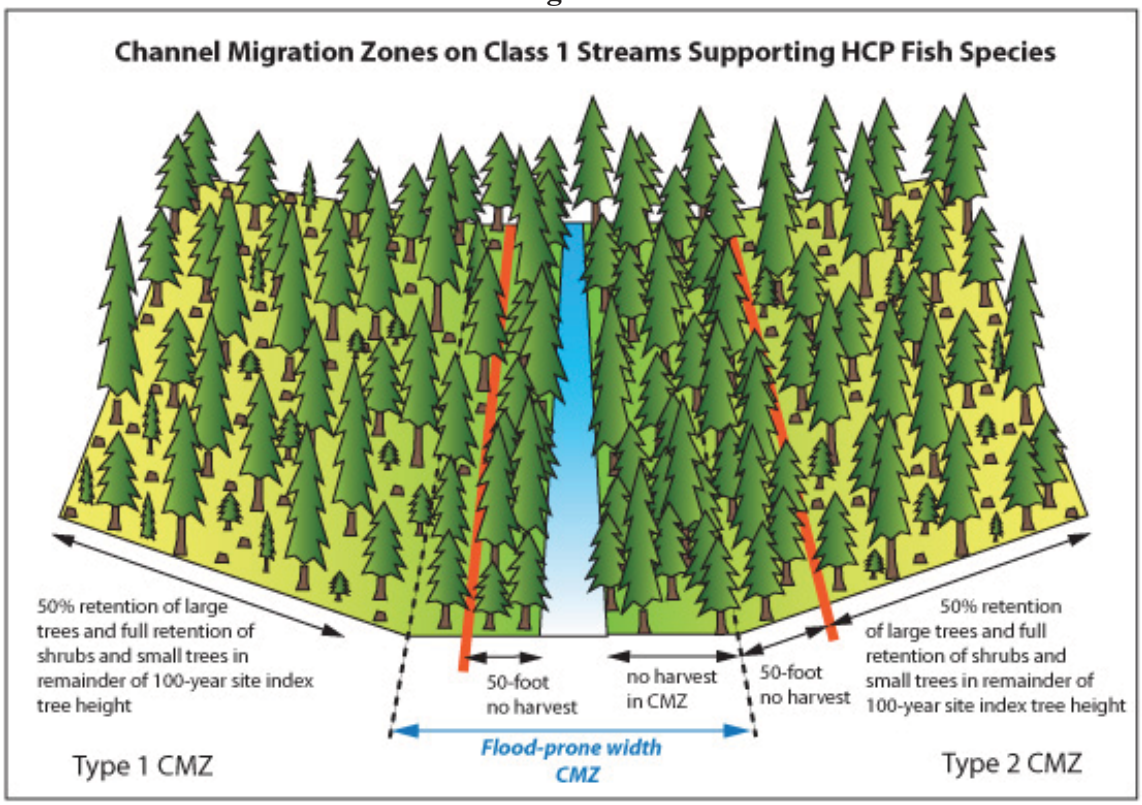
f. On Class 1 streams supporting HCP covered fish species (bull trout and westslope cutthroat trout), the Landowner will extend RMZs in situations where channel migration is likely to influence riparian functions that are potentially affected by a timber harvest. The Landowner has identified several types of Channel Migration Zones (CMZs) where this potential is more likely. A CMZ refers to the geographic area where the active stream is prone to movement over time. A CMZ is defined as the width of the floodprone area at an elevation twice the maximum bankfull depth (see Figure 2).

Figure 2



Application of CMZs will be determined on a site-specific basis by the Landowner's fisheries biologist or watershed specialist (see Figure 3).

Figure 3



g. CMZs usually influenced by forest management activities are limited to those that occur on streams with an entrenchment ratio of greater than 1:4 and with valley slopes of less than 8 percent gradient that exhibit unstable channel conditions or potential for relatively high rates of lateral channel erosion and lateral migration. Entrenchment ratio is the floodprone width of a stream divided by the bankfull width of the stream. The floodprone width is equal to two times the maximum depth of the stream at bankfull flows (Rosgen 1994). CMZs will not be established when entrenchment ratios are less than 1.4, because such channels are highly confined and have little or no potential for channel migration. Two types of CMZs are recognized under this strategy, and they are classified using the following approach:

i. **Type 1 CMZ** - A Type 1 CMZ (Figure 3) corresponds to the floodprone area of streams exhibiting both valley bottom characteristics and alluvial processes. Valley bottom characteristics include channel slopes that are typically less than 1.5 percent and channel patterns that are meandering or braided. Alluvial

processes mean that the stream is both eroding and depositing sediment throughout different parts of the channel. An example of an alluvial process would be a bend in the channel of a valley bottom stream, where the outside bend exhibits a deep channel eroding into the stream bank and the inside bend exhibits a shallow channel where eroded sediments are deposited. Streams with Type 1 CMZs typically migrate across valley bottoms rather slowly. Occasionally though, these streams are susceptible to very rapid migration to new or previously abandoned channels during major flood events. Type 1 CMZs are generally associated with Rosgen C, D, DA, and E channel types.

ii. **Type 2 CMZ** - A Type 2 CMZ (Figure 3) corresponds to the floodprone area of unstable streams exhibiting sudden erosion and deposition processes. Unstable streams are not able to efficiently transport sediment due to a variety of reasons, which can lead to increased rates of sediment deposition and channel migration. Stream gradients typically range from 1 to 8 percent. Sudden erosion and deposition processes can occur on a Type 2 CMZ when a stream is forced out of its stream banks and into the floodprone area. Examples of sudden erosion and deposition are: (1) a moderately contained stream with evidence of recent sediment deposition on the forest floor outside of the stream channel, (2) alluvial fans, and (3) debris flows or torrents.

h. A CMZ will be established when harvest activities are immediately adjacent to streams exhibiting these types of channel migration processes. The level of conservation applied within the CMZ will be determined by the type of CMZ present.

i. On Type 1 CMZs, the portion of RMZ restricted to 50 percent retention will be extended when necessary to incorporate the entire floodprone area. In the event the width of the floodprone area does not extend beyond the normal RMZ, the standard RMZ harvest restrictions will be applied. The 50-foot no-harvest buffer will not be extended.

ii. Type 1 CMZ established on a stream with an unstable stream channel or stream bank exhibiting evidence of recent lateral migration will receive the same level of protection as designated for a Type 2 CMZ (see commitment h(iii) below).

iii. On Type 2 CMZs, the no-harvest buffer is a combination of the floodprone width plus an additional 50 feet within the RMZ. No timber harvest will occur within the entire floodprone width. Additionally, the delineation of the normal RMZ width (based on 100-year site index tree height) will begin at the edge of the floodprone width, and an additional 50-foot no-harvest buffer will be applied within the RMZ.

i. As part of the HCP riparian timber harvest strategy, allowances associated with the 50-foot no-harvest and 50 percent retention portions of the RMZ (including those extended to incorporate CMZs) may be required in certain cases where harvest is necessary to address specific situations or circumstances that would include fire, insect, and disease

salvage harvest. In these cases, the minimum requirements of the SMZ Law must still be met.

The amount of Class 1 stream RMZ managed under these allowances will be limited to the extent that the total Class 1 RMZ area treated in this manner when combined with the existing Class 1 RMZ area in non-stocked, low stocking levels, or seed/sapling size class will not exceed 20 percent within the SRSF administrative unit, or 20 percent of the total RMZ acres of any individual Class I stream.

The Landowner will evaluate the level of RMZ area existing in non-stocked, low stocking, or seed/sapling size classes on forested lands within the SRSF on a 5-year basis. The Landowner will adjust the amount of RMZ area that could be treated in this manner to ensure that the target levels (20 percent) are not exceeded. If the target level is reached or exceeded due to circumstances outside of the Landowner's control (such as wildfire or other natural disturbances), no additional harvest using these specific allowances will be conducted on Class I RMZs until the amount of non-stocked and/or seed/sapling size class acres drops below the 20 percent maximum allowable.

i. In forest stands within an RMZ being impacted by disease or insect infestations (e.g., dwarf mistletoe [*Arceuthobium spp.*], mountain pine beetle [*Dendroctonus ponderosae*], or Douglas-fir beetle [*Dendroctonus pseudotsugae*]), harvest of diseased or insect-infested trees may occur within the 50-foot no-harvest buffer. However, harvest of diseased or insect infested trees from within the first 50 feet of RMZ will retain a minimum of 10 trees greater than or equal to 8 inches dbh (or largest diameter available) per 100 feet of stream channel. Retained trees will include all streambank trees and downed trees lying within the stream channel or embedded in the stream bank. To help control disease or insect infestations, harvest of diseased or insect-infested trees from within the remaining RMZ may exceed those levels necessary to meet the normal 50 percent retention requirement.

ii. In areas within an RMZ that have been subjected to severe or stand-replacement wildfires, salvage harvest of dead trees may exceed the normal 50 percent retention requirement in that portion of the RMZ outside of the 50-foot no-harvest buffer. No salvage harvest of fire killed trees will occur within the 50-foot no-harvest buffer. Downed trees lying within the stream channel or embedded in the stream bank will not be removed. These harvests will still meet the minimum retention tree requirements of the SMZ Law.

iii. Removal of individual hazard trees within the no-harvest buffer is allowed. A hazard tree is any tree that poses a risk to public safety, roads, structures, property, and other improvements. Public safety refers to situations that pose a foreseeable risk of injury or death to a person.

j. Cable harvest systems on class 1 streams may require corridors through the RMZ in order to fully suspend logs across a stream. In these situations there would be an exception to

the no-harvest buffers that would allow cable corridors with a minimum spacing of 150 feet.

3. **Class 2 and Class 3 Stream Segments and Other Bodies of Water**

A class 2 stream segment is a portion of a stream that is not a class 1 or class 3 stream segment. Two common examples of class 2 stream segments are:

(a) a stream segment that does not support fish; normally has surface flow during less than six months of the year; and contributes surface flow to another stream, lake, or other body of water; or

(b) a stream segment that does not support fish; normally has surface flow during six months of the year or more; and does not contribute surface flow to another stream, lake, or other body of water.

A class 3 stream segment is a stream segment that does not support fish; normally has surface flow during less than six months of the year; and rarely contributes surface flow to another stream, lake, or other body of water.

"Other body of water" means ponds and reservoirs greater than 1/10th acre that do not support fish; and irrigation and drainage systems discharging directly into a stream, lake, pond, reservoir, or other surface water. Water bodies used solely for treating, transporting, or impounding pollutants shall not be considered surface water.

Timber harvest conducted within a Class 2 and Class 3 SMZs will implement the Landowner's existing timber harvest practices, which include the Montana Forestry BMPs, Forest Management ARMs 19 36.11.425 and 426, and the SMZ Law (ARMs 36.11.302 through 313).

a. Timber harvest conducted in Class 2 and Class 3 SMZs will comply with all applicable requirements regarding harvest prescriptions and tree retention requirements, including:

    i. Clearcutting will be prohibited in the SMZ of Class 2 streams.

    ii. Timber harvests within Class 2 SMZs will retain at least 50 percent of the trees greater than or equal to 8 inches dbh on each side of a stream or 5 trees per 100-foot segment, whichever is greater. Timber harvest conducted within both Class 2 and Class 3 SMZs will protect and retain sub-merchantable trees and shrubs to the fullest extent possible.

    iii. Retention trees within Class 2 SMZs will be representative of species and sizes in the pre-harvest stand.

    iv. SMZs will be extended to include adjacent wetlands, where the normal SMZ boundary intercepts a wetland. Retention tree requirements for the adjacent wetland are the same as the requirements for the normal SMZ. For Class 2 streams, the SMZ will be extended to 100 feet when SMZ slopes are greater than or equal to 35 percent. When the SMZ is extended, most retention will be selected

within 50 feet of the stream. The remaining retention trees may be left anywhere in the SMZ.

v. Equipment restriction zones will be extended beyond normal SMZ requirements on sites with high erosion risk. Sites with high erosion risk are those sites located on highly erodible soils or subject to conditions that result in higher risks of erosion. Examples of highly erodible soils are non-cohesive sands such as granitics and silts with low rock content. Conditions leading to high erosion risks include those areas that are susceptible to mass wasting and those areas already exhibiting high levels of erosion; or severely burned areas where bare mineral soil is exposed, or hydrophobic conditions occur. The Landowner determines high erosion risk from established soil surveys, existing inventories, and/or site-specific field evaluations.

When the Landowner proposes forest management activities on sites determined to have high erosion risk:

1) The Landowner shall establish an Equipment Restriction Zone (ERZ) with a minimum of 100 feet when activities are located on slopes greater than 25% but less than 35%.

2) The Landowner shall establish an ERZ with a minimum of 150 feet when activities are located on slopes greater or equal to 35%, but less than 50%.

3) The Landowner shall establish an ERZ with a minimum of 200 feet when forest management activities are located on slopes greater or equal to 50%

4) The Landowner may modify and shorten ERZ widths established for high erosion risk when topographic breaks, existing roads or other factors are present that reduce erosion risk and provide suitable sediment delivery filtration. Modified or shortened ERZ's must still meet the minimum width of the SMZ required under ARM 36.11.302.

vi. The landowner shall restrict ground based equipment operations within an ERZ established for high erosion risks on slopes greater than 35% by not allowing the operation of wheeled or tracked equipment within an ERZ.

vii. The landowner shall not allow the operation of wheeled or tracked equipment within an ERZ established for high erosion risks on slopes less than 35%, unless the operation can be conducted without causing excessive compaction, displacement or erosion of the soil.

viii. The landowner may allow the use of wheeled or tracked equipment inside that portion of an ERZ when operated from an established road on the side of the road away from the stream pursuant to ARM 36.11.304.

C. Riparian Exclusion Areas

1. Goat Creek, Squeezer Creek, South Woodward Creek, Woodward Creek, and the Swan River will be treated differently than other streams.

    a. Buffer establishment: Riparian Exclusion Areas will be laid out to encompass the Channel Migration Zones (CMZ) of the stream, plus an additional 80' (eighty feet) in width beyond each of the outside (lateral) boundaries of the CMZ, plus limited additional acreage added for logistical or topographic considerations by agreement of Landowner and the Easement Holder (See Figure 1).
    b. Forest management within the buffer by the landowner is prohibited. The Landowner may not harvest timber, utilize mechanical equipment off of established roads, or conduct timber-management activities within the Riparian Exclusion Areas along the following streams: Goat Creek, Squeezer Creek, South Woodward Creek, Woodward Creek and the Swan River. The Easement Holder may conduct timber harvest in a Riparian Exclusion Area according to the terms of the Conservation Easement, but only if the Easement Holder finds, at its sole discretion, that such activities will benefit fish and wildlife habitat.

D. Timber Management Sediment Reduction Commitments

1. The commitments for reducing potential sediment delivery from the Landowner's timber harvest activities (harvest, yarding, site preparation, and slash treatment) focus on reducing the levels of soil disturbance and subsequent levels of erosion and providing buffers zones for effective filtration of sediment. The commitments are primarily based on existing practices, but also include new measures for (1) providing a process for ensuring adequate review by a Landowner water resource specialist of harvest activities potentially affecting HCP fish species habitat, (2) designing and implementing site-specific mitigation measures, and (3) providing adequate feedback using both implementation and effectiveness monitoring. The additions included in the commitments are:

a. A Landowner water resource specialist will review all proposed timber harvests greater than 100 mbf located within a watershed supporting an HCP fish species. The water resource specialist will conduct a field review and make recommendations that would be integrated into the development of contract specifications, site-specific BMPs, and other mitigation measures. The purpose and role of the specialist reviews are detailed in commitment 4 below.

b. In situations or circumstances determined to have low risk of substantial soil disturbance, the Landowner may forgo this level of review and a water resource specialist may not make any recommendation that would be integrated into contract specifications, site-specific BMPs and other mitigation measures. Low risk will be determined after consulting with the Landowner's water resource specialist. An example of a situation that would not require field review by a water resource specialist might include such activities as salvage harvest from existing roads with no RMZ present.

c. Timber harvests proposed on high-hazard sites prone to mass failure will be screened during the cumulative watershed effects coarse-filter analysis during proposed project environmental review. The Landowner's water resource specialist will conduct a field review of all proposed harvest locations when the cumulative watershed effects coarse-filter analysis indicates the timber harvests are located on sites with high risk of slope instability and are prone to mass failure.

d. When timber harvests are conducted on unstable slopes, the Landowner will modify harvest prescriptions and/or design and implement mitigation measures to avoid increasing the risk of mass failure.

e. The Landowner will design and implement timber sale contract specifications, special timber harvest operation requirements, site-specific BMPs, and other mitigation measures to reduce the risk of sediment delivery to streams affecting HCP fish species. The Landowner's water resource specialist will make recommendations that will be integrated into the development of contract specifications, special operating requirements, site-specific BMPs, and other mitigation measures.

f. Contracts addressing the Landowner's timber harvest and associated forest management activities will include applicable standard operating requirements and restrictions; special operating requirements and restrictions; BMPs; and site-specific mitigation measures designed to avoid, minimize, or mitigate the risk of sediment delivery to streams affecting HCP fish species.

g. The Landowner will administer timber sale projects to ensure that contract specifications, BMPs, and other resource protection requirements are met.

h. On sites where practices implemented have resulted in unacceptable levels of impact to soil or water resources, appropriate mitigation and/or rehabilitation measures will be implemented as soon as possible. Examples of unacceptable levels of impact are major departures in BMPs, or violations of the State SMZ law resulting in actual sediment delivery to streams or a high risk of sediment delivery to streams.

E. Waste Disposal

1. The processing, dumping, storage or other disposal of waste, refuse and debris on the Land is prohibited, except for wood waste products generated through forest management activities on the Land, which may be disposed of on the Land in a manner consistent with forestry best management practices, provided that such disposal does not adversely impact the Conservation Values.
2. Any petroleum products, explosives, hazardous substances, toxic substances, and any other substance which may pose a present or potential hazard to human health or the environment shall not be released or dumped on the Land at any time, and shall not be stored or used, except as lawfully stored and used in necessary quantities for silvicultural purposes or for the oil and gas exploration and development activities specifically

provided in the Conservation Easement. The installation of any underground storage tank is prohibited.

F. Cumulative Watershed Effects

1. The Landowner shall include an assessment of cumulative watershed effects (CWE) on projects involving substantial vegetation removal or ground disturbance. The Landowner will initiate a CWE analysis on all forest management projects (including projects categorically excluded from MEPA analysis) involving (1) upland timber and salvage harvest of more than 15 acres or 50 mbf, (2) RMZ harvest of green timber, or (3) salvage harvest within the RMZ of 1 or more acres of dead and dying timber. Using the analysis, the department shall ensure that the project will not increase impacts beyond the physical limits imposed by the stream system for supporting its most restrictive beneficial use(s), when considered with other existing and proposed state activities for which the scoping process has been initiated. The analysis shall identify opportunities, if any exist, for mitigating adverse effects on beneficial water uses.

a. The department shall set CWE threshold values at a level that ensures compliance with water quality standards and protection of beneficial water uses with a low degree of risk.

IV. GRAVEL AND ROCK EXCAVATION MANAGEMENT

1. DNRC retains the right to extract sand, gravel, and rock through surface mining techniques in accordance with Applicable Law, provided that the exposed surface area for mining does not exceed five acres in size per site, there are no more than four sites disturbed at any time (two on each side of the forest), and the sites are not within the RMZ, as previously defined.

2. The Landowner will design and implement site-specific BMPs and other mitigation measures to reduce the risk of sediment delivery to streams affecting HCP fish species from all gravel pits. A Landowner water resource specialist will make recommendations that will be integrated into the development of contract specifications, permits, and Plans of Operation (as required under ARM 17.24.217).

3. The Landowner's gravel pits will comply with biennial agreements established with county weed boards. Noxious weeds will be managed utilizing an integrated weed management approach. Such practices include, but are not limited to: (1) The use of weed-free equipment; (2) re-vegetation of disturbed areas with site-adapted species, including native species as available; and (3) biological control measures included in timber sale contracts and Plans of Operations (as required under ARM 17.24.217).

4. Gravel development and use associated with borrows is considered a normal and necessary component of road construction and road maintenance. Development and use of borrows is allowed unconstrained when associated with allowable road construction and/or road maintenance activities.

Borrows are small sources of gravel, rock or fill that are used solely within the road right of way clearing limits. Borrows will be limited only to the minimum materials needed for road construction, road maintenance, and stream crossing construction and installation activities in the immediate vicinity of the borrow source (i.e. a culvert or bridge installation requiring native fill and/or bedding material). Material from borrow sources will not be exported off-site. Sizes of borrows range from small disturbed areas associated with the removal of several yards, to larger cut slopes that in no instance will exceed ½ acre in size. Borrow pits will not occur within the bed or bank of streams.

V. ROAD MANAGEMENT

A. Road Inventories

1. The initial baseline for roads and their location will be the Swan Valley Conservation Project Map as exists on Date XX, 2010 (See attached Figure__). For the purposes of this management plan, road density will be calculated as the miles of road by road class (i.e., open, restricted and total) divided by the total area of the subject lands. For roads located within RMZs, road amounts will be tracked and reported in linear miles of road located within an RMZ.

2. The Landowner will complete an inventory of roads within the first five years that lands are under their ownership to update the initial baseline map. Roads inventoried will be those that Landowner has legal access to and sole ownership of, or has entered into cost-share or reciprocal access agreements.

3. The information collected during the initial road inventory will be used to:

    a. Verify the location and class of each road segment included in the initial road baseline;
    b. Identify the location of additional road segments that were not included on the initial road baseline;
    c. Determine the class, condition, and sediment delivery status of each road segment;
    d. Verify the location, type, and effectiveness of closure structures included in the initial baseline;
    e. Identify the location and determine the effectiveness of additional closure structures that were not included in the initial baseline;
    f. Revise the initial baseline map used for the commitments contained in this management plan;
    g. Recalculate the open, restricted and total road densities, and the total linear miles of road located in RMZ that were used in the initial road baseline. Road densities will be calculated for the entire area covered by this management plan and linear miles of road will be calculated for the total miles of road located within all RMZ area covered by this plan.

4. Class of road is defined by the following:

a. Open roads – Administratively open to the public for wheeled motorized use during any portion of the year.
b. Restricted roads – Managed to limit the manner in which motorized vehicles may be used (except as provided for in #5, below). Restricted roads will have a physical barrier that restricts the general use of motorized vehicles. Administrative uses by the landowner or their agent(s) that are consistent with other measures in this document are allowed. Barriers will be man-made or naturally occurring (e.g. gates, barricades, earthen berms, vegetation that makes the road impassable, eroded road prism, rocks, etc.).
c. Abandoned road – Impassible to motorized vehicles due to effective closure, but has drainage structures that have not been removed.
d. Reclaimed road – Impassable to motorized vehicles due to effective closure. It has been stabilized and culverts and other drainage structures if present have been removed, but the road prism may remain. Reclaimed roads will be re-vegetated (including soil preparation where necessary) with native vegetation consistent with the site, and made impassible for motorized vehicles through means such as ripping of road prisms, placement of root wads, boulders, slash/debris, and reforestation, etc.
e. Temporary road – A low-standard road that is used for forest management which, following use, will be reclaimed.
f. Total road density – Combined road density of both open and restricted road classes.

5. Licensed snowmobile use or use of other tracked over-the snow vehicles will be allowed from November 15 through March 31 on restricted roads within the management plan area (Figure __). Winter use dates and authorized use areas may be altered upon mutual agreement of both parties. Individual roads may be temporarily or permanently restricted from winter use by the landowner for the purposes of human safety or resource protection.

6. Road condition – refers to whether a road segment meets BMPs standards or requires improvements to meet BMP standards. These evaluations will also include an assessment of existing and potential sources of sediment delivery from roads to streams, and information necessary to develop site-specific corrections to meet BMP standards.

7. Sediment delivery status – refers to inventoried road segments and stream crossing sites as being either:

a. Low risk of sediment delivery (meets BMPs and/or has very low risk of sediment delivery);
b. Moderate risk of sediment delivery (does not meet BMPs, has moderate risk of sediment delivery, or meets BMPs but is poorly located); or
c. High risk of sediment delivery (does not meet BMPs, is poorly located, is currently delivering sediment, or has high risk of future sediment delivery).

8. The Landowner will periodically complete subsequent road inventories to verify the class, condition and sediment delivery status of each road segment. Time interval between subsequent road inventories will be developed through the Liaison Team.

9. Commitments for road densities will be the following:

	Area	
Time period	Property-wide (including RMZ)	RMZ
Prior to the initial road inventory (up to 5 years)	-Allowance of 5 miles of temporary roads. -No increase in open and total road density.	Maintain or reduce open, and total road mileage.
After inventory	- Allowance of 5 miles of temporary roads. - Maintain or reduce open and total road density.	Target decrease in roads by class to be determined.

10. The Landowner will provide for prior review of road building proposals by FWP. The purpose of such reviews shall be to help ensure compliance with the easement terms, not for the purpose of formal approval.

11. Landowner may construct and maintain up to 5 miles of temporary roads on the property covered by this easement to facilitate timber management activities. These roads will be built to minimum BMP standards and reclaimed within one year following completion of project-related activity. Temporary roads will not be included in total road density calculations and will be closed to public access during their use. Following reclamation, the temporary roads shall not be usable or accessed for commercial, administrative or public motorized use.

12. Within one year following the completion of the road inventory and associated transportation planning, the Landowner will coordinate with FWP to develop a net reduction target for linear miles of roads located within RMZs.

13. The Landowner may change the class of roads through management actions, reclaim roads, or construct new roads only if the net effect of such actions does not increase open or total road densities on the lands covered under this plan, or increase the total linear distance of open or total roads within RMZs. Reclaiming a road segment removes it from the density and mileage calculations.

14. The Landowner may temporarily close portions of any road(s) on lands covered under this plan for the purpose of human safety without prior notification of FWP. Activities may include, but are not limited to: timber felling, hauling, road construction, road maintenance, culvert installations, fire management, etc.

15. For the property-wide calculation of road density, density shall be calculated as the miles of road by class (i.e., open, restricted, and total) divided by the total area of the subject lands. For the RMZ, road amounts will be calculated and tracked by the total linear miles of road located within all RMZs covered by this plan.

B. Road BMPs

1. Existing roads or newly constructed roads that are no longer needed for forest management will be reclaimed. Decisions made to reclaim roads will be based on the consideration of several factors, including but not limited to: planned activities, desired future stand conditions,

silvicultural objectives, infrastructure needs, cost, available resources, fire protection access needs, contractor availability and risk of sediment delivery to streams.

2. The Landowner shall inspect road closure structures, such as gates, barriers, and earth berms, at least once every year for effectiveness in restricting access. Effective closure is accomplished when a road is impassible to unauthorized motorized vehicles. Landowner shall repair or modify ineffective closures within 1 year of discovering or being informed of their ineffectiveness by the landowner or their agent, the public, or the Easement Holder.

3. Project-level, site-specific corrective actions will be developed and implemented on sites identified as having a high risk of sediment delivery where the Landowner has legal access and has sole ownership. These sites would be improved to BMP standards and to reduce the risk of sediment delivery to streams.

4. Corrective action will be completed on all sites identified as having high risk of sediment delivery within the first 15 years of the initiation of this agreement. The Landowner will provide FWP information regarding the progress toward meeting this timeline upon request. These projects will be contingent upon availability of grant funding or project level funding from timber sale projects.

5. The Landowner will work with other landowners and cooperators to address road segments with shared ownership that have been identified as having high risk of sediment delivery.

6. Road construction, re-construction and road maintenance activities will meet Forestry BMPs and incorporate site-specific mitigation measures to reduce the risk of sediment delivery to streams.

7. New road locations will avoid high hazard sites prone to mass failure as required in Montana Forestry BMPs. When new road construction or reconstruction cannot be avoided on potentially unstable slopes, the Landowner will design and implement site-specific mitigation measures to reduce the risk of mass failure. Landowner must give Prior Notice to the Easement Holder before undertaking new road construction on high hazard sites.

8. The Landowner will evaluate and consider the use of alternative yarding systems that minimize road needs if such systems are practical and economically feasible, and their use will meet immediate and foreseen future management objectives.

9. The Landowner will complete BMP audits and contract administration inspections to monitor the implementation and effectiveness of BMPs and other mitigation measures utilized to reduce risk of sediment delivery to streams. The Landowner will give Prior Notice to the Easement Holder of scheduled BMP audits and other monitoring activities in order to allow for the Easement Holder's participation in those activities. However, monitoring activities will not necessarily be rescheduled to accommodate the Easement Holder's participation. The Landowner will provide the Easement Holder with updates on the results of all applicable monitoring activities.

10. The Landowner will limit the construction of new roads in riparian/wetland areas, avalanche chutes and berry fields to those roads that are essential to forest management. In addition, any roads built in these areas will be constructed so as to minimize the mileage of roads in such areas.

C. Other Road Management Commitments

1. Road building proposals by The Landowner will be provided to the Easement Holder for prior review. The purpose of such reviews shall be to help ensure compliance with the easement terms, not for the purpose of formal approval.

2. The Landowner may temporarily close portions of any road(s) on lands covered under this agreement for the purpose of human safety without prior notification of the Easement Holder. Activities may include, but are not limited to: timber felling, hauling, road construction, road maintenance, culvert installations, fire management, etc.

D. Aquatic Connectivity

1. Within the Conservation Easement area, the Landowner will provide connectivity for adult and juvenile native fish species during low to bankfull flows by emulating streambed form and function. This will be accomplished using the best available design while considering site conditions and cost efficiencies.

2. The landowner will inventory and survey all stream crossing structures located on stream segments supporting native fish species on roads they have access to and sole ownership of to assess levels of fish connectivity within the first 5 years of this agreement. Once this assessment is completed the Landowner and FWP will meet to develop a mutually agreeable timeline and schedule for improving, replacing or removing existing stream crossing structures that are not currently providing connectivity for native fish species during low to bankfull flows.

3. The Landowner will prioritize road-stream crossing improvements based on existing levels of connectivity, as well as species status and population goals established while taking into consideration other regulatory agencies' or cooperative organizations' activities and goals. Genetic data used for a coarse filter will be obtained primarily from FWP data sets. Where practicable and where time permits, the Landowner will collaborate with FWP to collect genetic information for target species to supplement those data sets.

4. Fish passage structures in streams will be designed to pass a minimum of the 50-year flood event.

5. Road-stream crossings that provide connectivity to limited or marginal fisheries habitat may not be required to emulate streambed form and function when approved by the Easement Holder.

6. Habitat connectivity may not be desirable in instances where establishment of continuous habitat would expose native trout populations to competition by introduced species. The Landowner will consult with FWP prior to creating new connections between previously blocked stream reaches.

VI. WILDLIFE MANAGEMENT

A. Security and Habitat

1. Within the conservation easement area the Landowner will carry out forest management practices in accordance to those practices and procedures set forth within The Swan Valley Grizzly Bear Conservation Agreement (1995), Montana Administrative Rules for Forest Management (ARM 36.11.401-450)(2003), and the Montana DNRC Forest State Trust Lands Habitat Conservation Plan (anticipated in 2011). These documents basically guide the Landowner's project design, operational use, open road densities, cover, screening, and motorized use and cannot be changed on easement lands without Prior Approval of the Easement Holder.

B. Hardwood Management

1. The commercial harvest of cottonwood trees is prohibited. Additionally, the harvest, felling, destruction, and removal of cottonwood trees are prohibited, except:

a. As may occur incidentally during the normal conduct of forest management activities;
b. As part of the construction or maintenance of roads, fences or other improvements authorized by the Easement;
c. For the purpose of addressing safety hazards to forest managers or the public; or
d. When granted prior approval by the Department, which must find that the harvest, felling, destruction, or removal activity will be beneficial to the overall habitat value of the Land.

2. The harvest of aspen trees is prohibited, unless such harvest is granted prior approval by the Department, which must find that the harvest will be beneficial to the overall habitat values of the Land. Additionally, the Landowner may not intentionally damage or destroy aspen stands; provided, however, that the Landowner may harvest coniferous timber in or associated with an aspen stand through normal forest management practices and may, in conducting such a harvest, cause damage to aspen trees, without being in violation of this paragraph. The intent of this restriction is to insure that aspen remain an important habitat component of the landscape at a level that meets their full ecological potential under historic fire regimes. The Liaison Committee will review this provision periodically to insure that the intent of this section is met but not in a way that threatens the economic viability of the Land to produce commercial timber products.

C. Snag Management

1. DNRC will retain an average of two snags and two live snag recruitment trees of greater than 21 inches diameter at breast height (dbh) per acre on the warm and moist habitat type group and the wet habitat type group (Green et al. 1992; Pfister et al. 1977). DNRC will retain an average of one snag and one live snag recruitment tree of greater than 21 inches dbh per acre on all other habitat type groups. If snags or snag recruitment trees of greater than 21 inches dbh are not present, then the largest snags or snag recruitment trees available will be retained. Snags may be

evenly distributed or clumped. If there is an absence of sufficient snags or recruits, some substitution between the two may occur.

VII. RECREATIONAL USE

A. General Recreational Use

1. Trust Lands Recreational Use Rules (ARM 36.25.146-162) shall apply in the conservation easement area. Persons who possess a valid Montana Conservation License from FWP are authorized to engage in hunting, fishing, and trapping on legally accessible state trust lands. Prior to trapping on state land, persons are required to possess a "Special Recreational Use License (SRUL) for Trapping" at no additional cost. Persons desiring to conduct all other types of noncommercial general recreation such as hiking, camping, sight-seeing, skiing, day horseback use, etc., unless such activities are conducted in conjunction with and incidental to hunting , fishing, or trapping, will be require to possess a State Land Recreational Use License. All other State Recreational Use Rules shall be applicable as they existed on date this plan went into effect unless changed or updated by mutual agreement between the Landowner and the Department. In summary:

a) Motorized vehicle use by recreationists is restricted to federal roads, state roads, dedicated county roads, other county roads that are regularly maintained by the county and those roads on Project lands that are designated as open for motor vehicle use.
b) Road access for public use may be limited for a variety of reasons such as the protection of wildlife, security, prevention of sedimentation from logging roads, public safety and reducing the spread of noxious weeds.
c) The Landowner may restrict motorized road use with gates, barricades, earthen barriers, and signs.
d) Hikers, horseback riders, and mountain bikers are allowed behind closed gates, barricades, and earthen barriers. All motorized vehicles are not allowed to operate for recreational purposes behind such barriers.
e) A person who has in his or her possession a "permit to hunt from vehicle" issued by the Department of Fish, Wildlife and Parks is authorized to drive on any road except a road that is closed by sign or barrier.
f) Snowmobile use on the roads referenced in (1) (a) is allowed only if permitted by applicable traffic laws and regulations. Snowmobile use is allowed except in areas where it is prohibited by the Landowner.
g) Overnight camping is restricted recreational activities permitted on Project lands under the conservation easement and to no more than 14 consecutive days and with a maximum of three consecutive days left unattended. Recreational camping in excess of fourteen days requires moving to a new site no closer than 5 miles from the original site. Recreationists may not drive off of open roads for the purpose of establishing a campsite. Exceptions and special use camping is only allowed with written permission of the landowner.
h) A recreationist may not interfere with legitimate activities of authorized contractors, lessees or their agents conducted pursuant to the contract or lease.

i) Littering on Project lands is prohibited. Recreationists shall pack out their litter.
j) Commercial activity on the Land by anyone other than Landowner is permitted only with a written permit or contract.
k) The public's right to recreate on the Land does not include the right to trespass on other private property to reach the Land.
l) Violators may lose recreational privileges on the Land.
m) With the mutual consent of the Landowner and the Department, any recreation activity may be restricted if necessary for resource or wildlife management.

B. Outfitting and Commercial Recreation

The Landowner reserves the right to allow and collect compensation for non-exclusive day use by commercial outfitters. "Non-exclusive" use means that the public also has the opportunity for recreational use, but other outfitters and commercial users may be excluded from use. The Landowner will provide Prior Notification to the Easement Holder before issuing Commercial Recreational Use Licenses. The Landowner recognizes that outfitting and commercial recreational use will need to be implemented so as not to adversely affect general public recreational use.

VIII. LIVESTOCK GRAZING.

Livestock grazing on the Land is prohibited, except with Prior Approval from the Department and then only for the purpose of using livestock grazing as a tool to restore or enhance wildlife habitat or other Conservation Values..

IX. AESTHETIC QUALITY.

DNRC will consider aesthetic values along the Highway 83 scenic corridor and will manage these areas within the Subject Lands by retaining trees to soften or "feather" edge effect caused by harvesting. Healthy sub-merchantable trees would be retained, where possible, to screen views into the harvest area.

X. OIL/GAS:

If, the Landowner holds or acquires the rights to explore for or develop oil, natural gas, coal-bed methane or other hydrocarbon resources, Landowner will cooperate with the Department to ensure that Landowner conducts any exploration and development activities in a manner that is protective of the Conservation Values of the Land and consistent with any applicable provisions of the Multi-Resource Management Plan. The Landowner is prohibited from developing those resources within the RMZ. Any exploration or development of oil and gas resources requires Prior Approval by the Department. Further, Landowner may not conduct hydrocarbon exploration or development by surface mining, as would be prohibited on conservation easement properties under Internal Revenue Code 170(h)5(B).

X. EASEMENT MONITORING AND AMENDMENTS

The Easement Holder will monitor the terms of the Easement on at least an annual basis. A Liaison Team representing the Easement Holder and the Landowner will be established to deal with management issues that may arise over time. It is expected that this Plan will be amended over time to better represent current knowledge and conditions on the ground.

Any amendment to this Plan must have the consent of both parties and BPA and must be in writing and signed and acknowledged by the parties. If there is any inconsistency between the terms of this Plan and the Easement, the terms of the Easement control. The Easement Holder will keep a current Plan in its files and will make the then current Plan available to successors in interest to the Lands.

LANDOWNER: The Nature Conservancy
4245 North Fairfax Drive, Suite 100,
Arlington, Virginia 22209

By: _____

DEPARTMENT: Montana Department of Fish, Wildlife and Parks
1420 East Sixth Avenue, P.O. Box 200701
Helena, Montana 59620-0701

By: _____
Joe Maurier, Director

APPENDIX B

DRAFT TEMPLATE CONSERVATION EASEMENT FOR SITUATIONS IN WHICH BPA IS FUNDING FWP TO ACQUIRE FEE TITLE

AFTER RECORDING, RETURN TO:
Bonneville Power Administration
Real Property Services, TERR
Re: [Insert BPA Tract No.]
P.O. Box 3621
Portland, OR 97208-3621

Abbreviated legal description (full legal description in Exhibit A):
[INSERT HERE]

Approx. Acres: [INSERT ACRES]

Summary of special features:
[INSERT HERE BRIEF MENTION OF SPECIAL FEATURES THAT WERE THE PRIMARY REASON FOR PURCHASE EG, "Riparian habitat and uplands along X creek" or similar brief description.

DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is executed this ____ day of _____, 20__, by MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS ("MFWP" or "Grantor"), whose address is 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0710, in favor of the United States, acting by and through the Department of Energy, Bonneville Power Administration, based in Portland, Oregon ("the Grantee" or "BPA"), headquartered in Portland, Oregon, at P.O. Box 3621, Portland, OR 97208-3621. MFWP and BPA together may be referred to as the "Parties."

WHEREAS, BPA is a power-marketing agency within the United States Department of Energy having legal obligations under the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §§ 839-839h ("Northwest Power Act") to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and

operation of Federal hydroelectric projects of the Columbia River and its tributaries, in a manner consistent with the purposes of the Northwest Power Act, the Fish and Wildlife Program adopted by the Pacific Northwest Electric Power and Conservation Planning Council under subsection 4(h) of the Northwest Power Act (16 U.S.C. § 839b(h)), and other environmental laws, including the Endangered Species Act, 16 U.S.C. §§ 1531-1544 ("ESA"); BPA has the authority pursuant to the Northwest Power Act, 16 U.S.C. §§ 839b(h) and 839f(a), the Federal Columbia River Transmission System Act, 16 U.S.C. § 838i(b), or the Bonneville Project Act, 16 U.S.C. §§ 832a(c) through (f), to acquire real estate or to assist in the acquisition and transfer of real property interests; and

WHEREAS, BPA, in accordance with several agreements entered into with Montana (the "Memorandum of Agreement Between the State of Montana, the Bonneville Power Administration, the U.S. Army Corps of Engineers, and the U.S. Bureau of Reclamation" also known as the "Montana Fish Accord" in May of 2008, and the "Memorandum of Agreement Between the State of Montana and the Bonneville Power Administration for Resident Fish Mitigation in XX of 2010, also known as the "2010 Resident Fish MOA;" copies of these agreements are on file with the BPA Manager, Real Property Services, P.O. Box 3621, Portland, OR 97208-3621) provided funding to MFWP to acquire fee title ownership of certain real property, the [INSERT NAME OR PROPERTY IF APPROPRIATE, E.G, "THE FORREST RANCH"] ("Protected Property") in [INSERT COUNTY, Montana, having important features that help BPA meet its statutory obligations to the public under the Northwest Power Act and other environmental laws;

NOW, THEREFORE the Parties agree as follows:

I. CONVEYANCE AND CONSIDERATION

MFWP, for and in consideration of the funding BPA provided to acquire fee title ownership of the Protected Property([INSERT $ AMOUNT,WHICH SHOULD BE THE TOTAL PURCHASE PRICE PROVIDED BY BPA TO THE MFWP IN ESCROW FOR ACQUISITION OF THE PROPERTY]), hereby voluntarily grants and conveys to the United States and assigns a perpetual easement for conservation purposes ("Conservation Easement") over, under, upon and across the Protected Property, legally described in Exhibit A (legal description), attached and incorporated by reference, and shown in Exhibit B (map/aerial photo) attached and incorporated by reference, created and implemented under applicable state and federal law, and creating an interest in property intended to be a conservation easement under Montana Code §§ 76-6 *et. seq.* The Parties intend this Conservation Easement to be a perpetual and irrevocable easement in gross, and further intend that its terms and conditions, set forth below, create equitable servitudes and covenants running with the land, binding MFWP and MFWP's successors and assigns for the benefit of the United States.

II. CONSERVATION PURPOSE

A. Purpose. The purpose ("Purpose") of this Conservation Easement is to protect, the conservation values (Part II.B, below) of the Protected Property in perpetuity. As such, the Purpose of this Conservation Easement includes the prevention of any use of the Protected

Property that will harm or interfere with any of the conservation values of the Protected Property, and to allow the enhancement of the conservation values of the Protected Property through active or natural restoration processes, or both.

B. Conservation Values. The conservation values of the Protected Property ("Conservation Values") to be permanently protected include the following:

1. Particular kinds of fish and wildlife species including but not limited to ESA-listed species, species serving important roles in the ecosystem, and species which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation, and which are dependent on suitable environmental conditions, with an emphasis on native species. The Conservation Values include important habitat, generally characterized by the biological or physical components that support fish and wildlife species, including but not limited to space for individual and population growth, and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; and sites for breeding, reproduction, rearing of offspring, and migration; and often identified as important through regulatory categorical designations such as ESA-designated critical habitat or other important environmental areas identified by local, tribal, state, or federal law.

2. Other important components of the ecosystem of which the fish and wildlife habitats are integrally a part, including but not limited to diverse and high-quality native riparian and upland native vegetation communities that are the basis of the food chain and that serve important roles through soil quality and productivity, biodiversity, air quality, carbon sequestration, water quantity (flow levels), and water quality (including but not limited to water quality parameters such as toxins, thermal load, and sediment load).

3. More specifically, the Conservation Values include the following special features, habitats, and species associated with the Protected Property, recognizing that such Conservation Values may periodically fluctuate or trend toward long-term change, due to natural events such as wildfire, flood, interdecadal climatic events such as the Pacific Decadal Oscillation, and long-term climate change:
    a. [Insert here key or important habitat features of property, including expansion of the summary of habitat type (in box on first page)]
    b. [Insert here summary of key species on the property or targeted for the property]
    c. [Any other features that made the property important to acquire for BPA mitigation/fish & wildlife program.]

C. Baseline Documentation. MFWP and BPA agree that the characteristics and conditions of the Protected Property at the time of this grant are documented in a Baseline Documentation Report, prepared by BPA and signed and acknowledged by the Parties (Exhibit C, attached and incorporated by reference) establishing the characteristics and conditions of the Protected Property at the time of this grant.

D. Construction of Purpose. MFWP intends that this Conservation Easement will confine the use of the Protected Property to activities that comply with the Easement. BPA shall have

the right, but not the obligation, to enforce any and all terms of this Conservation Easement. Any use of, or activities on, the Protected Property by MFWP shall be consistent with the Purpose of this Conservation Easement. In the event that there is a conflict between MFWP's uses or activities and the Purpose of Conservation Easement, the Purpose of the Conservation Easement shall be construed broadly and shall prevail over any conflicting uses or activities of MFWP.

III. RIGHTS CONVEYED TO GRANTEE

A. General Rights. The Grantor has conveyed this Conservation Easement to the United States. BPA is the acquiring federal agency having jurisdiction and control over this Conservation Easement. Therefore, in addition to any other identified right in this Easement, BPA has the right to:

1. Access and inspect the Protected Property at all reasonable times upon reasonable notice (which may be by phone or electronic mail) to assure compliance with this Conservation Easement;
2. To access the Protected Property upon reasonable notice (which may be by phone or electronic mail) to survey fish and wildlife, including their habitat, to evaluate the status of the Conservation Values
3. Prevent any activity on the Protected Property inconsistent with this Conservation Easement, and to require the restoration of areas or features of the Protected Property that are damaged by any inconsistent activity; and
4. Should MFWP fail to do so, retain and maintain the right to use any and all of the water rights associated with the Protected Property, and to protect those rights from threat of abandonment or forfeiture under relevant law; BPA may, after providing 90 days' written notice to MFWP, enter upon the Protected Property and take actions reasonably necessary to maintain the validity of the water rights.

B. Transmission Facilities. MFWP conveys the following rights to the United States: to construct, locate, operate, maintain and access future transmission facilities within the easement area at no additional cost for securing the easement for these purposes. Should such a transmission easement be needed by BPA over the Protected Property, the Parties will negotiate the terms and conditions of the easement to be negotiated by the Parties, in accordance with applicable law (including appropriate mitigation measures identified as part of the environmental analysis for the transmission right of way) and taking into account the Purpose of this Easement. Such transmission facility easement shall not be precluded by Part IV. Transmission right-of-way easements shall be for the sole purpose of transmission of electrical power and ancillary transmission communications. Such transmission facility easement shall not be precluded by the Prohibited Uses, Part IV of this Conservation Easement.

IV. PROHIBITED USES

A. MFWP will ensure that the Protected Property will be managed to protect, and where appropriate improve, resident fish and their habitat on behalf of BPA, preventing any and all uses of the Protected Property that are inconsistent with the Purpose of this Conservation Easement.

B. Prohibited uses of the Protected Property include those specifically listed below. However, the Parties intend that any activity that may materially impair one or more of the Conservation Values is prohibited, and therefore the list identified below is not exhaustive. Except as otherwise provided herein, prohibited uses include:

1. All residential, commercial, or industrial uses of the Protected Property (including, but not limited to timber harvest, grazing, and agricultural production uses);

2. Erecting of any building, facility, billboard, or sign;

3. Depositing of soil, trash, ashes, garbage, waste, bio-solids or any other material except as allowed under applicable federal, state, and local laws;

4. Excavating, dredging or removing of loam, gravel, soil, rock, minerals, sand, hydrocarbons or other materials;

5. Otherwise altering the general topography of the Protected Property, including but not limited to building of roads and flood control work;

6. Draining, dredging, channeling, filling, leveling, pumping, diking, impounding or related activities, as well as altering or tampering with water control structures or devices.

7. Granting any easement, lien or other property interest, in whole or part (including water rights), or any other right to use the Protected Property, for any purpose without the written consent of BPA;

8. Any other use that, the Grantor or BPA determines materially impairs one or more of the Conservation Values.

C. Uses or activities otherwise prohibited under Parts IV.B.1 through IV.B.6, above, may be allowed but only if: (1) the use or activity does not materially impair any Conservation Value; and (2) the use or activity, and any necessary prescriptions, are addressed in an approved Management Plan (Part V.B, below).

V. PERMITTED USES, MANAGEMENT PLAN & ACCESS

A. MFWP reserves, for itself and its successors and assigns, the right to use the Protected Property in any and all ways which are consistent with the Purpose of this Conservation Easement (Part II) and which are not otherwise prohibited (Part IV), including: the right to record title, the right to convey, transfer, and otherwise alienate title to these reserved rights; the right of quiet enjoyment of the rights reserved in Protected Property; and the right to prevent trespass and control access.

B. MFWP shall develop a Management Plan for the Protected Property in accordance with the 2010 Resident Fish MOA, to describe the land and resource management activities, including

any restoration actions that MFWP expects to undertake or allow to be undertaken on the Protected Property. The Management Plan shall also identify the allowable use and access by the public of the Protected Property if appropriate. The Grantor shall develop the Management Plan in consultation with BPA, and relevant interested local, state, tribal, and federal resource agencies, and the Grantor shall provide an opportunity for public input on the Management Plan. BPA has the right to review that Plan and any proposed amendments for conformance with this Conservation Easement and applicable laws, and must approve the Plan or any amendments, prior to its implementation, in accordance with the 2010 Residence Fish MOA. Prior to review of the Management Plan by BPA, the Grantor shall not undertake any ground-disturbing activities on the Protected Property without prior notice to and approval by BPA. MFWP shall make the final approved Management Plan, and any amendments, available to the public.

C. The Parties acknowledge the right of the Confederated Salish and Kootenai tribal members to conduct traditional usufructuary and spiritual uses including hunting, fishing, and gathering in accordance with applicable law.

D. MFWP will provide reasonable public access to the Protected Property unless MFWP and BPA determine such access may materially impair one or more of the Conservation Values of the Protected Property. Public access, if provided, will be addressed in the Management Plan.

E. MFWP reserves all rights and interests not expressly prohibited by this easement deed or those that do not affect the Purpose of this Conservation Easement (Part II).

VI. MISCELLANEOUS

A. Notice of Violation, Corrective Action. If BPA determines that the MFWP or its representatives, successors, or assigns violates or threatens to violate this Easement, and if such determination or dispute is not resolved by negotiation as set forth in Part VI.F, BPA will give written notice to MFWP of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the Purpose, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by BPA.

B. MFWP's Failure to Respond. The United States, on behalf of BPA, may bring an action as provided in Part VI.C if MFWP fails to cure the violation within thirty (30) calendar days after receipt of a notice of violation from BPA, or under circumstances where the violation cannot reasonably be cured within such thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

C. BPA's Action. The United States, on behalf of BPA may pursue an action at law or in equity in a court having jurisdiction to enforce the terms of this Easement: (1) to enjoin the violation, ex parte as necessary, by temporary or permanent injunction; (2) to require the restoration of the Protected Property to the condition that existed prior to any such injury; and (3) to recover any damages to which it may be entitled for violation of the terms of this Easement.

The remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

D. MFWP's Action. In the event that Grantor seeks determination as to the legal meaning or effect of this Easement, or as to any alleged violation hereof by BPA, and if such determination or dispute is not resolved by negotiation set forth in Part VI.F below, then MFWP will be entitled to bring judicial action including actions existing at law or in equity.

E. Emergency Enforcement. Notwithstanding the provisions of Part VI.A, if BPA determines that circumstances require immediate action to prevent or mitigate significant damage to one or more of the Conservation Values, BPA may undertake reasonable actions to remove, eliminate or mitigate damages to the Protected Property without notice to or permission from the MFWP or without waiting for the MFWP to take an action. BPA may also pursue its remedies under Part VI without prior notice to MFWP or without waiting for the period provided for cure to expire.

F. Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Conservation Easement by negotiating between executives or officials who have authority to settle the controversy.

G. Waiver. The failure of any Party to require strict performance of any term of this Conservation Easement or a Party's waiver of performance shall not be a waiver of any future performance or of a Party's right to require strict performance in the future.

H. Conveyance and Assignment. MFWP may not convey the Protected Property nor assign or transfer its rights or delegate its responsibilities under this Conservation Easement without receiving prior written approval from BPA, which shall not be unreasonably withheld.

I. Termination and Amendment

MFWP has agreed that this grant of a perpetual Conservation Easement gives rise to a property right, immediately vested in the United States, with a fair market value of the Protected Property as of the date of this Conservation Easement.

A. Presumption Against Termination. MFWP and BPA intend that the Conservation Values (Part II) be protected in perpetuity, and where appropriate improved. Therefore, both Parties agree that the following will not be grounds for termination:

1. Changed environmental conditions related to climate change, or to other catastrophic events such as wildfire or flood (the Conservation Values encompass naturally-changing landscapes); and

2. Changed economic conditions making termination of the Conservation Easement more profitable, including future, potentially more profitable economic development opportunities, and future inability to carry on any or all of the responsibilities of management and permitted uses (or the

unprofitability of doing so).

B. Termination. This Conservation Easement may only be terminated by agreement of the Parties if an unexpected change in the condition of the Protected Property or its surroundings, makes *impossible* the continued use of the Protected Property for the Conservation Values. The Parties acknowledge that this Conservation Easement may also be extinguished by judicial proceedings in a court of competent jurisdiction, however, neither Party nor its representatives, successors, or assigns may argue in any court or forum that changed conditions described in the "Presumption Against Termination" (Part VI.I.A above), or the adoption of any Management Plan, or any Amendments to the Conservation Easement, implicitly terminate the Conservation Easement or otherwise support its extinguishment.

C. In the event of Termination or Extinguishment. If this Conservation Easement is terminated either voluntarily by the Parties, or by involuntary extinguishment by a court of competent jurisdiction, then upon the sale, exchange or involuntary conversion of the Protected Property, BPA shall be entitled to a portion of the proceeds adjusted to reflect the fair market value of the Protected Property at the time of its termination or extinguishment. BPA will use its share of any and all proceeds in a manner consistent with the purpose of this Conservation Easement, in accordance with any then-applicable law.

D. **Amendment.** This Conservation Easement may only be amended by agreement of the Parties, and any such amendment shall be recorded. With respect to the Management Plan (Part V.B), the Parties agreed that any approved Management Plan must not and will not impliedly terminate or conflict with the Purpose of this Conservation Easement. Neither shall any amendment impliedly terminate this Conservation Easement without following the termination provisions set forth above.

J. Control. MFWP has ownership and control of the Protected Property and is responsible for all incidents of ownership.

K. Hazardous Substances. To the best of the MFWP's knowledge, there are no hazardous substances present in, on, or under the Protected Property, including without limitation, in the soil, air, or groundwater, and there is no pending or threatened investigation or remedial action by any governmental agency regarding the release of hazardous substances or the violation of any environmental law on the Protected Property, and that there are no underground storage tanks located on the Protected Property. If, at any time, there occurs, or has occurred a release in, on, or about the Protected Property of any hazardous substances, MFWP agrees to take all steps necessary to assure its containment and remediation without cost to BPA, including any cleanup that may be required, unless the release was caused by BPA, in which case BPA will be responsible for remediation in accordance with applicable law. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in BPA to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of MFWP's activities on the Protected Property, or otherwise become an operator with respect to the Protected Property within the meaning of the Comprehensive Environmental

Response Compensation and Liability Act of 1980, as amended ("CERCLA"). MFWP specifically agrees to release and hold harmless and indemnify BPA from and against all liabilities for violations or alleged violations of, or other failure to comply with, any federal state or local environmental law or regulation relating to hazardous substances, including, without limitation, CERCLA, by the Grantor in any way affecting, involving, or relating to the Protected Property, except to the extent such violations or alleged violations are caused by the acts or omissions of BPA.

VII. GRANT, COVENANTS AND WARRANTIES, SIGNATURE AND ACKNOWLEDGMENTS

To have and to hold the Conservation Easement herein granted unto the United States and its assigns.

MFWP warrants and covenants to and with the United States that MFWP is lawfully seized and possessed of the Protected Property in fee simple, with a good and lawful right to grant the same, including a good and lawful right to grant this Conservation Easement; that the Protected Property is free and clear of all encumbrances and restrictions except this Easement and those encumbrances and restrictions specifically set forth in Exhibit D, attached and incorporated by reference; that the United States and its and assigns shall have the use of and enjoy all the benefits derived from and arising out of this Conservation Easement; that MFWP shall at the request of the United States execute or obtain any reasonable further assurances of the title to the Property; and that MFWP will forever warrant the title to the Property and defend the United States against all persons who claim a lawful interest in the Property, except for persons who claim interests under the exceptions described in Exhibit D.

IN WITNESS WHEREOF, the undersigned MFWP has executed this instrument this ____day of _____, 20xx.

MFWP

_____

ACKNOWLEDGMENT

STATE OF)
) ss.
County of)

On this _____day of _____, 20_____ , before me personally
appeared_____ ,
known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the _____
acknowledged to me that ___he executed the same freely and voluntarily in such capacity; and on oath stated that ___ he was authorized to execute said instrument in such official or

representative capacity.

Notary Public in and for the

State of _____

(SEAL) Residing at _____

My commission expires_____.

ACCEPTANCE BY THE UNITED STATES

_____
Magareth H. Wolcott
Manager, Real Property Services
Bonneville Power Administration

_____
Date

ACKNOWLEDGMENT

STATE OF)
) ss.
County of)

On this _____day of _____, 20_____ , before me personally appeared_____ , known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the _____ acknowledged to me that ___he executed the same freely and voluntarily in such capacity; and on oath stated that ___ he was authorized to execute said instrument in such official or representative capacity.

Notary Public in and for the

State of _____

(SEAL) Residing at _____

My commission expires_____.

EXHIBIT A—LEGAL DESCRIPTION

EXHIBIT B—MAP/AERIAL PHOTO

EXHIBIT C: ACKNOWLEDGMENT OF BASELINE DOCUMENTATION REPORT

EXHIBIT D: TITLE WARRANTY EXCEPTIONS