

**BEFORE THE OFFICE OF THE REGIONAL FORESTER
REGION ONE – USDA FOREST SERVICE
Objection Reviewing Officer**

SWAN VIEW COALITION)
)
) Objector)
)
v.)
)
)
CHIP WEBER)
)
FLATHEAD FOREST SUPERVISOR)
) Responsible Official)

**NOTICE OF OBJECTION
PURSUANT TO
36 CFR 218**

DECISION OBJECTED TO:

Weed Lake Landscape Restoration Project Draft Decision Notice and Finding of No Significant Impact (hereafter Project, DN and FONSI)
Chip Weber, Flathead Forest Supervisor, July 2018.

Objector:

Swan View Coalition
3165 Foothill Road
Kalispell, MT 59901
406-755-1379
keith@swanview.org



Keith Hammer
Chair

July 30, 2018
Date

Swan View Coalition is a non-profit conservation organization dedicated to conserving water quality and quiet, secure habitats for fish, wildlife and people on the Flathead National Forest and greater Flathead River Basin. Our members use these areas, including the Project area, for recreation, employment, wildlife viewing, photography, research, education, aesthetic enjoyment, spiritual rejuvenation, and other activities.

We submitted initial comments verbally at the 6/21/17 “collaborative” meeting at the District Office and followed up with written comments on 6/23/17. On 6/26/17 we submitted an email for the Project record with “two photos taken along the Peterson Creek Trail, showing how root rot is killing Douglas fir around ponderosa pine trees . . . free of charge, with no roads, no chainsaws and no resulting weed infestation.” We submitted scoping comments on 8/28/17,

which among other things included “two more photos of this phenomenon . . . while retaining snag and large wood habitat.”

We have read the DN and EA. These fail to adequately address our concerns and even more importantly fail to result in the substantive changes in the Project necessary to comply with laws and regulations. We remain concerned that the Weed Lake Project and DN/FONSI will harm water quality, fish, wildlife, and our members’ interests.

We incorporate by reference the Objections submitted by Friends of the Wild Swan and Native Ecosystem Council in this matter, as well as our comment letters and emails listed above.

ORGANIZATION OF THIS OBJECTION

We have an Objection to the revised Flathead Forest Plan pending before the Regional Forester. That Objection contends not only with inadequacies of the revised Plan, but inadequacies in how the Flathead is currently implementing the existing Forest Plan and its Amendment 19. The Weed Lake Project would improperly apply the existing Forest Plan and A19 in ways described in our Forest Plan Objection, so we incorporate it as a part of this Project Objection.

Companion to this Project Objection is a DVD containing the documents we submitted along with our Forest Plan Objection. The DVD includes our Forest Plan Objection in Folder 00 and the documents referenced in that Objection in Folders 01 - 30. This Weed Lake Project Objection is included in Folder 0 and we have added a few more documents to the Folders on the DVD, as referenced in this Project Objection.

RELIEF REQUESTED

Rescind the DN and FONSI for the reasons stated below and prepare an adequate Environmental Impact Statement that addresses the deficiencies raised in this Objection. Do a Project area Travel Analysis that adequately assess the short- and long-term costs of building and maintaining a minimum road system that is truly sustainable in light of realistic budget expectations and all standards, goals and objectives for the maintenance of water quality, fish, wildlife, and other resources. Close to motorized use and decommission enough roads and trails in the Noisy Red Owl and Swan Lake grizzly bear management subunits to comply with Amendment 19’s 19/19/68 criteria for OMAD/TMAD/Security Core fully. Acknowledge that Intermittent Stored Service roads are not the equivalent of reclaimed/decommissioned roads as defined by A19.

STATEMENT OF REASONS

Executive Summary

This Project is not a “landscape restoration” project. If it were it would take all necessary measures to eradicate invasive weeds that have already been spread by road building, logging and motorized vehicles. On the contrary, the Project would instead build more roads, disturb more soil via logging, and open up the forest canopy with more logging - all measures that the EA finds will result in a “high risk of introduction . . . establishment [and] persistence” of invasive weeds (page 70). It ignores the EA’s finding that “if the canopy is allowed to close, most infestations would be shaded out” (page 69) and instead insists on opening the forest canopy under the guise of “fuels reduction” and “landscape restoration.”

The DN and EA are rife with contradictory statements, leaving the public to wonder which ones to believe and which not. Overall, the documents attempt to reassure us that Forest Plan Amendment 19 will be faithfully implemented in the Weed Lake Project, while they simultaneously argue a different interpretation of the science that is the basis for A19 (as does the revised Forest Plan).

A19 has not been faithfully implemented on the Flathead, especially since 2011, as described in our Roads to Ruin report and its various supplements, as well as in our Forest Plan Objection (provided in DVD Folders 04 and 00, respectively). The Flathead unlawfully rendered a number of roads “impassable” to motor vehicles by removing only a few of the many stream-aligned culverts that A19 says must be removed before the road can be considered “reclaimed” and, following re-vegetation, omitted from calculations of Total Motorized Route Density (TMRD). Yet the Flathead omitted these “impassable” roads from TMRD anyway - until we caught it doing so, threatened a lawsuit, and brought about a 2017 field survey that found 13 of these 78 “impassable” roads indeed had numerous stream-aligned culverts left in place! (See DVD Folders 04 and 20).

Now, the Flathead wants us to believe it will comply with A19 even though the EA and DN largely continue to focus on simply rendering roads “impassable” to motor vehicles in order to omit them from TMRD, as though “impassable” is synonymous with “reclaimed” and includes making them impassable to non-motorized human use - and while continuing to argue that reclaimed roads need not be removed from the “system” or re-vegetated to be omitted from TMRD.

The EA wrongly concludes: “Impacts of non-motorized recreational activity may be small as there is no information documenting increased mortality risk or population level impacts to grizzly bears from displacement.” (EA at 170). On the contrary, the Flathead finds that displacement indeed increases mortality risk (see Flathead Planning Record #00246 in DVD Folder 25, for example).

The goal of the Forest Plan and A19 is to limit grizzly bear displacement in order to limit bear mortality and its effects on the population, not to allow displacement until that mortality causes a perceptible population decline. The DN and EA repeatedly omit mention of A19’s emphasis on ensuring that

reclaimed roads physically prohibit their use as non-motorized human trails. They instead repeatedly emphasize that reclaimed roads need only be impassable to motorized use and specifically mention deterring non-motorized use on only the first several hundred feet of ISS roads (e.g. EA at 19).

Weed Lake is one more project in which the Flathead wants us to believe it will faithfully implement A19 while simultaneously arguing that it need not do so. We object to the Flathead's circa 2011 reinterpretation of A19 and how it is to be implemented in the Project (see our Forest Plan Objection in DVD Folder 00).

A. Roads

1. The Weed Lake Project would build 4 miles of new temporary roads when the Forest Plan, law, budget concerns, and environmental concerns all say it should not. The text of the DN and EA contain contradictory statements and fail to insure that rehabilitated temporary roads and reclaimed roads no longer function as a road or trail, motorized or non-motorized.
2. Why should we believe that reclaimed roads will no longer function as trails when the plain language of the DN and EA repeatedly omit the prohibition against them serving as trails and instead focuses on making them simply impassable to motor vehicles (e.g. EA at 168-169)? Moreover, the EA argues that non-motorized human use is not a primary concern even though it displaces bears (EA at 170). So why should we believe the Project intends to insure that reclaimed roads, including ISS roads, will be treated to insure there is no human use of the road template?
3. Similarly, why should we believe that reclaimed roads will be counted in Total Motorized Access Density (TMAD) calculations until these road treatments become effective" (EA at 168)? The EA accounts for no time period during which rehabilitated temporary and "reclaimed" ISS roads continue to count in TMRD after the logging and reclamation treatments are done and until the reclaimed road is adequately re-vegetated to physically prohibit human use of the road.
4. Moreover, the EA is flat wrong in assuming that there is no difference between an ISS road and a decommissioned road, other than that an ISS road retains a number in the road system. A decommissioned road (also a reclaimed road under A19) is to be managed "with the goal of reestablishing vegetative cover on the roadway . . . within ten years." (16 USC 1608(b)). The FS does not commit to fully re-vegetating either class of roads, in violation of A19 and 16 USC 1608(b). Saying that vegetation will be "encouraged" on ISS roads (EA at 169) is not the same as guaranteeing that such roads will be fully re-vegetated within 10 years and, until adequately re-vegetated, will be counted in TMAD.
5. Similarly misleading is the DN at 88, where it promises ISS roads "should be seeded with native mix prior to barrier installation if funding is available" (emphasis added). Words like "should" and "if" are not how compliance with Forest Plan standards is insured. Maybe the Flathead should instead plan for and

arrive at an affordable and sustainable “minimum road system” as required by the Travel Planning Regulations?

6. As discussed in more detail in our Forest Plan Objection (DVD Folder 00) and Roads to Ruin report (DVD Folder 04), A19 does not allow for an increase in the Flathead’s road system. Roads must be decommissioned, not just reclaimed, to be omitted from calculations of TRD/TMRD/TMAD - and there can be no increase in TRD/TMRD/TMAD. See also Section F, below.

B. Trails and Unlawful ATV Use

1. The DN and EA absolutely fail to address the issue we raised at the “collaborative” meeting and in our written comments: that legal and illegal motorized use in the Project area is a major concern not only to wildlife security, but to increased likelihood of human-cause wildfire. The DN (at 41) mentions ATVs only once, stating that slash will be placed on skid trails to deter ATV use.

2. The EA mentions ATVs twice. On page 23 it makes the same statement as on page 41 of the DN. On page 66 it concludes that ATVs will continue to spread invasive weeds even under the No Action Alternative. On page 33, the EA mentions “there is evidence of user created [motorized] trails.” Nowhere, however, does the EA indicate where these illegal trails are, what contributed to their development, how they contribute to the likelihood of human-caused wildfire and disruptions to wildlife security, or how the Proposed Action will alleviate or exacerbate this problem.

3. This illegal ATV use was acknowledge by the Forest Service at the “collaborative” meeting and numerous people attending the meeting said they wanted something done about it, but the EA and DN are essentially silent on the issue. Building 4.1 miles of temporary roads, clearing existing substantial vegetation from currently closed haul routes, and establishing skid roads across 1,926 acres of “vegetative treatment” units is no way to reign in illegal ATV use. It will instead encourage ATV trespass by providing more opportunities for it. Putting slash on skid roads will not eliminate the potential for ATV trespass.

4. The Swan Lake grizzly bear subunit currently and substantially exceeds all three of A19’s OMAD/TMAD/Security Core standards (EA at 160 and 165). Rather than close Trails 10 and 27 to motorized use to help lower OMAD from the current 39% to the required 19%, the Project does nothing to lower OMAD. It also ignores the 4-wheel ATV trespass occurring from the west end of Trail 27 to Weed Lake (the trail is only open to 2-wheel motorcycles) as well as the ATV trespass from Road 10526/10527 to Weed Lake, as was discussed at the “collaborative” meeting.

5. District Ranger Steve Brady closed the Bond Creek and Hall Lake Trails to motorized use in an effort to provide more wildlife security adjacent to areas being thinned by the Swan Lake Fuels Reduction Project and to move the subunit closer to compliance with A19. A similar commitment is absent in the Weed Lake

Project. Closing Trails 10 and 27 to motorized use is necessary to help eliminate motorized trespass, lower OMAD to Forest Plan standards, and reduce the likelihood of human-caused wildfire - yet the EA says nothing and the Project does nothing.

6. It is of no comfort that the DN, at 43, apparently misunderstands Trails 10 and 27 as currently being “non-motorized trails [that] would be shown as protected improvements on timber sale maps” (emphasis added). If this is not a reference to motorized Trails 10 and 27 (as referenced elsewhere on DN page 43) then what non-motorized trails is the DN referring to?

7. The above violates the Forest Plan, NFMA, NEPA, and ESA, exacerbated by the fact that the EA points to Figure 1 as the map showing grizzly bear subunits, which it does not. Nor do any of the maps in Appendix 1 show where the subunits are, not even the Map (1) that shows existing Security Core. Nor do any of the EA Maps show the non-motorized trails referenced on page 43 of the DN (see item 6 immediately above).

C. Other Travel Planning

1. Neither the EA or DN/FONSI provide an adequate assessment of the funding needed to maintain and manage the current road and trail system, the Project system or the Minimum Road System (MRS), in violation of the NEPA, Travel Planning regulations, and the Administrative Procedures Act, among others.

2. Nowhere do the EA and DN/FONSI disclose the funding needed to maintain the current road and trail system, Project system or MRS in either the Weed Lake area or across the Flathead National Forest.

3. Initial Forest Plan Revision documents in 2004, however, found “The Flathead National Forest needs \$6.2 million each year to maintain its road system, but receives less than \$1 million.” (USFS Western Montana Planning Zone; Analysis of the Management Situation; Draft Version 1; 2/23/2004).

4. The EA leaves the public and decision-maker wholly uninformed about how much of the funding needed for fully maintaining the MRS in the area will or will not be provided by the Project.

5. The EA and DN fail to even mention, let alone provide the necessary NEPA implementation for, an area Transportation Analysis or the Flathead’s Forest-wide Transportation Analysis.

6. Neither the EA or DN provide an adequate assessment of the funding needed to maintain and manage the current road and trail system, the Project system or the MRS. This renders the entire analyses arbitrary, capricious, and an abuse of agency discretion - in violation of the NEPA, Travel Planning regulations, Administrative Procedures Act, and other laws detailed below.

D. Best Management Practices for Water Quality

1. The EA and DN/FONSI, in failing to plan for and implement an affordable and sustainable MRS, also fail to provide for the full implementation of all measures needed to minimize adverse impacts on resources. The laws this violates include but are not necessarily limited to the NEPA, National Forest Management Act, Endangered Species Act, Clean Water Act, Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, Clean Air Act, and Migratory Bird Treaty Act.
2. BMPs must be fully implemented to comply with Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, and the Clean Water Act. Moreover, BMP's are required as both Forest Plan standards and Forest Service Manual directives for projects - meaning their full implementation is required by the NFMA as well. Nonetheless:
3. It is clear the EA and DN fail to identify and secure funding needed to provide for the timely, orderly and continual application of BMPs to all roads in either the current system, Project system or MRS. Nor do they in the alternative arrive at a smaller MRS to which all BMPs can be fully applied continually under current funding levels.
4. The failure to either provide adequate funding to fully maintain the road and road closure system, or to reduce the system to a size that is adequately funded, also results in unmitigated impacts to other forest resources including but not limited to terrestrial wildlife such as elk, species dependent on old forests and snags out of reach of firewood cutters, and threatened species such as lynx, bull trout, grizzly bear, and likely soon, wolverine. And the EAs fail miserably to describe the effects of inadequate funding and road maintenance on these and other resources.
5. We note that Map 3 does not continue the streamside buffer zone that runs through the center of Unit 8 on through Unit 2 above Road 10529. This stream indeed exists above Road 10529 and is visible from the switchback in Trail 10 just below its junction with Trail 27.
6. The laws this violates include but are not necessarily limited to the NEPA, NFMA, ESA, Clean Water Act, Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, Clean Air Act, and Migratory Bird Treaty Act.

E. Invasive Weeds

1. The EA finds weeds along Sixmile Road, Road 10531, and in Unit 5 near the end of Road 10527 (page 64). The fact that there are weeds in Unit 5, several miles behind the gate on Road 10527, stands as testament to the ability of road

templates to spread weeds and the inability of mitigation measures like gates to stop that spread.

2. The EA finds that 9 of 12 cutting units are within a quarter mile of existing weed infestations, as are all roads in the Project area (page 67).

3. The Invasive Weeds section of the EA makes it absolutely clear the Project's road building, soil disturbance, thinning, logging, and sustained ATV use will result in a "high risk of introduction . . . establishment [and] persistence" of invasive weeds (page 70). The DN and Project ignore the EA's finding that "if the canopy is allowed to close, most infestations would be shaded out" (page 69) and instead insist on opening the forest canopy under the guise of "fuels reduction" and so called "landscape restoration."

4. Page 67 of the EA notes that this high risk of weed spread exists, in part, due to "rehabilitation of temporary roads without full recontouring of the entire road surface." This is likely due to continued human use of road templates that are not fully recontoured. The EA and Project, however, fail to require that temporary and reclaimed/ISS roads either be recontoured or fully revegetated to prevent continued human use.

5. Page 67 of the EA also finds the high risk of weed spread results from "little winter harvest required (Unit 8)." The Unit Information Table on page 6 of the DN, however, fails to specify winter harvest for any of the units, including Unit 8. Only on page 41 of the DN and page 23 of the EA do we find that 8 acres of Unit 8 must be winter logged to protect soils. Why is more winter logging not required to protect soils and minimize weed spread? Simply stating that logging "may occur during the winter months" (EA at 146) does not adequately address or mitigate the damage done by logging.

6. The Project's building of 4 miles of new temporary roads and 0.1 miles of temporary road on an existing template reveals the agency's and Flathead National Forest's overall and unacceptable bias to build roads into every corner of the suitable timber base. Exceptionally worrisome is page 242 of the EA, which claims: "Motorized access would not change as temporary road construction on existing templates would be rehabilitated following project activities inhibiting motorized access on these routes." This implies that the 4 miles of new temporary roads not built on existing templates will not be rehabilitated!

7. The Flathead, however, provides absolutely no economic analysis demonstrating that the American taxpayer can afford such a road system or that the resulting timber sales will cover the costs of building and adequately maintaining those roads in perpetuity. If this pipe dream were based in reality, the agency would not have the \$10 billion backlog in needed road maintenance discussed below in Section F, nor would the Flathead National Forest receive less than one-sixth the funding it needs to maintain its share of that road system, as discussed above!

8. These shortcomings lead to a Project that will increase road templates and weeds, making matters all the more unacceptable, in violation of the NEPA, NFMA, Endangered Species Act, Clean Water Act, Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, Clean Air Act, and Migratory Bird Treaty Act.

F. More on Non-Compliance with Flathead Forest Plan Amendment 19.

1. The EA and DN fail to comply with Amendment 19 by attempting to replace Amendment 19's requirements for "reclaimed" roads with various levels of "Intermittent Store Service" (ISS) roads and "rehabilitated" temporary roads.
2. Amendment 19 states: "A reclaimed road has been treated in such a manner so as to no longer function as a road or trail and has a legal closure order until reclamation is effective. . . The acceptable lag time for the treatment to become effective and the expected persistence of people to continue to use a road should dictate the amount and type of initial, and perhaps follow-up, treatment required. Greater initial revegetation and barrier work will be required if the expectation is to meet reclaimed road criteria in one year as opposed to ten years . . ." (DVD Folder 01: Amendment 19 Appendix D a.k.a Flathead Forest Plan Appendix TT)
3. In other words, a road is not to be considered "reclaimed" until re-vegetation and other barriers to human travel have had time to become effective at preventing the road's use as either a motorized or non-motorized travel-way to any degree larger than incidental use of the adjacent forest area. Indeed, grizzly bear avoidance of roads closed to motorized vehicles gives rise to the importance of limiting TRD, not just Open Route Density (ORD).
4. FWS, in its 10/25/2005 Biological Opinion on the continued implementation of Amendment 19 (page 10) summarizes relevant research this way:

"Amendment 19 established programmatic direction for access management on the Forest. Amendment 19 was developed to minimize negative impacts from motorized access identified in the 1987 Grizzly Bear Compendium (IGBC 1987), and was based on recommendations of the 1994 IGBC Taskforce Report and the 1993 progress report for the South Fork Grizzly Bear Project (Mace and Manley 1993), commonly referred to as the South Fork Study. The study area was west of Hungry Horse Reservoir, in the Swan Mountains. Mace and Manley's progress report and previous research (Mattson et al. 1987, McLellan and Shackleton 1988, Aune and Kasworm 1989, Kasworm and Manley 1990) supported conclusions that **grizzly bears consistently were displaced from roads and habitat surrounding roads often despite relatively low levels of human use**, and that substantive blocks of unroaded habitat were important to grizzly bears, especially female grizzly bears with cubs."

(Emphasis added to highlight that the research found bears were displaced by relatively low levels of **human** use, not just **motorized** use). We incorporate the whole of the 2005 BiOp and the above referenced research as a part of this appeal. The 2005 BiOp can be found in Folder 01 of the companion DVD.

5. Amendment 19 requires that roads be reclaimed and re-vegetated in a way that physically prohibits human use in order to lower TRD. In contrast, a few roads may be simply bermed to increase Security Core area. Gates are allowed only to lower ORD. These very important differences in road closure methods and requirements arise from the South Fork Grizzly Bear Study findings that female grizzly bears significantly avoid otherwise preferred habitats near roads, even those closed with gates or berms. Hence, the critical reliance on road reclamation to lower TRD and its preference in securing Core.

6. In this regard, the EA on page 168 does cite to Mace and Manley (1993) as primary research on which A19 is based (though the EA appears to mistakenly list this as Mace and Manley 1990 in the Literature Cited). The ensuing discussion in the EA, however, emphasizes making reclaimed roads impassable to motorized vehicles but not also impassable to human foot traffic in order for those roads to not be included in TMAD/TRD (page 168). See Mace and Manley (1993) in DVD Folder 24, finding that even roads closed to motorized vehicles displace grizzly bears:

Apparently, grizzly bears adjust their habitat use patterns in part to both precise open road densities and precise total road densities. Unless a road has completely revegetated, managers should assume that some level of human use is occurring along closed roads, and grizzly bears will respond to that use . . .

7. The EAs and DN, however, proposed ISS and temporary road “rehabilitation” treatments that not only fall short of an effectively “reclaimed” road, but provide for the road template to be reused in the future, regardless of whether the road has ever been adequately re-vegetated or has ceased to be used by humans.

8. The EAs and DN mistakenly remove ISS and rehabilitated temporary roads from calculations of TRD immediately - in defiance of Amendment 19 requirements. For a more detailed description of why reclaimed roads must be fully revegetated before being omitted from calculations of TRD/TMRD/TMAD, see our Beaver Creek summary judgment response to reply brief in Folder 02 on our companion DVD.

9. See also the 10/25/05 BiOp on A19, page 75, in DVD Folder 01: “Reclaimed, also called obliterated or decommissioned, road is treated in a manner to no longer function as a road. Barriers and revegetation of roadways are minimum treatments.”

10. Indeed, Flathead National Forest has tried unsuccessfully to circumvent these Amendment 19 requirements before. On May 11, 1999 the Flathead Forest Supervisor issued LRMP Implementation Note #13, allowing stream-aligned

culverts to remain in reclaimed roads and relaxing criteria for determining when a reclaimed road is effectively no longer a road or trail and can hence be omitted from TRD calculations (DVD Folder 18).

11. Appellants' attorney filed a 60-day notice of intent to file suit under the Endangered Species Act, challenging Note #13's negative effects on threatened grizzly bear and bull trout (DVD Folder 18).

12. The Forest Supervisor rescinded Note #13 on November 19, 1999 and simultaneously assured appellants' attorney the "Forest Service will apply the definition of 'reclaimed road' under Forest Plan Appendix TT . . ." Similar assurances were issued appellants on 2/7/00 (DVD Folder 18).

13. This brings us full circle to the Weed Lake Project. The EA and DN would consider ISS and rehabilitated temporary roads immediately "reclaimed," immediately effective in prohibiting human use, and immediately not subject to calculations of TRD/TMRD/TMAD - all in clear violation of Amendment 19, Appendix TT, the rescission of Note #13, and written commitments made to appellants.

14. These and other facts show the Flathead National Forest is still attempting to end-run Amendment 19 and to continue implementation of a rescinded Note #13. See in DVD Folder 01, for example, Flathead National Forest's 3/23/15 Road Decommissioning Projects spreadsheet. The yearly totals on pages 19 and 20 show that the column "Category 3 Roads Reclaimed & Left as System Roads, Still Monitor for A19" was initially used for newly "reclaimed" roads that were not yet adequately re-vegetated in order to be removed from the "system" and considered "effectively reclaimed." Even though Implementation Note #13 was issued and rescinded in 1999, the spreadsheet shows that roads reclaimed thereafter were immediately removed from the "system," even though they had not yet been adequately re-vegetated.

15. The Flathead itself made clear that reclaimed roads cannot be omitted from the calculation of TRD/TMRD/TMAD until the revegetation work has become effective at deterring human use, not just motorized use. See in particular the (First) Supplement to our Roads to Ruin/TMRD report in Folder 04 of our companion DVD (Supplement to Roads to Ruin 171205.pdf). Attached to that Supplement is the 3/2/01 letter from the Flathead to FWS stating:

Some roads that have all reclamation work completed are still counted in calculation processes. Roads utilized in Total Access Density include roads for which reclamation work has been completed, pulling of culverts, installation of drainage dips, distributing of rocks or debris on the road surface, but the road has not revegetated to the level required to meet Amendment 19 reclamation requirements. These roads have all reclamation work completed, but still must be counted for Total Density calculations.

16. In spite of the clear language of A19 and the Flathead's own interpretation of it, the Flathead is now fully engaged in attempts to end-run A19 through projects like Weed Lake and through a false accounting of A19 in the revised Forest Plan EIS.

17. Page 41 of the EA notes that hydrologic and soils recovery of rehabilitated temporary roads can be very slow (as can vegetative recovery as discussed above). Page 41 incorrectly claims that storage of reclaimed roads "would improve previously impacted road beds through decompaction" because the EA fails to require decompaction of the road beds in its other descriptions of treatments for temporary and reclaimed/ISS roads.

18. The Flathead's Weed Lake Project and the continued attempts to end-run the requirements of Amendment 19 constitute irretrievable and irreversible commitments of resources in violation of the NEPA, NFMA and ESA.

19. Also in violation of these laws, the EA fails to accurately disclose Project impacts to Security Core. The EA's assessment of "Effects to Security Core" is limited to one dismissive sentence on page 166: "No activities are proposed in security core . . ."

20. This does not acknowledge and disclose the known impacts to Security Core from open or gated roads and logging activity within 500 meters of Security Core. EA Map 1 does show existing Security Core and how it is buffered 500 meters from open or gated roads.

21. However, the EA provides no map or discussion about how temporary roads A and O, along with cutting Units 1, 7 and 8, violate the 500' Security Core buffer. This pushes the Security Core boundary back and decreases the amount of Security Core during the time that these roads and Units receive motorized use (see the Flathead's Soldier Addition II Project for an example of how this reduction in Core is acknowledge and mapped when roads and Units infringe on the 500' buffer).

22. Similarly, and falsely, page 165 of the EA claims "security core would remain the same" during project activities - and shows no change in Table 72.

23. The Project fails to favor the needs of the grizzly bear in its MS-1 habitats, in violation of the Forest Plan and the IGBC Guidelines - and in spite of claims to the contrary. In addition to the impacts discussed above, the Project fails to favor the bear by failing to remove adverse impacts that result in a finding of "may affect, likely to adversely affect" the grizzly bear (DN at 26). This results from, among other things: a) decreased hiding cover across the project subunits, b) increases in OMAD and TMAD the EA claims are temporary but we show are longer lasting, c) impacts to habitat, d) temporary road construction, and e) potential impacts to grizzly bear denning (DN at 27 and 37). Moreover, the Project, DN and EA fail to apply the "3 and 7" rule to the Swan Lake Grizzly Bear Subunit, which would require 7 years of "rest" following the last active

period in which major logging activity was conducted (which included “last year” according to the EA at 34).

24. The Project, DN and EA wholly fail to provide the grizzly bear security required by Amendment 19 as companion to the 19/19/68 standards until such time as the 68% Security Core standard is actually met in the Swan Lake Subunit. The agencies instead claim they need only make progress toward those numeric standards and fail entirely to mention or apply the “3 and 7” active/inactive Subunit rules that are companion to the 19/19/68 standards.

25. In its 5/15/85 Biological Opinion (BiOp) on the Flathead Forest Plan, FWS recommended that timber sale activities be restricted to “one entry per decade” with each entry restricted “to no longer than 3 consecutive years.” (DVD Folder 30).

26. FWS further clarified the biological rationale for the “3 and 7” rule in its 7/18/89 BiOp on various Forest Plan Amendments and premised its Incidental Take Statement (ITS) on “full compliance with both the Forest Plan standards and guidelines” (emphasis in original). (DVD Folder 30).

27. FWS’s 1/6/95 BiOp on the proposed Amendment 19 (DVD Folder 01) referenced the earlier BiOps and noted:

In addition to new Forest objectives and standards related to open and total motorized access and core area, the proposed Amendment does not alter the existing Forest Plan Standards and Guidelines for timber . . . The proposed Amendment also retains the “3 and 7” . . . rules for entry/re-entry into compartments for major activities in MS-1 . . . until core areas are effective.

In other words, FWS found “core areas provide a suitable alternative to the [previous] displacement area standard by providing adequate amounts of relatively secure areas for grizzly bears during periods of timber extraction or other major Forest activities” - provided that a grizzly bear Subunit remains controlled by the “3 and 7” timber sale activity rules until the Subunit is brought up to the 68% Security Core standards required by Amendment 19. The “3 and 7” rule has not been rescinded by FWS.

28. The EA, at 160, 165 and elsewhere, acknowledges that Security Core in the Swan Lake Subunit is and would remain post-project at 46%, far short of the 68% standard. Until the 68% standard is met, adequate grizzly bear security and displacement habitat is not provided and the “3 and 7” rule must be applied to insure bears are not displaced by major activities for 7 consecutive years out of 10.

29. Last but not least, the Project fails to make progress toward meeting all three A19 criteria of OMAD/TMAD/Security core, as required by A19. The Swan Lake subunit currently has A19 parameters of 39/26/46 instead of the required

<19/<19/>68 for OMAD/TMAD/Security Core, respectively (EA at 160, Table 69). A19 requires:

. . . there will be no net increase in density of open motorized access routes or total motorized access routes [or security core]. Forest Service activities will result in a net gain towards meeting objectives for open motorized access routes and total motorized access routes and security core areas on National Forest Lands.

(A19 Decision Notice; DVD Folder 01; emphasis added).

30. The Project will only make progress on TMAD by alleging to reduce the percentage from 26 to 24. It makes no progress on OMAD and Security Core (EA at 165). This violates A19. These parameters were not met in the Swan Lake subunit within the required ten years of A19 being authored in 1995, nor has it met the time extensions issued by FWS since, nor has the Forest Plan been amended to change those initial 10-year requirements. It is high time these parameters get met once and for all!

31. The above violates the Administrative Procedures Act (APA), Endangered Species Act (ESA), National Forest Management Act (NFMA), and the National Environmental Policy Act (NEPA) in failing to comply with Forest Plan standards, failing to use appropriate standards and other measures to adequately disclose the effects of the action, and failure to properly consult on and adequately limit the Project's adverse affects to threatened grizzly bear.

G. Other Resources Short-Changed by Road Reclamation Short-Cuts

1. Grizzly bear and native vegetation are not the only resources to be harmed by failing to fully reclaim and re-contour harmful roads. Aquatics and fish are harmed also.

2. However, nowhere do the DN and EA provide an adequate discussion or assessment of the importance of maintaining subsurface water flow that is often interrupted and turned into surface flow by roads cut into hillsides. These documents fail to provide a rationale for deciding whether to build a road in the first place and whether re-contouring a road during decommissioning or reclamation can effectively return that water to sub-surface. The Flathead's project area TAs and Forest-wide TAR are similarly flawed, as discussed in our comments on the TAR (DVD Folder 29) and our Glacier Loon Objection (DVD Folder 0).

3. Other assessments point to the importance of fully and faithfully reclaiming roads for fish. For example, FWS's August 14, 1998 *Biological Opinion on INFISH and PACFISH* found reductions in road densities and "rehabilitation of road-miles cannot be accomplished alone by gating, berming, or otherwise blocking the entrance to a road permanently or temporarily, or seasonally closing roads, but will require obliteration, recontouring, and revegetating." Indeed,

Amendment 19's road reclamation requirements, when faithfully implemented, can be viewed as working hand-in-hand toward what is necessary to avoid "jeopardy" to bull trout, accomplish bull trout recovery and benefit other fish.

4. The EA and DN lack scientific integrity and pursue the same old tired path of trying to keep too large a road system on the landscape. We urge the Forest Service to visit the following web page for a discussion of how road re-contouring can greatly shorten the watershed recovery timeline: <http://y2y.net/our-work/updates-from-the-field/ground-breaking-research-in-road-restoration> . We also incorporate this and Rebecca Lloyd's pending research papers into the Administrative Record for this Objection and Project. We have also included Lloyd et al's 2013 paper "Influence of road reclamation techniques on forest ecosystem recovery" in DVD Folder 15.

5. The EA's and DN's reliance on, at best, pulling stream-bearing culverts from a handful of existing and temporary roads in the Project, then dismissing them from TRD/TMRD/TMAD calculations and other acknowledgements of their continued negative impacts simply does not cut the mustard. This is arbitrary, capricious, an abuse of agency discretion, and not in accordance with law.

H. Roads Epilogue

1. It is worth noting that Deputy Chief Joel Holtrop's 11/10/10 directive launching the Travel Analysis Process included the premise and finding that "this process points to a smaller road system." (Attached to our Glacier Loon Objection in DVD Folder 0). It is also worth noting that Joel Holtrop authorized A19 as Flathead Forest Supervisor.

2. While Deputy Chief Leslie Weldon's subsequent 3/29/12 directive removed these words, the agency cannot escape the fact that its road system is too large, too expensive, environmentally damaging, and needs to be reduced.

3. Indeed, Chief Mike Dombeck in 1998 stated the Forest Service road system was overbuilt and under-funded. With a \$10 billion backlog in needed road maintenance, Dombeck stated "Only about 40% of forest roads are maintained to the safety and environmental standards to which they were designed." (Dombeck press release; 1/22/98; attached to our Glacier Loon Objection in DVD Folder 0).

4. This Objection and its DVD include a number of citations to research and other sources demonstrating watershed restoration requires fewer roads, not fewer trees. We have filed Objections to other Forest projects, like Glacier Loon, Cold Jim, Hungry Lion, and Taylor Hellroaring - and asked that they be included in the Weed Lake administrative record. These Objections are included in DVD Folder 0. We also incorporate by reference all of the sources cited in these Objections.

5. The EA and DN/FONSI have stood common sense and the entire process on its head in arguing that it intends to arrive at its “minimum road system” and control weeds by building more “temporary” roads and logging heavily in the Weed Lake area. Weed Lake, in conjunction with other projects like Trail Creek Salvage, Glacier Loon, Cold Jim, Bug Creek, Hungry Lion, and Taylor Hellroaring - along with the revised Forest Plan - falsely claim that A19 and the grizzly bear research allow an unlimited number of stored and less than fully reclaimed roads to exist because non-motorized human use does not present a mortality risk to grizzly bears. Research, including research relied upon by the Forest Service, does not support this conclusion (see page 6 of our Revised Forest Plan Objection in DVC Folder 00).

6. Indeed it appears Flathead National Forest intends to build and/or retain more permanent roads both within and outside the NCDE Grizzly Bear Recovery Zone, even though it may feign “reclaiming” some these roads. It is trying to get away with this by not truly decommissioning the roads it wishes to omit from calculations of and limits to TRD/TMRD/TMAD. Nowhere, however, has the Flathead clearly described its intentions Forest-wide in spite of numerous meetings with objectors to discuss this very issue, let alone described its intentions in adequate NEPA documents made available for public review.

7. The Flathead has bastardized A19 through a steadily declining commitment to its implementation and a revisionist history and misrepresentation of A19 through its Forest Plan revision process and various project NEPA documents. The details of this are described fully in our Revised Forest Plan Objection and our Roads to Ruin report and its supplements, found in DVD Folders 00 and 04, respectively.

8. And, last but not least, the Flathead National Forest’s longstanding position is dumbfounding in that leaving roads and culverts to spread weeds, violate BMPs and dump dirt into streams does not require NEPA, but any decision to do something about it does require NEPA and inevitably also “requires” more road building and logging. How reassuring!

I. Old Growth, Wildlife, Tidbits

1. As noted at the outset of this Objection, we incorporate by reference the Objections filed in this matter by Friends of the Wild Swan and Native Ecosystems Council. We rely in largest part on those Objections to activities affecting old growth, fisher, lynx, wolverine, and other species associated with old growth and native forests. We will point out here, however, some of the more absurd conclusions drawn in the DN and EA.

2. The DN on page 12 states: “Seven areas meeting old growth criteria for the dry site cover types in [sic] project area will be treated to reduce encroaching shade-tolerant species and reduce ladder fuels . . .” These are not, however, dry site old growth.

3. The EA, on the contrary, notes that “habitat types tend toward the grand fir series,” which are not dry sites (page 63). There is no reason to treat the existing old growth stands as they have evolved here under the area’s climate and precipitation - which is not conducive to truly dry site forests.
4. Nor does the existing old growth present any proximate threat of carrying wildfire to existing structures. We’ve attached to this Objection two overlays of EA Maps: a) an overlay of Maps 3 and 5, showing Cutting Units and Old Growth and b) an overlay of Maps 5 and 6, showing Structures and Old Growth.
5. The above maps show most old growth is far distant from human structures. In the few instances where it is close to human structures, it is across a major highway corridor. These human structures (red dots) are at more risk of fire initiated within the highway corridor (cigarette butts, dragging trailer chains, etc.) than from any wildfire in old growth across the highway corridor. There is no reason to treat/log in old growth.
6. For fisher, the EA concludes at 204, that “the level of risk due to project activities would be elevated in comparison to the existing condition. Potential snag removal and project-related activities would occur on 1,209 acres of existing denning and foraging habitat.” This 1,209 acres is out of 1,926 total acres of Project logging (DN at 5)! Could the Project any more precisely target the elimination of key habitat components for a species that has become so rare that monitoring is unable to even detect one fisher? This project, especially in combination with countless others, will most certainly drive fisher toward the need for federal listing under the ESA.
7. Page 34 of the EA finds that 48% of the grizzly bear unit and 57% of the lynx analysis units have already been logged, with some logged in the last year! Yet this Project will log virtually the entire lower south and west slopes of Sixmile Mountain as though that is what is needed to “restore” this landscape!
8. As we mentioned in our earlier letters, logging will destroy amenity values that have made the Swan Lake Campground one of Region One’s premier campgrounds. Members of Swan View Coalition have camped in the area slated for thinning of ponderosa pine precisely because the trees there are dense enough to provide shade. Thinning will remove shade, a valued resource while one is camping during the summer, while being of dubious value to limiting pine beetles. How about using pheromone packets shown to be effective in deterring pine beetles, and leave the shade in place?
9. Proposed logging will also heavily impact the Trail 10 and 27 corridors, by removing trees and skidding logs across the trails. The first section of Trail 10 is twice interrupted by old logging roads that are finally brushing in. The Project will remove this vegetation from those roads and trash the enjoyment of native forest provided by these trails. Moreover, hikers currently get to experience old growth soon after the start of Trail 10 - old growth slated to be thinned by this Project. And, where hikers currently enjoy the small stream next to Trail 10 at the switchback just below its junction with Trail 27, this Project would log it after

failing to implement a streamside protection zone along this stream above Road 10529!

J. HFRA and Regeneration Cuts in Excess of 40 Acres

1. The shortcomings of the EA we have described above can be traced in large part to invocation of the provisions of the HFRA, which is not warranted in this case. The streamlined NEPA process and lack of alternatives to the Proposed Action have resulted in a failure of the Forest Service to respond to public comment through changes that would indeed transform this reckless fuels reduction project into something that truly resembles “landscape restoration.”
2. The DN on pages 6-7 notes that regeneration opening in excess of 40 acres would be created somewhere in Units 1 and 3. Nowhere, however, does the DN or EA show where exactly these super-sized openings would be located. Nor did the July 25, 2017 scoping notice the DN relies on as its required public notice of these >40 acre openings show where they would be located or what shape they would be, etc.. The scoping notice simply says that the “proposed action may result in some harvest units that create openings exceeding 40 acres in size” (emphasis added) and then fails to note which units might create such openings.

Nor do the DN, EA or scoping notice adequately describe the effects of these excessive openings being adjacent to heavily logged private timberlands. Nor do they describe how or why “Variable Density Regeneration” in Units 1 and 3 would result in larger opening sizes than it would in Unit 7, which is the largest by far of the three “Variable Density Regeneration” units. Neither the scoping notice or the DN and EA constitute an adequate notice to the public about how, where and why openings in excess of 40 acres must be created and hence require permission from the Regional Forester.

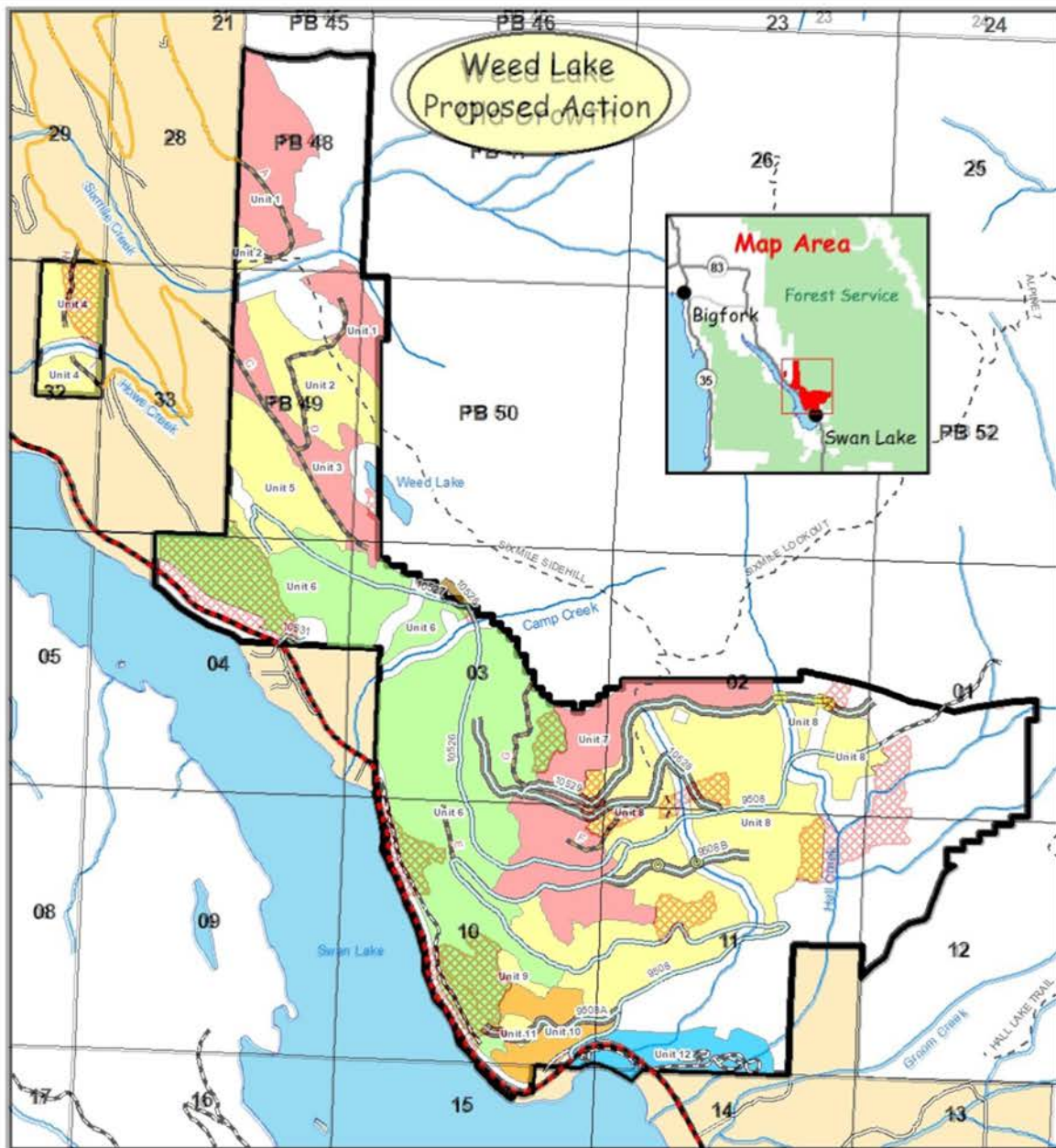


Figure 30. Weed lake proposed action

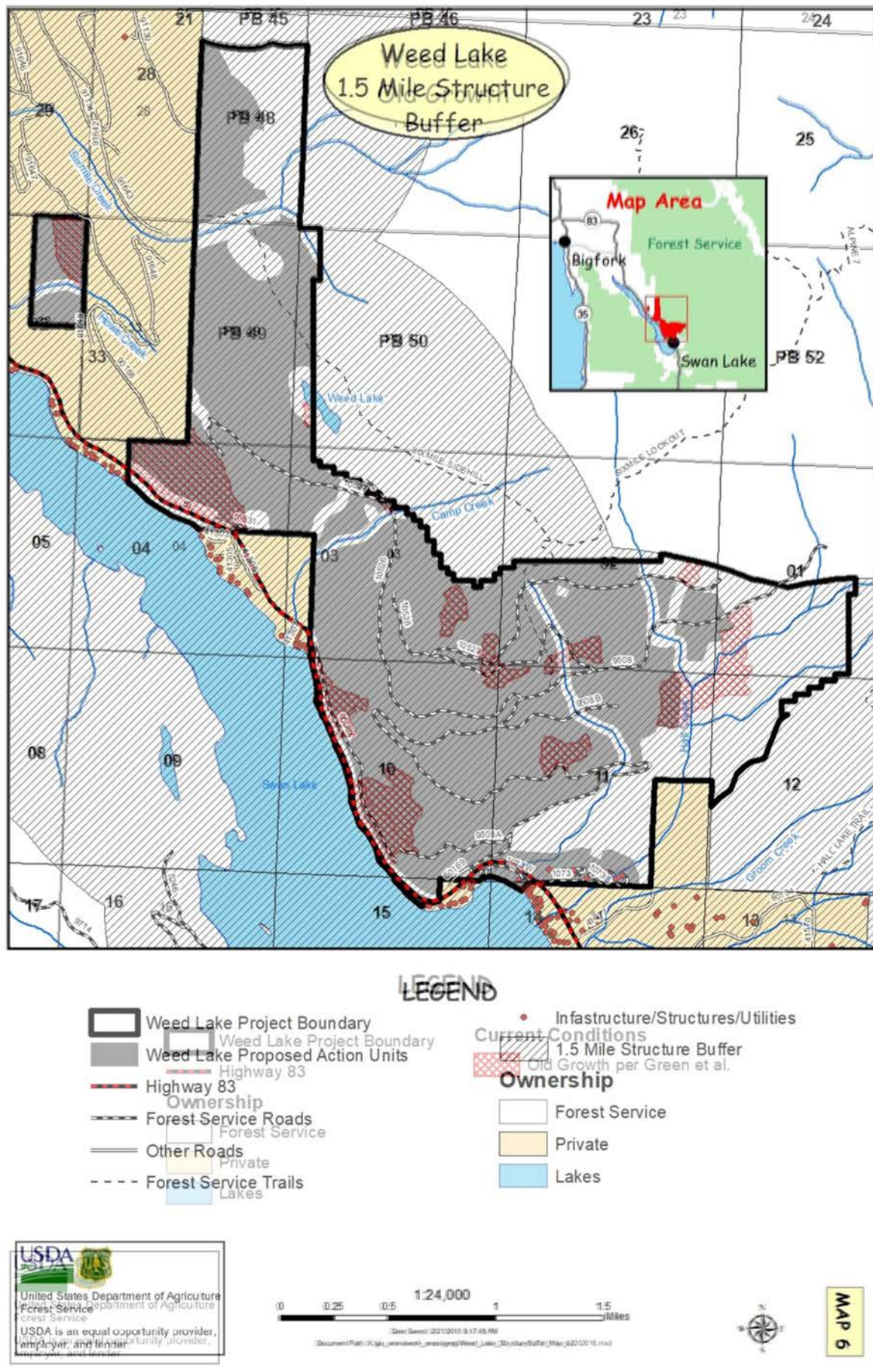


Figure 33. Weed Lake 1.5 mile structure buffer