

reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles." A permit must be obtained or a notification acknowledged before a regulated article may be introduced. The regulations set forth the permit application requirements and the notification procedures for the importation, interstate movement, or release in the environment of a regulated article.

On October 5, 2006, the Animal and Plant Health Inspection Service (APHIS) received two permit applications (06-278-01r and 06-278-02r) followed by a third permit application (06-285-02r) received on October 12, 2006, from Ventria Bioscience, Sacramento, CA, for confined field release of rice (*Oryza sativa*) plants genetically engineered to express genes coding for the proteins lactoferrin, lysozyme, or serum albumin, respectively. The proposed field releases are to be conducted in Geary County, KS. The subject plants have been genetically engineered, using techniques of micro-projectile bombardment or disarmed *Agrobacterium*-mediated transformation, to express proteins for recombinant human lactoferrin, lysozyme, or serum albumin. Expression of the genes is controlled by the rice glutelin 1 promoter (GT1), the rice glutelin 1 signal peptide (gt1), and the nopaline synthase (NOS) terminator sequence from *Agrobacterium tumefaciens*. The genes are expressed only in the seed. In addition, the plants may contain either or both of the coding sequences for the genes hygromycin phosphotransferase (*hpt*) or phosphinothricin acetyltransferase (*pat*), which are marker genes that allow for the selection of transgenic tissues in the laboratory using the antibiotic hygromycin and/or the herbicide bialaphos. Neither selectable marker gene is expressed in mature rice tissues, nor do they have any inherent plant pest characteristics or enhance gene transfer from plants to other organisms. The genetically engineered rice plants are considered regulated articles under the regulations in 7 CFR part 340 because they contain gene sequences from plant pathogens.

The purpose of these field releases is for pure seed production and for the extraction of lactoferrin, lysozyme, and serum albumin for a variety of research and commercial products. There is currently no commercial rice production in Geary County or in any other location in the State of Kansas. The planting will be conducted using physical confinement measures. In addition, the protocols and field plot

design, as well as the procedures for termination of the field plantings, are designed to ensure that none of the subject rice plants persist in the environment after the crop is harvested.

On February 28, 2007, APHIS published a notice<sup>1</sup> in the **Federal Register** (72 FR 8959-8960, Docket No. APHIS-2007-0006) announcing the availability of an environmental assessment (EA) for the proposed field release of rice genetically engineered to express lactoferrin, lysozyme, or serum albumin. During the designated 30-day comment period, which ended March 30, 2007, APHIS received 20,034 comments. Of the 20,034 comments received, 20,005 were opposed to APHIS' approval of these permits. Respondents opposing APHIS' approval of these permits were four public interest groups, academic professionals, organic food producers, rice growers, millers (or from related industries), and individuals. One public interest group submitted 13,289 nearly identical comments, and 5,621 nearly identical comments were submitted by another public interest group. There were 29 comments supporting APHIS' approval of these permits. Respondents supporting the approval of these permits were from academia, a farm bureau, a corn and grain sorghum growers association, a corporation, a State government agency, and individuals. APHIS has addressed the issues raised during the comment period and has provided responses to these comments as an attachment to the finding of no significant impact (FONSI).

Pursuant to the regulations in 7 CFR part 340 promulgated under the Plant Protection Act, APHIS has determined that these field releases will not pose a risk of introducing or disseminating a plant pest. Additionally, based upon analysis described in the EA, APHIS has determined that the action proposed in Alternative 3 of the EA, issue the permit with supplemental permit conditions, will not have a significant impact on the quality of the human environment. You may read the FONSI and decision notice on the Internet or in the APHIS reading room (see **ADDRESSES** above). Copies may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

The EA and FONSI were prepared in accordance with (1) The National Environmental Policy Act of 1969

<sup>1</sup> To view the notice, EA, and the comments we received, go to <http://www.regulations.gov>, click on the "Advanced Search" tab, and select "Docket Search." In the Docket ID field, enter APHIS-2007-0006, then click on "Submit." Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

(NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

**Authority:** 7 U.S.C. 7701-7772 and 7781-7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 9th day of May, 2007.

**W. Ron DeHaven,**

*Administrator, Animal and Plant Health Inspection Service.*

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### **Beaver Creek Allotment Management Plan on the Medicine Wheel/Paintrock Ranger Districts, Bighorn National Forest, Big Horn County, WY**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The USDA, Forest Service, will prepare an environmental impact statement (EIS) to update range management planning on fourteen (14) cattle/horse and sheep/goat grazing allotments in the Beaver Creek area, which will result in development of new allotment management plans (AMPs). The agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people may become aware of how they may participate in the process and contribute to the final decision.

**DATES:** Comments and input regarding the proposal were requested from the public, other groups and agencies, via a legal notice published in the Casper Star-Tribune on March 4, 2007. Additional comments may be made at the addresses below, and would be most helpful if submitted within thirty days of the publication of this notice. Based on the comments received and preliminary analysis, the Responsible Official has determined that an environmental impact statement will be prepared for this project. The draft environmental impact statement is expected in December, 2007 and the final environmental impact statement is expected April, 2007.

**ADDRESSES:** Send written comments and suggestions concerning this proposal to

Dave Sisk, District Ranger, Medicine Wheel/Paintrock Ranger District, Bighorn National Forest, 604 E. Main, Lovell, Wyoming 82431.

**FOR FURTHER INFORMATION:** Direct questions to Bernie Bornong, Interdisciplinary Team Leader, Bighorn National Forest, phone (307) 674-2600.

**SUPPLEMENTARY INFORMATION:** The allotments are located approximately 35 miles, by road, southeast of Lovell, Wyoming in the Bighorn River drainage. National Forest System lands within the Bighorn National Forest will be considered in the proposal. The purpose of the analysis is to determine if livestock grazing will continue on the analysis area. If the decision is to continue livestock grazing, then updated management strategies outlining how livestock will be grazed will be developed to assure implementation of Forest Plan management direction. The analysis will consider actions that continue to improve trends in vegetation, watershed conditions, and ecological sustainability relative to livestock grazing within the allotments. Management actions are proposed to be implemented beginning in the year 2009.

The Bighorn National Forest Land and Resource Management Plan (Forest Plan) identifies livestock grazing as an appropriate use and makes initial determinations for lands capable and suitable for grazing by domestic livestock.

The fourteen allotments involved are: Bear/Crystal Creek Sheep and Goat (S&G), Beaver Creek S&G, Finger Creek Cattle and Horse (C&H), Grouse Creek S&G, Hunt Mountain S&G, Matthews Ridge C&H, Red Canyon S&G, Red Canyon C&H, Sunlight Mesa C&H, South Park C&H, Whaley Creek S&G, Wiley Sundown C&H, Antelope Ridge S&G, and Little Horn S&G Allotments.

**Purpose and Need for Action:** The purpose of this project is to determine if livestock grazing will continue to be authorized on the fourteen allotments, and if it is to continue, how to best to utilize adaptive management strategies to maintain or achieve desired conditions and meet forest plan objectives. Livestock grazing is currently occurring on most of the allotments under the existing allotment management plan (AMP) and through direction provided in the Annual Operating Instructions. A few of the allotments are currently vacant. Continuation of livestock grazing will require reviewing existing management strategies and, if necessary, updating them to implement forest plan direction and meet Section 504 of Public Law

104-19 (Rescission Bill, signed 7/27/95). The results of this analysis may require modifying term grazing permits and AMPs. Modifications will be documented in updated AMPs for the allotments.

An additional purpose of this project is to maintain or move toward desired conditions for sagebrush/grassland communities; specifically, to maintain a mosaic of vegetation composition and structure that emulates, or moves toward, natural processes. The need to provide a mosaic of sagebrush cover densities has been identified in the project area.

**Proposed Action:** The proposed action is to continue livestock grazing using adaptive management strategies to meet or move toward Forest Plan and allotment-specific desired conditions. This includes changing livestock management strategies, constructing additional improvements (fences and water developments), and treating sagebrush.

**Possible Alternatives:** Two additional alternatives have been identified to date: (a) Remove livestock grazing from these allotments; and, (b) Continue current management strategies.

**Responsible Official:** Dave Sisk, District Ranger, Medicine Wheel/Paintrock Ranger District, Bighorn National Forest, 604 E. Main, Lovell, Wyoming 82431.

**Nature of Decision to be Made:** The Responsible Official will consider the results of the analysis and its findings and then document the final decision in a Record of Decision (ROD). The decision will determine whether or not to authorize livestock grazing on all, part, or none of the allotments, and if so, what adaptive management design criteria, adaptive options, and monitoring will be implemented so as to meet or move toward the desired conditions in the defined timeframe.

**Scoping Process:** Formal scoping for this project occurred in March 2007.

**Early Notice of Importance of Public Participation in Subsequent Environmental Review:** A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental

review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection. (Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: March 4, 2007.

**Dave Sisk,**

*Medicine Wheel/Paintrock District Ranger.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RIN 0648-XA17]

### Endangered and Threatened Species; Take of Anadromous Fish

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and