

reviewers of a draft EIS 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 EIS stage but that are not raised until after completion of the final EIS 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 EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS 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 EIS 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.)

The final EIS is scheduled to be completed in June 2000. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the Deep Vegetation Management Project.

The Forest Service is the lead agency. Thomas A. Schmidt, Forest Supervisor, is the Responsible Official. The Responsible Official will determine which alternative best meets the purpose and need of this project and addresses the key issues raised about this project. The decision and rationale will be documented in the Record of Decision. The decision will be subject to Forest Service Appeal Regulations (36 CFR Part 215).

Dated: December 7, 1999.

Thomas A. Schmidt,

Forest Supervisor.

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### State Road Use Permit To Access Damfino Section 16, Medicine Bow-Routt National Forests, Brush Creek/Hayden Ranger District, Carbon County, WY

AGENCY: USDA, Forest Service.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service, Medicine Bow-Routt National Forests, Brush Creek/Hayden Ranger District, will prepare an Environmental Impact Statement (EIS) to assess and disclose the environmental effects of issuing a Road Use Permit to the State of Wyoming to access its lands in Section 16, T. 12 N., R. 83 W., 6th P.M.; across National Forest System lands. The State of Wyoming has completed application for a Forest Road Special Use Permit to exercise its right under the *Alaska National Interest Lands Conservation Act* of December 2, 1980. The permit would allow the State of Wyoming to transport logs from a commercial timber sale on its land across National Forest System lands over existing Forest Development Roads. The analysis area is southeast of Encampment, Wyoming. All roads across National Forest System lands needed to access the State of Wyoming lands in School Section 16 already exist as Forest Development Roads, which are in suitable condition and capable of supporting the proposed use. No new road construction or reconstruction on National Forest System lands would be needed for the state to access its lands.

This Notice of Intent is being issued under the authority of the Medicine Bow National Forest Land and Resource Management Plan and Final EIS of October 1985. The Medicine Bow National Forest formally initiated plan revision on October 7, 1999 with a Notice of Intent published in the **Federal Register**. It is anticipated that the 1985 Forest Plan will still be in effect when the Record of Decision for this EIS is issued.

**DATES:** Public scoping for a Road Use Permit to Louisiana Pacific, an agent of the State of Wyoming, was initiated on January 28, 1999. A total of 83 comment

letters were received. Additional scoping was initiated on August 10, 1999 for a Road Use Permit to the State of Wyoming. A total of 53 comment letters were received. All comments received from these previous scoping efforts related to the issuance of a Road Use Permit to access State of Wyoming lands in Damfino Section 16 will be combined with comments received as a result of this Notice of Intent and reviewed to identify potential issues for this analysis. Since these previously received comments will be incorporated into this analysis, individuals who responded to either the January 28, 1999 or August 10, 1999 scoping requests need provide comment at this time only if they wish to provide additional information to what they previously submitted. Written comments and suggestions should be postmarked by January 21, 2000 to receive consideration. The estimated time for filing the draft EIS is March 2000 followed by the final decision in May 2000.

**ADDRESSES:** The Responsible Official is Don Carroll, District Ranger; Brush Creek/Hayden Ranger District; Medicine Bow-Routt National Forests; PO Box 249; South HWY 130/230; Saratoga, WY 82331. Written comments and suggestions concerning the scope of the analysis may be sent to him at that address.

**FOR FURTHER INFORMATION CONTACT:** John Baumchen, Interdisciplinary Team Leader. Phone: 307-326-5258.

#### SUPPLEMENTARY INFORMATION:

*Background:* Under authorities provided for in 36 CFR 261.12 and 36 CFR 261.54, Forest Supervisor Jerry Schmidt issued Supervisor's Order 98-10 on July 8, 1998. This order requires written authorization for commercial use of any Forest Development Road on the Medicine Bow-Routt National Forest. In response to this requirement, the State of Wyoming, has applied for a Forest Road Special Use Permit for commercial haul related to a timber sale on State lands over Forest Development Roads (FDR's) 409, 416, 416.1D and 416.2D. The Wyoming lands are located adjacent to the Wyoming border with Colorado in Section 16, T.12N., R.83W., 6th P.M. The State of Wyoming would thus exercise its right under the *Alaska National Interest Lands Conservation Act* of December 2, 1980 (ANILCA) to access these lands. The Forest Road Special Use Permit is not a general authorization. The permit would provide specific authority to the permittee for the activities listed, subject to stipulations included in the permit.

Forest Development Roads suitable for commercial haul already exist to a termination point within School Section 16. The National Forest roads to be used include both roads that are open system roads as well as roads originally constructed as part of the Coon Creek Pilot Project, which are normally closed.

**Scoping process:** All comments received from previous scoping efforts related to the issuance of a Road Use Permit to access State of Wyoming lands in Damfino Section 16 will be combined with comments received as a result of this Notice of Intent and reviewed to identify potential issues for this analysis. Since previously received comments will be incorporated into this analysis, individuals who responded to either the January 28, 1999 or August 10, 1999 scoping requests need to provide comment at this time only if they wish to provide information additional to what they previously submitted.

**Proposed Action:** The proposed action is to issue a Road Use Permit to the State of Wyoming for commercial haul over National Forest Roads from State of Wyoming land in Section 16 in T.12N., R.83W.

**Potential alternatives:** The Interdisciplinary Team will review scoping comments from all three scoping processes to identify key issues and will develop a recommendation concerning alternatives to the Proposed Action warranting analysis in the Environmental Impact Statement. As a minimum, the alternatives to be analyzed in the EIS would include the No Action Alternative (do not issue a Road Use Permit); and the Proposed Action (issue a road use permit to the State of Wyoming over the requested route).

**Preliminary Issues:** The following preliminary issues have been identified through past scoping of projects in the area:

What are the FS authorities and Wyoming's rights under ANILCA concerning the issuance of a Road Use Permit to Section 16?

Under what conditions would a Road Use Permit needed for commercial haul for a commercial timber sale be issued to the State of Wyoming?

What would be the effects of a timber sale on lands owned by the State of Wyoming to adjacent National Forest System resources, particularly, what are the effects to recreation, wildlife, soil and water?

What are appropriate alternatives for the analysis?

What interpretations and positions concerning effects to resources, roadless character, fragmentation and

environmental laws should be used to analyze activities on lands not under the jurisdiction of the U.S. Forest Service?

**Decision to be made:** The Responsible Official will decide which alternative of those considered in the draft Environmental Impact Statement to select. Based on the decision that is made, he will also decide what mitigation measures and permit stipulations will be required. The issues and alternatives developed from public comment and Interdisciplinary Team analysis will be clearly disclosed in the Environmental Impact Statement. From the project record, the Responsible Official and others who may review the decision will be able to fully understand the consequences of implementing the selected alternative.

**Reviewer Obligations:** 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, 533 (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.

**Release of Names:** Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this Proposed Action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within ten (10) days.

**Responsible Official:** Don Carroll, District Ranger; Brush Creek/Hayden Ranger District; Medicine Bow-Routt National Forests; P.O. Box 249; Saratoga, WY 82331.

As the Responsible Official, I will decide which, if any of the alternatives to be described in the draft Environmental Impact Statement will be implemented. I will document the decision and reasons for my selection of the decision in the Record of Decision.

Dated: December 16, 1999.

**Don G. Carroll,**

*District Ranger.*

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## DEPARTMENT OF AGRICULTURE

### Forest Service

**Transfer of Administrative Jurisdiction: Hawthorne Army Depot New Bomb Project Interchange, Toiyabe National Forest, Nevada**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of land interchange.