

DEPARTMENT OF AGRICULTURE

Forest Service

[3410-11]

PHASE II AMENDMENT OF BLACK HILLS NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLAN

AGENCY: USDA Forest Service.

ACTION: Notice of Intent to prepare an environmental impact statement disclosing the effects of amending the 1997 Revised Land and Resource Management Plan of the Black Hills National Forest located in Lawrence, Meade, Custer, Fall River, and Pennington Counties, South Dakota; Crook and Weston Counties, Wyoming.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) disclosing the effects of amending the Black Hills National Forest 1997 Revised Land and Resource Management Plan (1997 Revised Forest Plan). The 1997 Revised Forest Plan is being amended under the 1982 National Forest System Land Resource Management Planning regulations.

This notice describes the specific portions of the 1997 Revised Forest Plan to be amended (the "Phase II" Forest plan amendment), initial environmental issues to be considered in the environmental impact statement, estimated dates for filing the environmental impact statement, information concerning public participation, and the names and addresses of the agency officials who can provide additional information.

DATES: Comments concerning the scope of the analysis should be received on or before 60 days after publication of this notice in the Federal Register.

ADDRESSES: Send written comments to Black Hills National Forest, Phase II Amendment, USDA-FS-CAT, P.O. Box 7669, Missoula, MT 59807.

FOR FURTHER INFORMATION CONTACT: John Twiss, Forest Supervisor (605) 673-9200.

SUPPLEMENTARY INFORMATION: The Black Hills National Forest 1997 Revised Land and Resource Management Plan (1997 Revised Forest Plan) was approved on June 24, 1997. On October 12, 1999, Deputy Chief James A. Furnish signed a decision addressing several appeals of the 1997 Revised Forest Plan. The Deputy Chief affirmed most appeal points; however, he found that additional evaluation of the sufficiency of the plan in providing for the diversity of plant and animal communities and species viability was needed. In addition, the intent and scope of the Phase II amendment is to provide additional management direction to adequately provide for species diversity and viability. The baseline for analysis will be Alternative G, the selected alternative in the Record of Decision for the 1997 Revised Forest Plan.

Within the October 12, 1999 Deputy Chief decision, interim direction was provided to the Black Hills National Forest so that projects could continue during the time it takes to re-analyze the 1997 Revised Forest Plan. The amendment will also comply with stipulations in the Settlement Agreement for Civil Action No. 99-N-2173 (U.S. District Court for the District of Colorado, September 2000). The settlement agreement along with the appeal decision action plan noted the re-analysis of the 1997 Revised Forest Plan would consist of two phases. Phase I, a non-significant Forest plan amendment, provides interim measures that preserves management options for species viability during the time period it takes to complete the re-evaluation of the 1997 Revised Forest Plan. Phase I has been completed, with the Decision Notice signed May 18, 2001 and legal notice of decision published in the Denver Post on June 15, 2001.

Phase II is anticipated to be a significant Forest plan amendment, accompanied by an EIS. The amendment will address the identified plan deficiencies in order to assure that viable populations of native and desired non-native species are maintained. This Notice of Intent initiates scoping for the Phase II amendment and associated EIS. Due to the complex nature of the analysis, the Phase II Amendment and Final Environmental Impact Statement (FEIS) will take between two and five years to complete. The FEIS is scheduled for release September 2004.

The Phase II amendment will focus on changed conditions or demands in relation to species viability and diversity. The amendment will fulfill the direction of the appeal decision of October 12, 1999 and be guided by that direction. Those sections of the Forest Plan which continue to be responsive to issues and demands, and which meet requirements for resource protection will not be amended. As appropriate, the amendment will include:

1. New or revised goals and objectives protecting habitat to sustain species viability and diversity. The management indicator species will be reviewed to ensure appropriate species are included. The amendment may include forest-wide standards and guidelines for wildlife and plant species to ensure compliance with requirements of the National Forest Management Act (NFMA), and its implementing regulations and agency policy.

2. New or revised monitoring requirements. Specifically the Forest will review current management direction and revise its protocols (if necessary) for surveying, monitoring and evaluating Management Indicator Species (MIS) in compliance with requirements of the National Forest Management Act (NFMA), and its implementing regulations and agency policy. The Forest will evaluate the viability of MIS within the planning area; and establish specific goals and objectives for the management of MIS, sensitive species and/or their habitat.

3. New Management Area designations. The Forest will assess candidate areas for research natural areas and will designate appropriate areas. Future management of areas that have experienced recent large fires will also be reviewed.

4. Review Forest outputs and services. This amendment will include a review and/or recalculation of the allowable timber sale quantity and other Forest outputs based on new direction pertaining to MIS viability and diversity. Models including Forest Vegetation Simulator (FVS), Habitat Capability (HABCAP), and spatial analysis will be re-run with updated information. Updates to the HABCAP models pertaining to deer and elk will occur to incorporate research data. New models may be used.

PRELIMINARY ISSUES: The following preliminary issues were identified:

1. Economic and social effects on local communities (counties and municipalities) and dependent industries. This includes, but is not limited to, the effects on recreation users, primary and secondary timber producers and grazing permittees.
2. Effects on forest health and the ability of the Forest to manage insect and disease outbreaks.
3. Effects on the Forest's ability to reduce fire risks within the Forest boundary and prevent catastrophic wildfire.

DECISION TO BE MADE: The Rocky Mountain Regional Forester will decide whether or not to make changes to Forest plan management direction, and if so, in what manner. The environmental effects of proposed changes will be documented in an EIS.

RESPONSIBLE OFFICIAL: The responsible official for approving the Forest Plan amendment is the Rocky Mountain Regional Forester, Rocky Mountain Region, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Lakewood, Colorado 80225 (express delivery address: 740 Simms St., Golden, CO 80401-4720). The decision will be documented in a Record of Decision. The Forest Supervisor, Black Hills National Forest, is delegated the responsibility for preparing the amendment.

PUBLIC INVOLVEMENT: Federal, state and local agencies, Native American tribes, individuals and organizations are invited to submit comments relevant to this Phase II

amendment of the Black Hills National Forest Land and Resource Management Plan. The Forest is working with the States of South Dakota and Wyoming to finalize agreements that will formalize cooperating agency status, which both States requested. Both States will share their status with their respective contiguous county commissions and conservation districts. The Forest will consult with Native American tribes on a government-to-government basis.

Issue identification has begun, using the October 12, 1999 Appeal Decision, a recent court settlement agreement, and other internal and external discussions with interested parties as a starting point. Public involvement efforts will continue throughout the amendment process, in accordance with direction in the National Environmental Policy Act (NEPA).

Public involvement in the Forest Plan amendment process will be sought by: (1) sending newsletters and requests for comment to agencies, organizations and individuals, (2) holding open houses in local communities and (3) other formal and informal methods of involving the public. Dates, locations, and times for the open houses will be announced in local news media and in Forest newsletters. Written comments should be sent to: Black Hills National Forest, Phase II Amendment, USDA-FS-CAT, P.O. Box 7669, Missoula, MT 59807.

Comments that will be most effective are those that: a) identify necessary modifications to the existing Forest Plan direction; b) are helpful in developing or evaluating alternatives; c) provide additional information to improve or modify our analysis; or d) identify factual corrections.

ESTIMATED DATES FOR RELEASE AND REVIEW OF THE EIS: The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by November 2003. At that time EPA will publish a Notice of Availability of the Draft EIS in the Federal Register. The comment period of the Draft EIS will be 90 days from the date the EPA publishes the Notice of Availability in the Federal Register. It is important that those interested in the management of this area participate at that time.

The Final Environmental Impact Statement, Record of Decision, and Forest Plan amendment are scheduled to be completed by September 2004.

THE REVIEWERS OBLIGATION TO COMMENT: Comments received from the initial scoping efforts, including this publication, will be used in the preparation of the draft environmental impact statement. The following paragraphs pertain to the future release of the draft environmental impact statement.

The comment period on the draft environmental impact statement will be 90 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 90-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can adequately 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 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.

Dated: November 21, 2001.

/s/ John C. Twiss

John C. Twiss,

Forest Supervisor, Black Hills National Forest