

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Carson National Forest, New Mexico, Agua/Caballos Proposed Projects

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to a Final Environmental Impact Statement.

SUMMARY: The Carson National Forest, El Rito Ranger District is preparing a supplement to the Final Environmental Impact Statement (FEIS) to disclose new information relevant to the analysis of proposed projects in the Agua/Caballos analysis area. Proposed projects include the allocation of old growth, harvesting of trees for sawtimber and forest products, prescribed burning, thinning, construction of new roads and reconstruction or closure of existing roads.

A Notice of Intent (NOI) to prepare an environmental impact statement was published in the **Federal Register** on April 22, 1997 (62 FR 195342). A Notice of Availability (NOA) for the Draft Environmental Impact Statement (DEIS) was published in the **Federal Register** on February 19, 1999 (64 FR 8356). An NOI to prepare a supplement to the DEIS was published in the **Federal Register** on December 20, 1999 (64 FR 771101). An NOA for the supplement to the DEIS was published in the **Federal Register** on August 18, 2000 (65 FR 50522).

A Record of Decision was signed on May 9, 2002 and an NOA was subsequently published in the **Federal Register** on July 19, 2002 (67 FR 47538).

The decision was appealed before the Regional Forester of the Southwestern Region on August 20, 2002. The appeal was reviewed in accordance with 36 CFR 215.7. The appeal decision issued on October 1, 2002 reversed the Responsible Official's decision on the

Agua/Caballos Proposed Projects, with the following instructions:

(1) Complete the analysis of effects on MIS, considering population and habitat information collected at the forest plan level or at an appropriate geographical scale for a particular species.

(2) Upon completion of this analysis, circulate a Supplemental Environmental Impact Statement for public comment and issue a new decision under 36 CFR 215.

The supplement will disclose additional forest-wide information on management indicator species (MIS) identified in the Forest Plan and relate this supplemental information to the effects analysis of MIS that have potential habitat in the Agua/Caballos analysis area.

DATES: It is estimated that the supplement will be completed and distributed by the end of May 2003. A 45-day comment period will follow. The Final Environmental Impact Statement and record of decision is estimated to be released in August 2003.

ADDRESSES: The supplement will be available upon request from the Carson Forest Supervisor's Office, 208 Cruz Alta Road, Taos, NM 87571, Attn: Planning. Comments related to the supplement can be sent to the same address.

FOR FURTHER INFORMATION CONTACT:

Audrey Kuykendall, Forest NEPA Coordinator, Carson Forest Supervisor's Office, 208 Cruz Alta Road, Taos, NM 87571, (505) 758-6200.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action: The supplement is needed to complete the analysis of effects on MIS, considering population and habitat information collected at the forest plan level or at an appropriate geographical scale for a particular species.

Proposed Action: The supplement to the Final Environmental Impact Statement will disclose new information relevant to the analysis of proposed projects in the Agua/Caballos analysis area. Proposed projects include the allocation of old growth, harvesting of trees for sawtimber and forest products, prescribed burning, thinning, construction of new roads and reconstruction or closure of existing roads.

Responsible Official: The Forest Supervisor, Carson National Forest, is

the responsible official and will decide whether projects will be implemented by the Forest Service in the Agua/Caballos analysis area. If so, the Forest Supervisor will decide what projects and where, how and when they will be implemented.

Scoping Process: The supplement will be circulated for public comment to those who were on the mailing list for the Record of Decision. Circulation is expected at the end of May, 2003.

Comment Requested: This notice of intent initiates the scoping process which guides the development of the supplemental environmental impact statement.

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,