

# Notices

Federal Register

Vol. 63, No. 154

Tuesday, August 11, 1998

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

#### Nicore Mining Plan of Operation, Siskiyou National Forest, Josephine County, OR

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intend to supplement a draft environmental impact statement.

**SUMMARY:** The USDA, Forest Service, in cooperation with the Bureau of Land Management, will prepare a supplement to a draft environmental impact statement (SDEIS) for the Nicore Mining Plan of Operation on the Illinois Valley Ranger District of the Siskiyou National Forest. The draft environmental impact statement (DEIS) was released January 1998. A SDEIS is needed because of changed conditions, including the recent closure of a nickel smelter in Riddle, Oregon; new issues raised during the DEIS comment period; the presence of a plant species now listed under the Endangered Species Act, and a need to broaden the range of alternatives considered.

**ADDRESSES:** Submit written comments regarding the SDEIS to Joel King, District Ranger, Illinois Valley Ranger District, 26568 Redwood Highway, Cave Junction, Oregon, 97523.

**FOR FURTHER INFORMATION CONTACT:** Rochelle Desser, Interdisciplinary Team Leader, Illinois Valley Ranger District, 26568 Redwood Highway, Cave Junction, Oregon, 97523 (541) 592-2166.

**SUPPLEMENTARY INFORMATION:** The Nicore Plan of Operations (POO) includes mining 4 sites for a total of 35 acres. The mine sites would be accessed by an existing low-standard road system that would need to be upgraded. Ore would be stockpiled for later smelting.

The Nicore DEIS considered the Proposed Plan of Operations and four alternatives. Many issues were considered in the DEIS, including risk

of sediment delivery; botanical diversity and sensitive plants; costs of road development; effects on residents; visual quality, recreation, and interpretive development; impacts on the character of the South Kalmiopsis Roadless Area, noxious weeds, Port-Orford-cedar root disease; risk of hazardous fuel spills; effects on fish habitat, especially species listed under the Endangered Species Act; Aquatic Conservation Strategy and Riparian Reserve Standards and Guidelines; and Wild and Scenic River Eligibility. The SDEIS will consider additional issues and alternatives based on new information and public comment.

Substantial uncertainty exists related to the economic viability of the mining POO. Since the release of the Nicore DEIS, the only nickel smelter in the United States closed, due to low nickel prices worldwide. Public comment continues to raise issues with the reasonableness of the mining plan, given the smelter closure. In addition, reports provided by the public indicate that the plan is not currently economically viable.

Since the release of the DEIS, a plant found on the ore haul route was listed as endangered under the Endangered Species Act. The Forest Service has initiated consultation about the plant with the US Fish and Wildlife Service.

Additional alternatives are being considered for the SDEIS. The DEIS consider the Proposed Action and five alternatives. Many people commented that the range of alternatives was too limited for a full consideration of impacts. The SDEIS will consider additional access routes, additional mitigation measures, and a scaled-back operation.

The SDEIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for review in November 1998. At that time, EPA will publish a Notice of Availability in the **Federal Register**.

A 45-day comment period for the SDEIS will commence following the Notice of Availability. Those interested in the project should participate at that time. Several recent court rulings related to public participation are pertinent to this process. Reviewers of a Draft EIS *must* structure their participation in the environmental review process of the Proposed Action so that it is specific, 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 early-on in the environmental review process, 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).

These court rulings reinforce the citizen's responsibility for timely participation. Comments on the SDEIS should be as specific as possible; page number citations or other references to the SDEIS within comments are most helpful.

Comments should address the adequacy of the EIS, and/or the merits of the alternatives (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 for further guidance).

After the SDEIS comment period, comments on both the DEIS and SDEIS will be considered. Comments and Agency responses will be included in the Final EIS. The Final EIS is scheduled to be completed August 1999.

The Responsible Official is the Siskiyou National Forest Supervisor. He will consider the Final EIS; applicable laws, regulations, policies; and analysis files and document his decision and rationale in the Record of Decision. That decision will be subject to appeal by the general public under 36 CFR 215 and by the miner under 36 CFR 251.

Dated: July 28, 1998.

**Robert Ettner,**

*Acting Forest Supervisor.*

[FR Doc. 98-21434 Filed 8-10-98; 8:45 am]

BILLING CODE 3410-11-M

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Hawaii Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 10:00 a.m.