

**FOR FURTHER INFORMATION CONTACT:** Dr. James White, Plant Protection and Quarantine, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-5490. To obtain a copy of the extension request or the environmental assessment, contact Ms. Kay Peterson at (301) 734-4885; e-mail: [Kay.Peterson@aphis.usda.gov](mailto:Kay.Peterson@aphis.usda.gov).

**SUPPLEMENTARY INFORMATION:** The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Further, the regulations in § 340.6(e)(2) provide that a person may request that APHIS extend a determination of nonregulated status to other organisms. Such a request must include information to establish the similarity of the antecedent organism and the regulated article in question.

### Background

On September 9, 2001, APHIS received a request for an extension of a determination of nonregulated status (APHIS No. 01-206-01p) from Aventis CropScience (Aventis) of Research Triangle Park, NC, for canola (*Brassica napus L.*) transformation events designated as MS1 and RF1 and RF2, which have been genetically engineered for male sterility (MS1), fertility restoration (RF1 and RF2), and tolerance to the herbicide glufosinate (MS1, RF1, and RF2). The Aventis request seeks an extension of a determination of nonregulated status issued in response to APHIS petition number 98-278-01p for male sterile canola transformation event MS8 and fertility restoration canola transformation event RF3, the antecedent organisms (see 64 FR 15337-15338, Docket No. 98-114-2, published March 31, 1999). Both MS8 and RF3 are also tolerant to the herbicide glufosinate. Based on the similarity of canola events MS1 and RF1 and RF2 to the antecedent organisms, Aventis

requests a determination that MS1 and RF1 and RF2 do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340.

### Analysis

Like the antecedent organisms, canola events MS1 and RF1 and RF2 have been genetically engineered to contain a *barnase* gene (MS1) for male sterility or a *barstar* gene (RF1 and RF2) for fertility restoration. The *barnase* gene expresses a ribonuclease that blocks pollen development and results in a male-sterile plant, and the *barstar* gene encodes a specific inhibitor of this ribonuclease and restores fertility. The *barnase* and *barstar* genes were derived from *Bacillus amyloliquefaciens*, and are linked to in the subject transformation events to the *bar* gene derived from *Streptomyces hygroscopicus*. The *bar* gene encodes the enzyme phosphinothricin-N-acetyltransferase (PAT), which confers tolerance to the herbicide glufosinate. The subject canola events and the antecedent organisms were developed through use of the *Agrobacterium tumefaciens* method, and expression of the added genes in MS1 and RF1 and RF2 and the antecedent organisms is controlled in part by gene sequences derived from the plant pathogen *A. tumefaciens*. In summary, the Aventis extension request states that canola events MS1 and RF1 and RF2 and the antecedent organisms contain the same genetic elements with the exception of the antibiotic resistance marker gene *nptIII* in MS1 and RF1 and RF2, which was used as a transformant selection tool during the developmental process. The parental variety Drakkar was used to develop both the antecedent organisms and MS1 and RF1 and RF2.

Canola events MS1 and RF1 and RF2 and the antecedent organisms were genetically engineered using the same transformation method and contain the same enzymes for male sterility, fertility restoration, and glufosinate herbicide tolerance. Accordingly, we have determined that canola events MS1 and RF1 and RF2 are similar to the antecedent organisms in APHIS petition number 98-278-01p, and we are proposing that canola events MS1 and RF1 and RF2 should no longer be regulated under the regulations in 7 CFR part 340.

The subject canola events have been considered regulated articles under APHIS' regulations in 7 CFR part 340 because they contain gene sequences derived from a plant pathogen. However, canola events MS1 and RF1 and RF2 have been field tested in

numerous countries, including the United States and Canada, and after having received the appropriate Canadian approvals, have been marketed commercially in Canada since 1996 with no reports of adverse effects on human health or the environment.

Should APHIS approve Aventis' request for an extension of a determination of nonregulated status, canola events MS1 and RF1 and RF2 would no longer be considered regulated articles under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations would no longer apply to the field testing, importation, or interstate movement of the subject canola events or their progeny.

### National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine any potential environmental impacts associated with the proposed extension of a determination of nonregulated status for the subject canola events. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (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). Copies of the Aventis extension request and the EA are available from the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 19th day of February 2002.

**W. Ron DeHaven,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02-4385 Filed 2-22-02; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Silver Pearl Land Exchange; Eldorado National Forest, El Dorado and Placer Counties, California

**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) on a proposal to acquire approximately 3,994 acres of Sierra Pacific Industries Corporation land in exchange for 2,126 acres of National

Forest System land. The purpose of the exchange is to improve land management efficiencies by consolidating land ownership, while obtaining lands providing a variety of public benefits, including ecological and recreational values; and to eliminate the need to provide access to a private parcel within a roadless (RARE II) area. It is believed that the integrity of recreational, ecological and economic values will be improved by the consolidation of ownership resulting from a land exchange. The values of the lands exchanged must be equal.

**DATES:** The draft Environmental Impact Statement (EIS) is scheduled to be completed in June 2002 for public review and comment. The final EIS is scheduled to be completed by December 2002.

**ADDRESSES:** Send written comments to Elaine Gee, Project Leader, Eldorado National Forest, 7600 Wentworth Springs Road, Georgetown, CA 95634.

**FOR FURTHER INFORMATION CONTACT:** Questions and comments about this EIS should be directed to Elaine Gee, at the above address, or call her at 530-333-4312.

**SUPPLEMENTARY INFORMATION:** The Forest Service is initiating this action in order to exchange lands that will provide a balance in public benefits while improving management opportunities. Lands within the Rubicon River Canyon (recommended for Wild and Scenic River status), the Silver Fork of the American River (a Wild and Scenic eligible river) and the Pyramid-Bassi Roadless Area (RARE II); lands along the Pony Express National Historic Trail are proposed for acquisition; along with other lands containing unique ecological values, valuable timber resources and important recreational opportunities. The lands to be exchanged also contain important resource values, including lands suitable for growth and harvest of commercial conifers and areas that contain quality wildlife habitat. Also considered is the opportunity to consolidate lands into contiguous blocks that can be more efficiently and economically managed, thereby facilitating the ownership objectives of both the Forest Service and Sierra Pacific Industries Corporation. All federal lands proposed for exchange are on the Eldorado National Forest and are in compliance with the land adjustment management direction in the 1989 Eldorado National Forest Land and Resources Management Plan.

The exchange meets the public interest requirements in 36 CFR 254.3(b): (1) The resource values and the

public objectives served by the non-federal lands and interests to be acquired are equal or exceed the resource values and the public objectives served by the federal lands to be disposed; and (2) the intended use of the disposed federal land will not substantially conflict with established management objectives on adjacent federal lands.

Lands will be exchanged on a value for value basis, based on current fair market value appraisals. The appraisal is prepared in accordance with the Uniform Standards for Federal Land Acquisition. The appraisal prepared for the land exchange is reviewed by a qualified review appraiser to ensure that it is fair and complies with the appropriate standards. Under the Federal Land Policy and Management Act of 1976, all exchanges must be equal in value. Forest Service regulations at 36 CFR 254.3(c) require that exchanges must be of equal value or equalized pursuant to 35 CFR 254.12 by cash payment after making all reasonable efforts to equalize values by adding or deleting lands. If lands proposed for exchange are not equal in value, either party may make them equal by cash payment not to exceed 25 percent of the federal land value.

The decision to be made is what lands, if any, should be exchanged as part of this proposal. The proposed action is to exchange approximately 2,126 acres of National Forest System land for approximately 3,994 acres of Sierra Pacific Industries Corporation land, adjusted for equal value as required by law. Other alternatives will be developed based on significant issues identified during the scoping process for the environmental impact statement. All alternatives will need to respond to the specific condition of providing benefits equal to or better than the current condition. Alternatives being considered at this time include: (1) no action and (2) exchanging lands as identified in the proposed action.

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from the Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. To facilitate public participation information about the proposed action was mailed to all who expressed interest in the proposed action based on publication in the Eldorado National Forest Schedule of Proposed Action. The Forest Service hosted a public meeting/open house to present the proposal at the Eldorado National Forest

Headquarters at 100 Forni Road Placerville, CA on December 13, 2001. Notification of the additional public scoping periods will be published in the Mountain Democrat, Placerville, CA. The DEIS is scheduled to be available in June 2002 and the Forest will host another public meeting after the draft is mailed to interested parties.

Comments submitted during the scoping process should be in writing and should be specific to the proposed action. The comments should describe as clearly and completely as possible any issues the commenter has with the proposal. The scoping process includes:

- (a) Identifying potential issues;
- (b) Identifying issues to be analyzed in depth.
- (c) Eliminating nonsignificant issues or those previously covered by a relevant previous environmental analysis;
- (d) Exploring additional alternatives;
- (e) Identifying potential environmental effects of the proposed action and alternatives.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by June 2002. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is very important that those interested in the management of the Eldorado National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, 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*, 803f. 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 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 EIS. 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 December 2002. In the final EIS, The Forest Service is required to respond to substantive comments 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 this proposal.

John Berry, Forest Supervisor, Eldorado National Forest is the responsible official. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 215).

Dated: February 19, 2002.

**John D. Berry,**

*Forest Supervisor.*

[FR Doc. 02-4368 Filed 2-22-02; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### **Airport Forest Health Timber Sale, Eldorado National Forest, Pacific Ranger District, El Dorado County, California**

**AGENCY:** Forest Service, USDA.

**ACTION:** Cancellation of Notice of Intent.

**SUMMARY:** This document provides notice of cancellation of the intent to prepare an environmental impact statement (EIS) on a proposal to harvest timber, prescribe burn, and improve wildlife habitat on the Pacific Ranger District.

**DATES:** The draft environmental impact statement was originally scheduled for August 2000 with a 45-day public review and comment period. The

publishing and distribution of this draft EIS is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Don Errington, Project Leader, Pacific Ranger Station, 7887 Highway 50, Pollock Pines, California, 95726, Phone (530) 644-2349.

**SUPPLEMENTARY INFORMATION:** A Notice of Intent to prepare an environmental impact statement for the Airport Forest Health Timber Sale was published in the **Federal Register** on June 27, 2000 (Volume 65, Number 124, pp 39594-39596) announcing the intent to prepare and release a draft EIS in August 2000 with a final EIS scheduled for September 2000.

The original notice of intent informed the public of the agency's intention to document the analysis in an EIS. The primary reason for the cancellation is a change in management direction for the project area.

Dated: February 19, 2002.

**John Berry,**

*Forest Supervisor, Eldorado National Forest.*

[FR Doc. 02-4369 Filed 2-22-02; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### **Yates Duck Creek Federal Oil Well #1 Environmental Impact Statement: Medicine Bow-Routt National Forests and Thunder Basin National Grassland**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Intent to prepare an Environmental Impact Statement.

**SUMMARY:** The Forest Service will prepare an Environmental Impact Statement (EIS) on a proposal to drill for and develop conventional oil and gas resources with one (1) well on National Forest System lands in Campbell County, Wyoming. The well would be located on Federal Lease #WYW-141191, issued in 1997, in section 30, T.55N., R.69W., 6th P.M.

The purpose of the project is to determine the potential for oil and gas development, by drilling one exploratory well in the Duck Creek area. The project potentially includes three phases: drilling, development and/or production of oil and/or gas if discovered in producible quantities, and abandonment. The initial phase of the project would include constructing access to the drill site, constructing a well pad, and drilling and testing the well. If results of testing indicate that oil and/or gas are present in producible quantities, production equipment and facilities would be installed.

Development could include the installation of tanks and treatment equipment on the wellsite and a pipeline to transport the product. The project proposal also includes a plan for abandonment of the well. If oil and/or gas are not present in quantities that justify completion and production, the well would be abandoned and the site and access road reclaimed immediately. If the well is put into production, well abandonment and reclamation of the well site and access road would be performed to achieve a pre-project condition after the reservoir is depleted. The proposed well would be located in the Duck Creek Inventoried Roadless Area. If approved as proposed, the decision would permit road construction and reconstruction to occur in the roadless area. The EIS will comply with the requirements of the National Environmental Policy Act (42 U.S.C. sections 4321-4370a), the National Forest Management Act (16 U.S.C. 1600-1614), and the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), and their implementing regulations.

**DATES:** Comments concerning the proposal and the scope of the analysis will be accepted and considered at any time after publication of this notice in the **Federal Register** and prior to a decision being made.

**ADDRESSES:** Send written comments to Liz Moncrief, Medicine Bow-Routt National Forest Supervisor's Office, 2486 Jackson Street, Laramie, Wyoming 82070. Electronic mail may be sent to: [emoncrie@fs.fed.us](mailto:emoncrie@fs.fed.us), FAX may be sent to 307-745-2398.

**FOR FURTHER INFORMATION CONTACT:** Liz Moncrief, Forest Service Project Leader, 307-745-2456.

**SUPPLEMENTARY INFORMATION:** Yates Petroleum Corporation has filed an application with the Bureau of Land Management for a permit to drill and complete one exploration well. Drilling and completion of the well requires construction of access roads, and may include installation of testing and production equipment. As surface management agency, the Forest Service proposes to permit surface operations associated with the development of oil and/or gas resources with the drilling of one (1) well including construction of access roads and production facilities. The Forest Service will prepare an Environmental Impact Statement. This EIS will disclose the environmental effects of the proposed oil and gas development.

In 1994, the Forest Service prepared the Thunder Basin Oil and Gas Leasing EIS and issued a Record of Decision