

documentation for the EIS. Additional scoping will follow the release of the DEIS, expected in January 2006. This proposal also includes openings greater than 40 acres. A 60-day public review period was initiated with the scoping of this project on May 16, 2001. Approval to exceed the 40-acre limitation was received from the Regional Forester on March 21, 2003.

*Preliminary Issues* that could be affected by proposed activities include aesthetics/scenery; air quality; economics; fuels treatment; future management accessibility; heritage resources; old growth; retention of live and dead trees; riparian areas; size of openings; soil compaction and productivity; threatened, endangered, sensitive, and management indicator species of wildlife, fish and plants; tribal treaty rights; and water quality.

*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, 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.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

**Authority:** 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: October 19, 2005.

**Thomas K. Reilly,**  
Forest Supervisor.

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### **Eldorado National Forest, CA; Notice of Intent To Prepare an Environmental Impact Statement To Designate Routes for Public Off-Highway Wheeled Motor Vehicles**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will prepare an environmental impact statement to designate a portion of the inventoried routes on the Eldorado National Forest open to public off-highway wheeled motor vehicle<sup>1</sup> use, and assign the type of use(s) and season of use allowed on each road and trail or portion thereof. Inventoried routes not selected for designation for public off-highway wheeled motor vehicle use will be closed to public wheeled motor vehicles year round. Eldorado National Forest maintenance level 3, 4, and 5 system roads subject to the Federal Highway Safety Act are currently designated open to highway legal vehicles. The Forest Supervisor will not propose to redesignate these roads for off-highway wheeled motor vehicles. The Rock Creek multi-use trail area on

<sup>1</sup>The term *off-highway wheeled motor vehicle* in this proposal means "any (wheeled) motorized vehicle designed or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain \* \* \*" (Executive Order 11644, as amended).

the Eldorado National Forest is not affected by this decision and is outside the scope of the project.

**DATES:** Comments on the proposed action should be submitted within 30 days of the date of publication of this Notice of Intent. The draft environmental impact statement is expected by June 2006 and the final environmental impact statement is expected in October 2006.

**ADDRESSES:** Send written comments to John D. Berry, Forest Supervisor, Eldorado National Forest, 100 Forni Road, Placerville, CA 95667.

**FOR FURTHER INFORMATION CONTACT:** Anthony V. Scardina, Route Designation Interdisciplinary Team Leader, Eldorado National Forest Supervisor's Office by telephone at (530) 621-5276, FAX (530) 621-5297, or by e-mail at [ascardina@fs.fed.us](mailto:ascardina@fs.fed.us).

#### **SUPPLEMENTARY INFORMATION:**

##### **Purpose and Need for Action**

It is Forest Service policy to provide a diversity of road and trail opportunities for experiencing a variety of environments and modes of travel consistent with the National Forest recreation role and land capability (FSM 2353.03(2)). Modes of travel include hiking, horseback riding, motor biking, and so forth (FSM 2353.2). The Eldorado National Forest Land and Resource Management Plan (ENF LRMP) prohibits wheeled vehicle travel off of designated roads, trails, and limited off-highway vehicle (OHV) use areas (Sierra Nevada Forest Plan Amendment (SNFPA) Record of Decision (ROD), January 2004, S&G #69).

In recent years, the use of OHVs across the Eldorado National Forest has increased substantially. This increased use has led to development of user-created trails, increased conflict between motorized and non-motorized uses; complaints about noise from adjacent landowners; and areas of degraded soil, water, vegetation, and wildlife habitat conditions. The current route inventory for Eldorado National Forest identified approximately 2,830 miles of roads and trails currently receiving some level of OHV use. Of these, 2,110 miles of National Forest System roads and trails are managed for OHV use.

The underlying need for this proposal is to designate routes for public off-highway wheeled motor vehicle use on the Eldorado National Forest. In meeting this need, the selection of designated routes shall achieve the following purposes:

### Compliance With Code of Federal Regulation

- *Minimize damage to soil, watersheds, vegetation, or other resources (36 CFR 295.2(b)(1)).*
  - Minimize soil erosion and compaction of soils resulting in loss of soil productivity and sedimentation to waterways.
  - Minimize disturbance and sedimentation to riparian areas, wetlands, and waterways adversely impacting fish, amphibians, and wildlife.
  - Minimize spread of invasive, non-native, and noxious weeds along travel routes.
  - Minimize disturbance, displacement of artifacts, destruction, and malicious access (including theft) to historic and archaeological sites.
  - Prevent the creation of additional routes in environmentally sensitive areas.
  - *Minimize harassment of wildlife or significant disruption of wildlife habitat (36 CFR 295.2(b)(2)).*
    - Minimize disturbance and impacts to wildlife and botanical resources.
    - *Minimize conflicts between off-highway vehicle use and other existing or proposed recreational uses of the same or neighboring public lands (36 CFR 295.2(b)(3)).*
      - Balance recreational uses, including campers, hunters, anglers, hikers, mountain biking, equestrians, wildlife viewers, photographers, and motorized OHV users, to minimize conflicts.
      - Minimize conflicts between motorized OHV use and other forest permittees (e.g., recreation residences, range permittees, campground concessionaires, outfitters, and guides).
      - *Ensure the compatibility of OHV use with existing conditions in populated areas, taking into account noise and other factors (36 CFR 295.2(b)(3)).*
        - Minimize adverse impacts to air quality (e.g., dust and exhaust).
        - Minimize conflict between OHV use and private landowners (e.g., trespass, noise, dust, exhaust, vandalism).

Compliance with standards and guidelines in the Eldorado National Forest Land and Resource Management Plan as amended by the Sierra Nevada Forest Plan Amendment, January 2004 (Numerous standards and guidelines apply to the designation and use of OHV routes. However, the following standards and guidelines are those directly applicable to the purpose and need for this proposal).

- Prohibit wheeled vehicle travel off of designated roads, trails, and limited

OHV use areas (SNFPA ROD, Standard and Guideline 69, page 59).

- Maintenance level 2 forest roads will generally be designated as open to green sticker OHV use unless adverse environmental impacts or conflicts with other uses are identified (ENF LRMP, Management Practice 27, page 4–83).
  - Selected maintenance level 1 forest roads (currently blocked) may be designated for OHV use if such use is not found to be in conflict with the original reason for closing the road ENF LRMP, Management Practice 27, page 4–83).
  - Selected maintenance level 3, 4, and 5 Forest roads may be considered for combined use designation where their use would enhance opportunities for OHVs and would not conflict with other uses or resource considerations (ENF LRMP, Management Practice, page 4–83).
    - In each deer herd winter range and fawning areas, motorized trails will be limited to an average of 2.5 miles per square mile. Open roads will be limited to an average of 2.5 miles per square mile (ENF LRMP, Management Practice 27, page 4–84).
    - A closure plan will be instituted for motorized use, during wet weather periods to reduce damage to native surface trails. The plan will allow for trails to be open when soil conditions permit (ENF LRMP, Management Practice 27, page 4–84).
    - Stabilize the surface of roads available for all weather use (ENF LRMP, Management Practice 102, page 4–107). Confine use to the dry seasons except on stabilized roads and trails (ENF LRMP, Management Practice 27, page 4–288).
    - Roads and trails for which required rights-of-way do not exist and those located predominantly on private land will not be designated for OHV use \* \* \* (ENF LRMP, Management Practice 27, page 4–84).

### Consistency With the Memorandum of Intent Between the USDA Forest Service and the California Off-Highway Motor Vehicle Recreation Commission, and the Off-Highway Motor Vehicle Recreation Division of the California Department of Parks and Recreation

- Designate OHV roads, trails, and specifically defined open areas for motorized wheeled vehicles on maps of the 19 National Forests in California.
  - Improve management of OHV use on National Forest System lands in California by accomplishing the following: “ \* \* \* (3) designate trails, roads, and specifically defined open areas for OHV use; (4) develop Forest

Orders to protect natural resources and aid law enforcement. \* \* \* ”

### Compliance With the United States District Court for the Eastern District of California (Case CIV–S–02–0325 LKK/JFM, August 16, 2005, Senior Judge Lawrence K. Karlton)

- Issue a Final Environmental Impact Statement and Record of Decision on a new ENF OHV Plan to be consistent with regional guidelines for OHV route designation, with new national OHV regulations which the Forest Service expects will be promulgated later this year, and with the requirements of the National Environmental Policy Act and the National Forest Management Act.

### Additional Purpose and Needs Identified from Public Input

- Provide for a safe and sustainable variety of OHV access and opportunities. Ensure a balance of 4X4, ATV, and motorcycle routes.
  - Provide motorized access to heavily used and traditional dispersed sites and destinations.
  - Consider designating existing non-system routes that create loops, thru-routes, and/or bypass sensitive areas.
  - Review and evaluate previous decisions of OHV road closures and restrictions.
  - Review and evaluate the current assignment of maintenance levels of system roads, and modify where appropriate.

### Proposed Action

The Eldorado National Forest Supervisor proposes to designate National Forest System maintenance level 1 roads (“closed to vehicular traffic”), maintenance level 2 roads (“open for use by high clearance vehicles”), and system motorized trails open to specific types of public off-highway wheeled motor vehicle use and for season of use. Eldorado National Forest maintenance level 3, 4, and 5 system roads subject to the Federal Highway Safety Act are currently designated open to highway legal vehicles. The Forest Supervisor will not propose to redesignate these roads for off-highway wheeled motor vehicles; however, portions of these roads may be designated for combined use of highway legal and off-highway wheeled motor vehicles. The Forest Supervisor will also consider non-system motor vehicle routes in the current route inventory for designation as system roads or trails or specific types of public off-highway wheeled motor vehicle use and for season of use. Entire roads or road segments may be added to the road system or assigned a dual designation as

a National Forest System trail. This proposal specifically considers:

- Approximately 590 miles of maintenance level 1 roads to be designated as system trails for ATVs and/or motorcycles.
- Approximately 990 miles of maintenance level 2 roads to be designated for 4x4s, ATVs, and/or motorcycles.
- Approximately 130 miles of native surface maintenance level 3 roads to be reassigned as maintenance level 2 roads for 4x4s, ATVs, and/or motorcycles.
- Approximately 3 miles of maintenance level 3, 4, 5 roads to be designated for combined use of highway legal and off-highway wheeled motor vehicles.
- Approximately 136 miles of system motorized trails to be designated for ATVs and/or motorcycles.
- Approximately 11 miles of non-system routes in the current route inventory to be designated as maintenance level 2 roads for 4x4s, ATVs, and/or motorcycles.
- Approximately 3 miles of non-system routes in the current route inventory to be designated as system trails for ATVs and/or motorcycles.

All routes designated for public off-highway wheeled motor vehicle use will meet the standards and guidelines in the ENF LRMP as amended by the SNFPA. All native surface routes designated for public off-highway wheeled motor vehicle use will be closed from November 1 to May 1 each year. Inventoried routes not selected for designation for public off-highway wheeled motor vehicle use will be closed to public wheeled motor vehicles year round. The Rock Creek multi-use trail area on the Eldorado National Forest is not affected by this decision and is outside the scope of the project. Travel off of designated routes will be prohibited. Such designations and restrictions will be implemented by a issuing a forest order, pursuant to 36 CFR 261.

This proposal involves the designation of routes only and in no way authorizes any ground disturbing activities, including: (1) The construction of new routes; (2) the deconstruction or decommissioning of inventoried routes; (3) the reconstruction of road or trails; (4) the construction of trailheads, staging areas, or parking areas; (5) the installation of gates or barriers; (6) restoration/rehabilitation projects; or (7) wheeled motor vehicle use of dispersed camping sites.

The following uses are not affected by this decision and are outside the scope of the project: (1) Highway legal (non-

green sticker) vehicle use of National Forest System roads subject to the Federal Highway Safety Act, as well as state and county roads; (2) snowmobiles; (3) aircraft; (4) watercraft; (5) non-motorized uses (e.g. hiking, equestrian, mountain bikes); (6) search and rescue operations; (7) firefighting operations and other emergency incident operations; (8) law enforcement operations; (9) special events (event only trails); (10) permitted uses (e.g. woodcutting, livestock herding/fence maintenance); (11) administrative access; (12) government contractors (e.g. timber, construction, and service contractors); and Homeland Security and Defense Department operations; (13) access by wheelchairs (motorized or non-motorized); (14) legal ingress and egress to private land; (15) RS 2477 claims and processes; (16) the Rock Creek multi-use trail area (under separate EIS and supplement); (17) the designation of inventoried roadless areas or proposed wilderness additions; and (18) changes to ENF LRMP land-use allocations.

#### Responsible Official

John D. Berry, Forest Supervisor, Eldorado National Forest, 100 Forni Road, Placerville, CA 95667.

#### Nature of Decision To Be Made

The responsible official will decide whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to designate a portion of the inventoried routes on the Eldorado National Forest open to public off-highway wheeled motor vehicle use, and assign the type of use(s) and season of use allowed on each road and trail or portion thereof. Inventoried routes not selected for designation for public off-highway wheeled motor vehicle use will be closed to all wheeled motor vehicles year round. The Rock Creek multi-use trail area on the Eldorado National Forest is not affected by this decision and is outside the scope of the project. Travel off of designated routes will be prohibited. Such designations and restrictions will be implemented by a issuing a forest order (pursuant to 36 CFR 261).

#### Scoping Process

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.

The Notice of Intent is expected to be published in the **Federal Register** on October 29, 2005. The comment period on the proposed action will extend 30 days from the date the Notice of Intent is published in the **Federal Register**.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by June 2006. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will extend 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 final EIS is scheduled to be completed in October 2006. 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 route designation. Substantive comments are defined as "comments within the scope of the proposed action, specific to the proposed action, and have a direct relationship to the proposed action, and include supporting reasons for the Responsible Official to consider" (36 CFR 215.2). Submission of substantive comments is a prerequisite for eligibility to appeal under the 36 CFR part 215 regulations.

#### Early Notice of Importance of Public Participation in Subsequent Environmental Review

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 supplemental 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 supplemental environmental impact statement stage but that are not raised until after completion of the final supplemental 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 supplemental environmental impact statement.

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 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.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposed and will be available for public inspection.

**Authority:** 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: October 20, 2005.

**John D. Berry,**

*Forest Supervisor.*

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### **Rocky Mountain Region; Grand Mesa, Uncompahgre and Gunnison National Forest; Mesa County, CO; Hunter Reservoir Expansion Project**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** In order to provide additional water storage capacity for a growing population in the Grand Junction Area, Ute Water Conservancy District (UWCD) is proposing to enlarge Hunter Reservoir while also addressing dam safety issues. The existing reservoir is 16 surface acres. The proposed expanded reservoir would be approximately 80 surface acres.

**DATES:** Comments concerning the scope of the analysis must be received by November 28, 2005. The draft environmental impact statement is expected in March 2006 and the final environmental impact statement is expected in September 2006.

**ADDRESSES:** Send written comments to Hunter Reservoir Project, Grand Valley Ranger district, 2777 Crossroads Blvd, Unit 1, Grand Junction, Colorado 81506.

**FOR FURTHER INFORMATION CONTACT:** Carrie Surber, Team leader at [csurber@fs.fed.us](mailto:csurber@fs.fed.us) or (970) 242-8211.

**SUPPLEMENTARY INFORMATION:** Ute Water Conservancy District (UWCD) has decreed water rights for 110 acre-feet (AF) of storage in Hunter Reservoir located near the headwaters of Leon Creek. Leon Creek is located on the northern slopes of the Grand Mesa, a prominent geologic feature in Mesa, Delta and Gunnison Counties in western Colorado. The Hunter Reservoir project location is located approximately 11 miles south of Vega Reservoir in Section 27, T. 11 S., R. 93 W. Sixth Principle Meridian, Mesa County, Colorado.

UWCD also has conditional rights to store 582.5 AF more water at the Hunter Reservoir location. In addition to the Hunter Reservoir water rights, UWCD have conditional water rights for 5,650 AF of storage at a Big Park site, also in the Leon Creek drainage basin downstream of Hunter Reservoir. UWCD has determined that a new dam at the Big Park site would not be economically feasible for the volume of water they would be allowed to store. UWCD desires to perfect its Big Park conditional water rights at the Hunter Reservoir location by enlarging the existing dam and reservoir.

Irrespective of UWCD's storage and conditional water right desires, the Colorado Dam Safety Engineer is requiring UWCD to make structural improvements to the existing Hunter Reservoir dam in order to keep using that facility to store water.

UWCD would like to address both of these aspects of their water facility's management and responsibilities by enlarging the dam at Hunter Reservoir to both rectify dam safety concerns and put their conditional water rights to beneficial use.

The U.S.D.A Forest Service and the Army Corps of Engineers, as a requested cooperating agency, will prepare an Environmental Impact Statement (EIS) addressing the environmental consequences associated with rehabilitating the dam and enlarging the reservoir at the Hunter Reservoir location.

### Purpose and Need for Action

The purpose of the proposed action is to bring the Hunter Reservoir dam into compliance with Colorado Dam Safety requirements and to enlarge the storage capacity of the reservoir so that UWCD can make beneficial use of its existing and conditional water rights in the Leon Creek drainage basin.

The need for this combined action is to afford UWCD the ability to address both the dam safety and water right use aspects of their water facilities management and responsibilities in a manner that is environmentally, economically, and technically sound.

The dam safety issues at Hunter Reservoir go back as far as 1964 when state inspection reports began to identify safety concerns at the existing dam. These 1964 concerns and others have continued to worsen to the extent that actions to rectify dam safety problems must be addressed by UWCD to continue operations at Hunter Reservoir.

UWCD needs include providing a continued supply of water to meet the public needs for a service area that is experiencing continued and rapid growth. As a public utility, UWCD has a responsibility to operate and manage its facilities with respect to feature demand with sound environmental and economic management.

This proposed action will also meet the intent of the 2004 Memorandum of Understanding (MOU) between the Rocky Mountain Region of the Forest Service and the State of Colorado, which states, in part, that the State and Forest Service agree to explore creative ways to assure continued operation of water use facilities on NFS lands while protecting aquatic resources, that conflicts are best avoided by careful advance planning and a spirit of cooperation, and that reauthorization of existing water facilities will be done in cooperation and collaboration with the holders of the permits and with other parties such as local governments, tribes, and state and federal agencies, as appropriate.

### Proposed Action

The proposed action is to authorize Ute Water Conservancy District (UWCD) to enlarge Hunter Reservoir and rehabilitate the dam to address safety issues. The construction necessary to accomplish these actions is expected to take two summer seasons due to the high elevation of the Hunter Reservoir site. UWCD would like to begin construction in the summer of 2007 and anticipates completion at the end of the summer in 2008.