

the Forest. A given herbicide may be effective on many target species but each site would usually be treated with only one of the ten approved herbicides (some tank mixes may be used); however, a different herbicide might be used in a follow-up treatment. The more herbicides choices in the toolbox, the better the effect expected over time (R6 2005 FEIS page 4–18, 4–26).

A site-specific, non-significant amendment to the Malheur Forest Plan is also proposed to add an 11th herbicide, aminopyralid, to the list of authorized herbicides for use on the Forest to treat invasive plants. Aminopyralid was not labeled for wildland use in 2005; however, the R6 2005 ROD Standard 16 acknowledges that new herbicides may be added given proper analysis. Aminopyralid has undergone extensive risk assessment since 2005. It is proposed for use because it would increase the effectiveness of treatment for some broadleaf target species, and reduce potential adverse impacts, compared to herbicides authorized in the R6 2005 ROD. Aminopyralid is likely to be effective on a large proportion of the current target species acreage.

Possible Alternatives

The Forest Service is considering an alternative of treating without the use of aminopyralid and only using the 10 herbicides approved in the R6 2005 ROD. The No Action alternative will also be considered, which would continue the current non-herbicide program on the Malheur National Forest.

Responsible Official

The Responsible Official is the Malheur National Forest Supervisor.

Nature of Decision To Be Made

The Forest Supervisor will make the following decisions based on the interdisciplinary analysis: (1) Whether or not to authorize site-specific invasive plant treatments using herbicides and other methods; (2) whether or not to implement an Early Detection and Rapid Response process for infestations that are detected over the next 5 to 15 years; (3) what mitigation measures (design features) are required and (4) what monitoring and adaptive management will occur.

Preliminary Issues

The following issues were identified in scoping that occurred in 2006:

Human Health: The health of forestry workers and the public may be at risk from exposure to herbicides. Chemical spray drift or contact by walking

through recently sprayed areas may increase the risk, particularly to people who have heightened sensitivity to chemicals. In addition, health consequences could result from well water and other drinking water contaminated by herbicides.

Treatment Effectiveness: Existing invasive species populations may continue to expand and new populations could become established without using all methods aggressively.

Wildlife: Herbicides, particularly when applied through broadcast spraying, may harm terrestrial wildlife species.

Non-target Plants: Herbicides, particularly when applied through broadcast spraying, may harm non-target plants.

Soil Biology: Herbicide use may harm soil organisms or soil biology.

Fish and Water: Herbicide treatments on riparian areas have the potential to adversely affect water quality and aquatic ecosystems.

Permits or Licenses Required

Pesticide application licenses will be required for those implementing this project. Pesticide Use Proposals for wilderness herbicide applications need to be signed by the Regional Forester; otherwise Pesticide Use Proposals are signed by the Forest Supervisor. This project may involve riparian herbicide application subject to a Department of Environmental Quality water quality permit.

Scoping Process

This notice of intent initiates a new scoping process to guide the development of the environmental impact statement. Scoping comments from 2006 are part of the record and will be used to generate issues and alternatives for detailed study in the EIS. Scoping comments sent previously need not be re-sent; new comments are also welcome. No public meetings are planned.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, those who only

submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215.

Dated: March 28, 2011.

Teresa Raaf,

Forest Supervisor.

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DEPARTMENT OF AGRICULTURE

Forest Service

Prince William Sound Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Prince William Sound Resource Advisory Committee will meet in Whittier, Alaska. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110-343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to review, discuss and select projects to be funded thru the Secure Rural Schools Act.

DATES: The meeting will be held April 22nd and April 23rd, 2011.

ADDRESSES: The meeting will be held on the 15th floor of the Begich Towers Inc. building located at 100 Kenai Street, Whittier, AK. Written comments should be sent to Teresa Benson P.O. Box 280, Cordova, AK 99574. Comments may also be sent via e-mail to tbenson@fs.fed.us, or via facsimile to (907) 424-7214.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Cordova Ranger District (612 2nd Street, Cordova, AK) or the Glacier Ranger District (145 Forest Station Road, Girdwood, AK).

FOR FURTHER INFORMATION CONTACT: Teresa Benson, Designated Federal Official, c/o USDA Forest Service, P.O. Box 280, Cordova, Alaska 99574, telephone (907) 424-4742.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: The Prince William Sound Resource Advisory Committee (RAC) will be discussing and voting on proposals that have been received from communities of the Prince William Sound. The proposals that may receive funding would enhance forest ecosystems or restore and improve land health and water quality on the Chugach National

Forest and other near-by lands including the communities of Chenega, Cordova, Tatitlek, Valdez and Whittier. The RAC is responsible for approving projects with funds made available from years 2008–2012.

The public is welcome to attend the April 22–23 RAC meeting. Committee discussion is limited to Forest Service staff and Committee members. However, public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by April 21st will have the opportunity to address the Committee at those sessions.

Dated: March 23, 2011.

Teresa M. Benson,
District Ranger.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[10–BIS–0001]

Manoj Bhayana, Respondent; Final Decision and Order

This matter is before me upon a Recommended Decision and Order (“RDO”) of an Administrative Law Judge (“ALJ”), as further described below.¹

I. Background

As discussed in the RDO, the allegations in this case stem from an investigation by the Bureau of Industry and Security (“BIS”) of a sale and (unlicensed) export of graphite rods and pipes from the United States to Pakistan, via the United Arab Emirates (“UAE”), in which Respondent Manoj

Bhayana directly participated. *See* RDO, at 2, 4. During the investigation, BIS sought to determine, *inter alia*, the type of graphite that had been exported by SparesGlobal, Inc. (“SparesGlobal”), of Pittsburgh, Pennsylvania, and the ultimate end-user of the items. Respondent was SparesGlobal’s primary sales representative for the transaction, working directly with the U.S. supplier (Ameri-Source, Inc.) and freight forwarder (K.C. International Transport, Inc.), and with SparesGlobal’s customer (Taif Trading, LLC), a trading company located in Dubai, UAE. *See* RDO, at 4–5; Order Partially Granting BIS’s Motion for Summary Decision, at 3, 5.²

The transaction documentation included a mill test certificate certifying that the graphite being exported met the specifications for a type of graphite (CS grade extruded graphite) produced by UCAR Carbon Company, doing business as GrafTech International Ltd. (“UCAR/GrafTech”). As he later admitted, Respondent Bhayana knew that the exported graphite items were not UCAR graphite and had not been produced by UCAR/GrafTech. He also knew that the mill test certificate, which was on UCAR/GrafTech letterhead, had been created at Ameri-Source, Inc. (“Ameri-Source”), not by UCAR/GrafTech. Respondent sent the mill test certificate to the freight forwarder to facilitate the export, which occurred in December 2003. RDO, at 4–5.

During the course of BIS’s investigation of this matter, in a September 7, 2004 e-mail to a BIS Special Agent, Respondent denied having any knowledge of the origin of the mill test certificate. Following months of additional investigation, BIS executed a search warrant at SparesGlobal in November 2004. Bhayana was present and was interviewed by BIS Special Agents. During that interview, Respondent provided the mill test certificate in response to the Special Agents’ questions about the exported items, knowing, but not informing the agents, that the certificate contained false and misleading information. *See* RDO, at 5–6.

In a Charging Letter issued on January 15, 2010, BIS alleged that Respondent Bhayana had committed two violations of the Export Administration Regulations (“EAR” or “Regulations”).³

² *See* note 1, *supra*.

³ The Regulations, which are currently codified at 15 CFR parts 730–774 (2010), were issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (the “Act”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783

Charge One alleged that Respondent had violated Section 764.2(b) of the Regulations when he caused, aided or abetted the submission of a false and misleading SED. In Charge Two, the remaining charge at issue here,⁴ BIS alleged that respondent violated Section 764.2(g) by making false and misleading statements to BIS Special Agents during the course of a BIS investigation.

Charge Two alleged, in full, as follows:

Charge 2: 15 CFR 764.2(g): False Statement Made to BIS During an Investigation

Bhayana made false and misleading representations and statements in the course of a BIS investigation. On or about September 8, 2004, a BIS Special Agent asked about the mill certificate relating to the Shipper’s Export Declaration (SED) filed on December 2, 2003, and referenced in Charge 1 above. In an e-mailed response to the Special Agent, Bhayana stated: “The test certificate was provided by [our supplier] to us. We do not have any knowledge about its origin.” On or about November 3, 2004, Bhayana was again asked about the mill certificate during an in-person interview with BIS Special Agents, and again provided copies of this forged mill certificate to the Special Agents. During this interview, Bhayana also gave the BIS Special Agents a signed written statement referencing the mill test certificate specifications or “specs,” in which, he indicated, “These specs which are being submitted here [to the Special Agents] are the material specs which were shipped under this shipment.” In fact, Bhayana had worked with others to create the forged mill certificate falsifying the type of graphite rod being exported and knew that the certificate contained false information when he provided it to the Special Agents. When confronted later in the same interview by the Special Agents with evidence that the certificate had been forged, Bhayana signed a second written statement. In this second signed statement, Bhayana admitted that his earlier statements to the Special Agents were false. Specifically, Bhayana admitted that SparesGlobal’s supplier, Ameri-Source, Inc., which was not the actual manufacturer or distributor of GrafTech’s UCAR graphite, “suppl[ie]d * * * the certificate on [GrafTech] UCAR letterhead showing the [false] specs and mill test reports,” and then “prepared some certificate and faxed it to us for the approval.” In so doing, Bhayana committed one violation of Section 764.2(g) of the Regulations.

(2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2010 (75 FR 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*). The violation remaining at issue in this case occurred in 2004. The Regulations governing the violation at issue are found in the 2004 version of the Code of Federal Regulations (15 CFR parts 730–774 (2004)). The 2010 Regulations govern the procedural aspects of this case.

⁴ As referenced *supra* at note 1 and as discussed further *infra*, BIS withdrew Charge One after BIS had moved for and been granted summary decision as to Charge Two.

¹ I received the certified record from the ALJ, including the original copy of the RDO, for my review on March 1, 2011. The RDO is dated February 28, 2011, and incorporates the ALJ’s October 12, 2010 Order Partially Granting BIS’s Motion for Summary Decision. As discussed further *infra*, BIS moved for summary decision as to Charge Two of the Charging Letter in July 2010. The Order Partially Granting BIS’s Motion for Summary Decision granted BIS summary decision on Charge Two, but reserved ruling as to the recommended sanction because Charge One was still pending. In order to expedite resolution of this matter, BIS withdrew Charge One in November 2010. The Order Partially Granting BIS’s Motion for Summary Decision is part of the RDO, but where that Order is cited, for ease of reference, the citations are made directly to the pertinent pages of that Order, rather than citing it as an attachment to the RDO.