

# Notices

Federal Register

Vol. 70, No. 78

Monday, April 25, 2005

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

#### Idaho Panhandle National Forest, Idaho—Bussel 484 Project EIS

**AGENCY:** Forest Service, USDA.

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

**SUMMARY:** The Forest Service will prepare an environmental impact statement on a proposal of ecosystem management in the Bussel 484 Project Area, which is approximately 14,600 acres in size. Opportunities were developed through a comparison of existing project area conditions with desired future conditions for all the resources in the project area. The proposed action was developed utilizing the Idaho Panhandle National Forest Plan, a roads analysis, an ecosystem assessment at the watershed scale, findings from the St. Joe Geographic Assessment and the Upper Columbia River Basin Assessment, the National Fire Plan along with trends observed by interdisciplinary specialists conducting on-the-ground assessments.

**DATES:** Comments concerning the scope of the analysis must be received within 60 days of publication of this notice in the **Federal Register**. The draft environmental impact statement is expected to be available for public review in November 2005, and the final environmental impact statement is expected to be completed in 2006.

**ADDRESSES:** Send written comments to Charles Mark, District Ranger, St. Joe Ranger District, 222 South 7th Street Suite 1, St. Maries, Idaho 83861 or electronically to [chudson@fs.fed.us](mailto:chudson@fs.fed.us). For further information, mail correspondence to Cornie Hudson, Bussel 484 EIS Team Leader at the address listed above. Information on this project can also be found on the Internet by going to <http://www.fs.fed.us/pnf/> and looking under

Ecosystems, Management, Index of NEPA Projects and St. Joe Ranger District.

**FOR FURTHER INFORMATION CONTACT:** Connie Hudson—Bussel 484 Project Team Leader, 208–245–2531.

#### SUPPLEMENTARY INFORMATION:

##### Purpose and Need for Action

The Forest Service is proposing this project in order to restore and accelerate the development of early seral, shade-intolerant species (western white pine and western larch); promote and maintain mature forests with large trees; reduce stand densities to minimize stresses and disturbance risks; reduce the potential for large, severe wild fires while promoting conditions for safe and effective control of fires; provide fire protection to Bonneville Power Administration transmission line; provide wood products for the local timber dependent economy; maintain access to National Forest System lands now and in the future while reducing resource damage, protecting cultural resources, providing recreation opportunities, clarifying motorized and non-motorized access, providing wildlife security acres in the project area, improving aquatic habitat conditions, improving watershed conditions, reducing road maintenance costs, reducing possibilities of new weed establishment, and promoting sites that are less suitable for weeds; work towards restoring Bear Creek and Little Bear Creek to water quality that supports designated beneficial uses; and improve stream habitat and riparian conditions in project area streams.

##### Proposed Action

The proposed action includes timber harvest; road construction; storage, and decommissioning; natural and activity fuels reduction; tree and shrub planting; access management changes; and woody debris placement in streams in the Bussel 484 Project Area.

##### Responsible Official

Ranotta K. McNair, Forest Supervisor, Idaho Panhandle National Forests, 3815 Schreiber Way, Coeur D'Alene, Idaho 83815.

##### Nature of Decision To Be Made

The St. Joe Ranger District will prepare the EIS. The Forest Supervisor of the Idaho Panhandle National Forests

will decide whether to implement this project, and if so, in what manner. The decision will be documented in a Record of Decision (ROD).

##### Scoping Process

The project was listed on the Idaho Panhandle National Forests Quarterly Schedule of Proposed Actions in January 2005. Public scoping packages describing the proposed action were mailed to the Bussel 484 Project mailing list on April 19, 2005. No public meetings are currently scheduled.

##### Preliminary Issues

Preliminary issues raised during the development of the proposed action include effects to water quality from motorized vehicles entering Norton Creek while using the Norton Creek Railroad Grade; controversy over changes in access management including loss of motorized access on roads and trails and implementation of an area restriction which would prohibit cross country motorized travel; and removal of site nutrients with vegetative and fuel treatment activities.

##### Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. Public participation in this analysis is welcome at any time; comments received within 60 days of publication of this notice will be especially useful in the preparation of the Draft EIS.

##### 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 environment 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 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 Regulation 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.

Dated: April 18, 2005.

**Ranotta K. McNair,**

*Forest Supervisor, Idaho Panhandle National Forests.*

[FR Doc. 05-8172 Filed 4-22-05; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 010604A]

#### Taking Marine Mammals Incidental to Specified Activities; Port of Miami Construction Project (Phase II)

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with provisions of the Marine Mammal Protection Act (MMPA), notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the U.S. Army Corps of Engineers-Jacksonville District (Corps) to take bottlenose dolphins (*Tursiops truncatus*), by harassment, incidental to deepening the Dodge-Lummus Island Turning Basin in Miami, FL (Turning Basin).

**DATES:** This authorization is effective from April 19, 2005, through April 18, 2006.

**ADDRESSES:** A copy of the application may be obtained by writing to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Species, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Md 20910, or by telephoning the contact listed here. Documents cited in this notice may be viewed, by appointment, during regular business hours, at this address.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, NMFS, (301) 713-2055, ext 128.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

#### Summary of IHA Request

On December 1, 2003, NMFS received a request from the Corps for a renewal of an IHA to take bottlenose dolphins incidental to using blasting while deepening the Turning Basin in the Port of Miami, south of Dodge-Lummus Island. An IHA for this activity was issued to the Corps previously on May 22, 2003 (68 FR 32016, May 29, 2003). This IHA expired on May 21, 2004. Since the work in the Turning Basin did not occur during that period, a new IHA is warranted.

The Port of Miami is one of the major terminal complexes in Florida. The majority of this tonnage is high-value general cargo transported in trailers and containers. The Port also accommodates a large cruise ship industry. Development has primarily centered on the Lummus Island terminal and container complex facilities. Expanding and deepening the Turning Basin would eliminate the need for vessels docked at Lummus Island to back to or from the Fisher Island Turning Basin.

Completion of the dredging project may employ a hopper dredge, clamshell dredge, cutterhead dredge and/or confined blasting. The dredging will remove 1.4 million cubic yards of material from an area 1,500 ft (457.2 m) in diameter. The Corps has contracted for dredging the Turning Basin to a maximum depth of 42 ft (12.8 m) plus a 2 ft (0.61 m) overdepth. Material removed from the dredging will be placed in the Miami Ocean Dredged Material Disposal Site.