

(3410-11)

**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**Bend/Ft. Rock Ranger District; Deschutes National Forest; Oregon; Kapka Butte Sno-Park  
Construction**

**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 proposed action to construct a sno-park, designate motorized and non-motorized over-snow trails to link the parking facility to existing snowmobile and nordic trail systems, and designate new over-snow dog-friendly snowshoe and skier trails to enhance recreational opportunities from the new facility. The proposed sno-park would be located on National Forest lands between Kapka Butte and the junction of Forest Road 46 (Cascade Lakes Highway) and Forest Road 45 (Sunriver cutoff). The proposed sno-park area is located about 30 miles west of Bend, Oregon; it is located in Section 35, Township 18S, Range 9E. The alternatives will include the proposed action, no action, and additional alternatives that respond to issues generated through the scoping process. The agency will give notice of the full environmental analysis and decision making process so interested and affected people may participate and contribute to the final decision.

**DATES:** Comments concerning the scope of the analysis must be received by 30 days following the date that this notice appears in the Federal Register.

**ADDRESSES:** Send written comments to Shane Jeffries, District Ranger, Bend/Ft. Rock Ranger District, 1230 NE 3<sup>rd</sup> St., Suite A-262, Bend, OR 97701.

**FOR FURTHER INFORMATION CONTACT:** Marv Lang, Project Leader, Bend/Ft. Rock Ranger District, 1230 NE 3<sup>rd</sup> St., Suite A-262, Bend, Oregon, 97701, phone (541) 383-4793. E-mail melang@fs.fed.us.

**Responsible Official.** The responsible official will be Shane Jeffries, District Ranger, Bend-Fort Rock Ranger District, 1230 NE Third St., Ste. A-262, Bend, OR 97701.

**SUPPLEMENTAL INFORMATION:**

**Purpose and Need.** The Deschutes National Forest sees a need to provide high elevation parking that will enhance a variety of winter recreation opportunities near Mt Bachelor. On most weekend and holiday periods during the wintertime near Mt. Bachelor, it is not unusual to see parking lots full of vehicles, causing over-flow parking in inappropriate locations such as chain-up areas. This has been a progressive condition since the mid-1990s and has reached a point where it has become a public safety concern. More winter uses, such as snowshoeing, backcountry skiing and skijoring, have become more popular in recent years. These newer uses on top of the already high use that the area near Mt. Bachelor receives have created the congestion that occurs at all of the sno-parks. A result of the crowded conditions is inappropriate parking along the Cascade Lake Highway during weekends and holidays, causing traffic problems for the traveling public, emergency vehicles, and snow plowing equipment. This persistent condition demonstrates a need for additional safe parking facilities that provide access to over snow trail systems during more marginal snow conditions than the lower elevation sno-parks currently provide. It's also important that this occurs in a location where regular snowplowing can also be accomplished in an economically feasible manner.

**Proposed Action.** The Forest Service is proposing to build a new sno-park near Kapka Butte to provide more high elevation parking for winter recreationists along an established snowplowing route. The proposed facility would provide for a mix of vehicle parking, including vehicles towing trailers and some slots designed for smaller vehicles. The proposed parking facility would include approximately 70 slots for trailers, and 40 slots for non-trailer vehicles. Trail links to existing snowmobile and nordic trails would also be provided as well as new proposed trails for nordic skiing, snowshoeing and skiing with dogs.

**Comment.** Public comments about this proposal are requested in order to assist in identifying issues, determine how to best manage the resources, and to focus the analysis. Comments received to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

A draft EIS will be filed with the Environmental Protection Agency (EPA) and available for public review by Spring 2009. The EPA will publish a Notice of Availability (NOA) of the draft EIS in the Federal Register. The final EIS is scheduled to be available Autumn 2009.

The comment period on the draft EIS will be 45 days from the date the EPA 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 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. 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 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 statement. Comments may also address the adequacy of the draft EIS of 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.

In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. The Forest Service is the lead agency and the responsible official is the Bend-Fort Rock District Ranger, Deschutes National Forest. The responsible official will decide where, and whether or not to construct the sno-park and

associated trails. The responsible official will also decide how to mitigate impacts of these actions and will determine when and how monitoring of effects will take place.

The Kapka Butte Sno-park Project decision and the reasons for the decision will be documented in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (35 CFR Part 215).

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SHANE JEFFRIES  
District Ranger