

# Notices

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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

#### White River National Forest, Eagle/Holy Cross Ranger District, Eagle County, CO; Edwards Inholding Easement Proposal

**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) to disclose the anticipated environmental effects of a proposal to approve a permanent easement across National Forest System (NFS) lands for access to a 680-acre private inholding. The private land is entirely surrounded by NFS lands managed by the White River National Forest (WRNF). The proposed easement would provide year-round motorized access to the private inholding, enabling the owner "reasonable use and enjoyment" of the parcel as required by the Alaska National Interest Lands Conservation Act (ANILCA) of 1980.

**DATES:** Comments concerning the scope of the analysis must be received by February 19, 2009. The draft EIS is expected to be released in summer 2009 and the final EIS is expected in early 2010.

**ADDRESSES:** Send written comments to Brian Lloyd, District Ranger, Holy Cross Ranger District, P.O. Box 190, Minturn, CO 81645. Comments may also be sent via e-mail to [wrnf\\_scoping\\_comments@fs.fed.us](mailto:wrnf_scoping_comments@fs.fed.us), or via facsimile to (970) 827-9343.

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, anonymous comments will not provide the

respondent with standing to appeal the subsequent decision.

**FOR FURTHER INFORMATION CONTACT:**

Brian Lloyd,  
[wrnf\\_scoping\\_comments@fs.fed.us](mailto:wrnf_scoping_comments@fs.fed.us).  
Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The property is located approximately 1.25 miles north of the I-70 Edwards interchange and is currently accessible in the summer months via Forest System Road (FSR) 774 and FSR 780. A 0.8-mile segment of FSR 780 traverses the southeastern leg of the private land inholding.

**Purpose and Need for Action**

The owner of the 680-acre inholding (the Proponent) plans to exercise their legal right to plat this private land into 19 individual lots (each 35 acres in size or greater) for development of a low-density, year-round residential community. As such, development of the inholding into a viable residential community requires year-round, vehicular access across NFS lands. Per ANILCA, the WRNF is obligated to " \* \* \* provide such access to nonfederally owned land within the boundaries of the National Forest System \* \* \* to secure the owner reasonable use and enjoyment thereof \* \* \*" (16 U.S.C. 3210, Title I, § 1323). Therefore, the purpose and need of this proposal is rooted in the Forest Service's legal obligations under ANILCA.

**Proposed Action**

The Proposed Action would satisfy the Forest Service's minimum obligations to accommodate "reasonable use and enjoyment" under ANILCA. Issuance of a permanent easement would provide year-round motorized access to the private inholding, thus enabling the owner to develop it as legally entitled. The easement would be for reconstruction and use of two existing Forest System roads—FSR 774 and FSR 780. The total length of the easement on NFS lands (FSR 774 and FSR 780) would be approximately 2.6 miles (approximately 13,550 feet). The easement would include:

- 1.1 miles on FSR 774 (beginning at the Forest Service gate at the beginning of FSR 774 and would be followed until its intersection with FSR 780),

- 1.5 miles on FSR 780 (until it intersects the lower southeastern leg of the inholding).

FSR 774 and FSR 780 would be placed within a permanent easement and paved/maintained for homeowners' year-round use; the public would continue to have access to these roads consistent with the current seasonal closures.

This alignment would provide access to the southeastern portion of the inholding. Conceptually, an additional 5.5 miles of private road would be constructed throughout the eastern and northern portions of the private inholding to accommodate access to each of the 19 lots. Road construction within the inholding is not within the jurisdiction of the Forest Service.

**Responsible Official**

The Responsible Official is the WRNF Supervisor. The Responsible Official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal under 36 CFR part 215 or part 251.

**Nature of Decision To Be Made**

Based on the analysis that will be documented in the forthcoming EIS, the Responsible Official will decide whether or not to implement, in whole or in part, the Proposed Action or another alternative developed by the Forest Service.

**Preliminary Issues**

As indicated in the 2002 WRNF Land and Resource Management Plan (Forest Plan), NFS lands in the vicinity of the private inholding are within two Management Areas (MA): 5.41—Deer and Elk Winter Range, and 8.32—Designated Utility Corridors. Per MA 5.41, deer and elk winter ranges are managed to provide adequate amounts of quality forage, cover and solitude for deer, elk, and other species. Consistent with management direction in MA 5.41, human activities are managed so that deer and elk can effectively use NFS lands in the area.

Due to the existence of NFS lands managed in MA 5.41, motorized travel, including over-the-snow vehicles, on FSR 774 and FSR 780 is restricted during winter and spring. Granting a

year-round easement could result in an inconsistency with Forest Plan standards for MA 5.41. In order to approve road reconstruction and year-round access to the inholding across NFS lands, an amendment to the Forest Plan would be necessary. This amendment would be specific to standards included in MA 5.41 related to biodiversity and infrastructure.

#### Permits or Licenses Required

- An Eagle County grading permit(s) would be required for road construction on NFS and private lands.
- Building construction permits would be required for individual buildings on each lot.

#### Scoping Process

Publication of a Notice of Intent (NOI) in the **Federal Register** begins the planning process under provisions of the National Environmental Policy Act. Comments will be accepted during the 45-day scoping period as described in this NOI. Comments will be reviewed and issues identified. Issues that cannot be resolved by mitigation or minor changes to the proposed action may generate alternatives to the proposed action. This process is driven by comments received from the public, other agencies, and internal Forest Service concerns. To assist in commenting, a scoping letter providing more detailed information on the project proposal (including a map) has been prepared and is available to interested parties. Contact Brian Lloyd, District Ranger, at the address listed in this NOI if you would like to receive a copy.

#### Comment Requested

This notice of intent initiates the scoping process that guides the development of the environmental impact statement. Comments that are site-specific in nature are most helpful to resource professionals when trying to narrow and address the public's issues and concerns.

#### 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, 553 (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.

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. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative appeal or judicial review.

Dated: January 6, 2009.

**Mary Morgan,**

*White River National Forest Supervisor.*

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**BILLING CODE 3410-11-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### National Urban and Community Forestry Advisory Council

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Urban and Community Forestry Advisory Council will meet in Washington DC, February 10-12, 2009. The purpose of the meeting is to discuss emerging issues in urban and community forestry and hear public input related to urban and community forestry.

**DATES:** The meeting will be held on February 10-11, 2009, 9 a.m. to 5 p.m. and February 12, 2009, 9 a.m. to 12 noon.

**ADDRESSES:** The meeting will be held at the Holiday Inn Capital, 550 C Street, SW., Washington, DC 20024, phone: 202-479-4000. Written comments concerning this meeting should be addressed to Nancy Stremple, Executive Staff to National Urban and Community Forestry Advisory Council, 201 14th St. SW., Yates Building (1 Central) MS-1151, Washington, DC 20250-1151. Comments may also be sent via e-mail to [nstremple@fs.fed.us](mailto:nstremple@fs.fed.us), or via facsimile to 202-690-5792.

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 201 14th St., SW., Yates Building (1 Central) MS-1151, Washington, DC 20250-1151. Visitors are encouraged to call ahead to 202-205-1054 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Nancy Stremple, Executive Staff or Robert Prather, Staff Assistant to National Urban and Community Forestry Advisory Council, 201 14th St., SW., Yates Building (1 Central) MS-1151, Washington, DC 20250-1151, phone 202-205-1054.

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**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Council discussion is limited to Forest Service staff and Council members; however, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff (201 14th St., SW., Yates Building (1 Central)