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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### **Medicine Bow-Routt National Forests and Thunder Basin National Grassland;**

#### **Wyoming; Thunder Basin National Grassland Prairie Dog Amendment**

**AGENCY:** Forest Service, USDA.

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

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**SUMMARY:** The Forest Service intends to prepare an environmental impact statement to analyze and disclose the environmental effects of amending the 2001 Thunder Basin National Grassland Plan to modify Categories 1 and 2 of the 2009 Prairie Dog Management Strategy. The amendment is being proposed to address continuing concerns regarding prairie dog management, raised by the State of Wyoming (April 17, 2013). The Forest Service also proposes to make minor modifications to the 2009 Prairie Dog Management Strategy, as detailed below in the Proposed Action section.

**DATES:** Comments concerning the scope of the analysis must be received by **[Insert date 45 days from the date of publication in the FEDERAL REGISTER]**.

**ADDRESSES:** Written comments concerning this notice should be addressed to Responsible Official, Douglas Ranger District, 2250 East Richards Street, Douglas, Wyoming 82633. Comments may also be sent via email to [comments-rm-mbr-douglas-thunder-basin@fs.fed.us](mailto:comments-rm-mbr-douglas-thunder-basin@fs.fed.us) or via facimile to (307) 358-7107.

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 address provided above. Visitors are encouraged to call ahead (307-358-4690) to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Thomas Whitford, District Ranger, Douglas Ranger District, Medicine Bow-Routt National Forests and Thunder Basin National Grassland. Telephone: (307) 358-4690.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** In 2009 the Douglas Ranger District completed a Black-tailed Prairie Dog (BTPD) Management Strategy (2009 Strategy) for the Thunder Basin National Grassland (TBNG). The 2009 Strategy was developed collaboratively with the Thunder Basin Grassland Prairie Ecosystem Association (TBGPEA - a landowner/grazing association group), Wyoming Game and Fish Department, Bureau of Land Management, U.S. Fish and Wildlife Service, and other groups and required an amendment to the 2001 TBNG Land and Resource Management Plan (Grassland Plan). The amendment included a variety of management tools to provide for the conservation of black-tailed prairie dogs and their habitat on the TBNG and expanded the use of rodenticides beyond the strict limitations provided for in the 2001 Grassland Plan. These tools were intended to promote the expansion of prairie dogs in designated areas while allowing alternative approaches to reduce the impacts to private lands. The Final Environmental Impact Statement (Final EIS) was released on October 16, 2009 and the Record of Decision (ROD) was signed November 12, 2009. Although the ROD was appealed by two ranchers and one grazing association, the Decision was

upheld in February 2010.

Categories were developed in the 2009 Strategy to ensure prairie dog management at different levels to: 1) accommodate potential black-footed ferret reintroduction; 2) provide adequate habitat and broad geographic distribution to sustain viable populations of prairie dogs and their associated species across the TBNG; 3) distribute prairie dog populations to both mitigate the effects of a potential plague epizootic and provide a source for natural dispersal; and 4) accommodate differing levels of prairie dog control.

The Category 1 area was designed to be of an adequate size and spatial configuration to sustain viable populations of prairie dogs to support a population of potentially reintroduced black-footed ferrets. The primary objective of the Category 2 areas was to provide for viable populations of prairie dogs and their associated species, promoting ecological diversity at broader spatial scales on the grassland. Category 3 and 4 areas are similar in that they were intended as source areas for BTPDs in the event of a plague epizootic that could serve as natural dispersal populations. Categories 3 and 4 are made distinct by their geographical locations (i.e., Category 3 areas are south of Highway 450 and Category 4 areas are north of Highway 450). Prairie dog control measures are most highly regulated in the Category 1 area and become less regulated in the subsequent Categories.

Decision screens were also developed in the 2009 Strategy to identify “Decision Points” for the use of lethal and non-lethal management tools to control unwanted prairie dog population expansions off National Forest System lands. “Decision Points” were identified depending on the Category (1 – 4) and issues within the Category (e.g.,

proximity to private land and threats to public health and safety). The purpose of the decision screens was to provide a visual account of how decisions would be made in reference to the 2009 Strategy and to provide a clear and consistent decision-making process.

The 2009 Strategy further established control colonies to address human health and safety concerns around residences, as well as colony expansion onto private land outside of and near the boundaries of Categories 1, 2, 3, and 4. The control colonies were a product of negotiations with TBGPEA and the Forest Service; colonies are managed on a priority basis using a variety of control tools, with translocation being used when possible to augment colonies in Categories 1 and 2.

The Douglas Ranger District has been implementing the 2009 Prairie Dog Management Strategy for the last four years. Translocation, vegetation management through prescribed burns, fencing, and other non-lethal control and enhancement activities have been used. Implementation activities have generated conflict and controversy with some local landowners and grazing permittees, including a group called Rochelle Community Organization Working for Sustainability (RCOWS). RCOWS includes approximately 15 of the 175 permit holders on the TBNG. Although not widespread, these landowners have engaged actively with congressional staffs, the Governor's office, state agencies, county weed and pest control districts, and county commissions regarding concerns with how the Strategy is being implemented.

In February of 2012, a representative of RCOWS highlighted an error found in the text of the 2009 ROD under the description of the Category 3 colonies. The reference in the ROD to Category 3 areas falling "*south of Highway 450 and East of R67W*" does not

match the maps provided in either the Final EIS or the ROD; these maps depict Category 3 areas West of R67W. After investigation, it was determined that the language, as stated in the ROD (“East of R67W”), is a typographical error that was consistently used throughout the Final EIS, ROD, and 2009 Strategy to describe the location of Category 3 areas. Since the error was brought to light, the Forest Service has been working with the State of Wyoming and other affected landowners to address the error and to highlight additional measures that could be taken to modify the 2009 Prairie Dog Management Strategy.

In April of 2013, the State of Wyoming submitted a proposal to the Forest Service requesting an amendment to the 2009 Prairie Dog Management Strategy. Specifically, the State’s proposal requests the establishment of a ¼ mile buffer around all private and state lands within and adjacent to Category 1 and 2 areas. The proposal further requests that all management tools be available for use within the buffer (including the expansion of poisons) to control and prevent unwanted prairie dog colonies from encroaching onto adjacent private and state lands. The State’s proposal goes beyond just fixing the identified East/West error and highlighting additional measures that could be taken to modify the 2009 Prairie Dog Management Strategy, as described in the previous paragraph. It is a revised strategy designed to “increase management flexibility, protect landowners, and support prairie dog populations on the TBNG” (State of Wyoming, April 17, 2013).

### **Estimated Dates**

The draft environmental impact statement is expected in April 2014 and the final environmental impact statements is expected in August 2014.

## **Purpose and Need for Action**

The purpose of this project is to:

- 1) Respond to specific concerns from the State of Wyoming relative to prairie dog management on the TBNG;
- 2) Ensure habitat requirements are met and necessary acreages are provided to support viable populations of prairie dogs and their associated species on the TBNG;
- 3) Correct an error identified in the 2009 Prairie Dog Management Strategy ROD (p. 6) under the description of Category 3 areas (i.e., The reference in the ROD to Category 3 areas falling “*south of Highway 450 and East of R67W*” does not match the maps provided in either the Final EIS or the ROD; these maps depict Category 3 areas West of R67W); and
- 4) Clarify elements of the 2009 Prairie Dog Management Strategy and consolidate Prairie Dog Management Strategy Categories 3 and 4 into a single ‘Category’ with corresponding management objectives.

The project is needed to:

- Decrease the potential expansion of prairie dog colonies onto adjacent private and/or state lands in Prairie Dog Management Categories 1 and 2 through boundary management;
- Ensure consistency with the current Wyoming Game and Fish Department Prairie Dog Translocation Policy;

- Maintain sufficient acres of prairie dog habitat: a) to support black-footed ferret reintroduction; b) to support other dependent species; and c) to maintain Region 2 sensitive species, consistent with Forest Service policy and direction;
- Ensure that lands added through future land exchanges and/or acquisitions would be managed in relation to the Prairie Dog Management Strategy; and
- Eliminate designated control colonies, as identified in the 2009 Prairie Dog Management Strategy.

### **Proposed Action**

The Forest Service proposes to amend the 2001 Grassland Plan to modify Categories 1 and 2 of the 2009 Prairie Dog Management Strategy based on continuing management concerns raised by the State of Wyoming (April 17, 2013). Specifically, the Forest Service will consider:

1. Establishing a ¼ mile buffer around all private and state land and control prairie dogs within the buffer;
2. Modifying existing management tool options to allow shooting and the use of rodenticides, including anticoagulant rodenticides, within the ¼ mile buffer;
3. Removing or modifying decision screens associated with the 2009 Prairie Dog Management Strategy such that the use of controls in the ¼ mile buffer would not be contingent on any trigger or management tool; and
4. Extending the poisoning season to reflect timeframes identified on the poison labels.

The Forest Service met with the State of Wyoming to clarify elements of the proposal. Based on those discussions, it was determined that acceptable management

tools could include: approved rodenticides (zinc phosphide); shooting; land exchanges; land acquisitions; third-party solutions (e.g., financial incentives, conservation agreements, and conservation easements); translocation; dusting; vegetation management (e.g., mowing, prescribed burning, livestock management); predator enhancement (e.g., raptor perches and reduced predator control in prairie dog colonies); and use of physical barriers (e.g., fencing and vegetative barriers).

The Forest Service also proposes to make the following minor modifications to the 2009 Prairie Dog Management Strategy:

- Correct the East/West township reference error by combining Categories 3 and 4 into a single Category (Category 3);
- Delete the reference to the 4.35 mile translocation distance outlined in an obsolete Wyoming Game and Fish Department Translocation Policy (WGFD 2004);
- Develop language to address how lands added through future land acquisitions and/or exchanges would be managed in relation to the Prairie Dog Management Strategy (e.g., if lands are acquired in Category 1, they would be managed consistent with Category 1 land management strategies); and
- Eliminate designated control colonies, as identified in the 2009 Prairie Dog Strategy.

The scope of this proposal is limited to those actions described above. Other issues related to black-tailed prairie dog or black-footed ferret conservation and management in the project area are outside the scope of this proposed action.

### **Lead and Cooperating Agencies**

The Forest Service has invited the United States Fish and Wildlife Service (USFWS)

to be a cooperating agency; we are waiting on their reply.

### **Responsible Official**

Phil Cruz, Forest Supervisor, Medicine Bow-Routt National Forests and Thunder Basin National Grassland, 2468 Jackson Street, Laramie, Wyoming 82070 is the official responsible for making the decision on this action. He will document his decision and rationale in a Record of Decision.

### **Nature of Decision To Be Made**

The Thunder Basin National Grassland Prairie Dog Amendment environmental impact statement will evaluate site-specific management proposals, consider alternatives to the Proposed Action, and analyze the effects of the activities proposed in the alternatives. It will form the basis for the Responsible Official to determine:

1. Whether the Proposed Action will proceed as proposed, as modified by an alternative, or not at all; and
2. Design criteria and monitoring requirements necessary for project implementation.

### **Scoping Process**

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. While public comments are welcome at any time, comments received during the scoping period are most useful for the identification of issues and the development and analysis of alternatives to the Proposed Action. More detailed information specific to the Proposed Action (e.g., scoping document and maps) is located on the World Wide Web at:

[http://www.fs.fed.us/nepa/nepa\\_project\\_exp.php?project=42753](http://www.fs.fed.us/nepa/nepa_project_exp.php?project=42753)

Along with this opportunity to comment, the Douglas Ranger District will also be hosting four **Open House/Presentation meetings** for the Thunder Basin National Grassland Prairie Dog Amendment. The Open House/Presentation meetings will be held on - **October 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, and 10<sup>th</sup>**.

- **October 7: Douglas, Wyoming – Douglas National Guard Armory – 315 Pearson Road**
- **October 8: Newcastle, Wyoming – USDA Hell Canyon Ranger District Office – 1225 Washington Blvd.**
- **October 9: Wright, Wyoming – Wright Town Hall – 201 Wright Blvd.**
- **October 10: Cheyenne, Wyoming – Laramie County Library – 2200 Pioneer Ave.**

The meetings will begin at 6:00 p.m. and generally last until 9:00 p.m.; the meeting in Cheyenne will end at 8:30 p.m. The meetings will start with a 30-minute Open House, followed by a short presentation, and ending with allotted time for comments, questions, and answers. Forest Service employees assigned to the Thunder Basin National Grassland Prairie Dog Amendment will be available to discuss and answer questions the public may have about the Proposed Action.

The Forest Service will be operating under the new Part 218 – Project-level Pre-decisional Administrative Review Process (hereinafter referred to as ‘objection’), 36 C.F.R. 218 Subparts A and B, for this analysis. Per these regulations, individuals and entities who submit timely, specific written comments regarding a proposed project or activity during any designated opportunity for public comment will have standing to file

an objection. This includes requests for comments during this initial scoping period as well as comments submitted during the 45-day comment period for the Draft EIS.

It is the responsibility of persons providing comments to submit them by the close of established comment periods. Only those who submit timely and specific written comments will have eligibility (36 CFR 218.5) to file an objection under 36 CFR 218.8. For objection eligibility, each individual or representative from each entity submitting timely and specific written comments must either sign the comment or verify identity upon request. Individuals and organizations wishing to be eligible to object must meet the information requirements in §218.25(a)(3). Names and contact information submitted with comments will become part of the public record and may be released under the Freedom of Information Act.

### **Comment Requested**

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 state, 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 positions 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 the final environmental impact statement may be waived or

dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9<sup>th</sup> 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.

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Phil Cruz  
Forest Supervisor

September 9, 2013

Date

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