

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6780 • www.governor.wa.gov

RECEIVED
AUG 17 2009
FAYETTE
SUPERVISOR'S OFFICE

August 11, 2009

Suzanne C. Rainville, Forest Supervisor
Payette National Forest
U.S. Department of Agriculture
800 West Lakeside Avenue
McCall, ID 83638-3602

Dear Ms. Rainville:

This letter is to confirm that Mr. Paul Wik, Washington Department of Fish and Wildlife (WDFW) Assistant District Biologist for the Hells Canyon area, has and will continue to act as Washington's authorized representative under the Memorandum of Understanding (FS Agreement No. 08-MU-11041200-001). Additionally, Mr. Wik can and will continue to utilize WDFW's Bighorn Sheep Manager, Dr. Donny Martorello, as a subject matter expert in the area of bighorn sheep management. Please feel free to contact Philip Anderson, WDFW Interim Director, at (360) 902-2720, for additional information.

Thank you for providing the opportunity to assist in this important forest planning process that impacts Washington and several other western states.

Sincerely,

Christine O. Gregoire
Governor

cc: Philip Anderson, Interim Director, Washington Department of Fish and Wildlife
Paul Wik, Washington Department of Fish and Wildlife
Dr. Donny Martorello, Washington Department of Fish and Wildlife



**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE
STATE OF WASHINGTON
AND
FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE
PAYETTE NATIONAL FOREST**

This **MEMORANDUM OF UNDERSTANDING** is hereby entered into by and between the State of Washington, hereinafter referred to as the State and the Forest Service, U.S. Department of Agriculture, Payette National Forest, hereinafter referred to as the Forest Service.

A. PURPOSE:

The purpose of this Memorandum of Understanding is to provide a framework for cooperation to define the relationship and duties of the Forest Service and the State, as a Cooperating Agency, in the Payette National Forest Bighorn Sheep Viability Supplemental Environmental Assessment and Amendment to the 2003 Forest Land and Resource Management Plan (LRMP).

B. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The Forest Service is in the process of preparing a Bighorn Sheep Viability amendment to its 2003 LRMP. The Forest Service must assure that the Supplemental Environmental Impact Statement (SEIS) complies with the National Environmental Policy Act (NEPA) and other applicable statutes, regulations and Executive Orders. In addition, the Forest Service will produce the SEIS in accordance with established time frames and the terms of this agreement and in response to the March 2005 appeal instructions received from the Chief's Office.

The State of Washington has requested, and the Forest Service has agreed to grant, cooperating agency status pursuant to 40 CFR 1501.6. The States of Idaho and Oregon have also requested cooperating status. Since management on the Payette National Forest affects resources within the States of Idaho and Oregon, it was decided to also grant them cooperating status. The Payette National Forest contains lands that are of great interest to tribal governments. As such, they have also been invited to work with the Forest Service in a like capacity. All parties will be invited to the table concurrently.

The authority of the Forest Service to participate in this agreement is provided by the National Environmental Policy Act, 42 USC 4321 et seq. The authority of the States and the Tribes to participate in this agreement is provided by 40 CFR 1501, 1506, and 1508.

In consideration of the above premises, the parties agree as follows:

C. FOREST SERVICE SHALL:

As Lead Agency:

1. Be responsible for preparation of, quality of, and content of the SEIS.
2. Provide the opportunity for the State to review and comment on several items, including:
 - Analysis of the bighorn sheep data and habitat information;
 - Range of alternatives to be considered in detail;
 - Economic analysis and section of the environmental document.
3. Provide the opportunity for the State to help develop adaptive management strategies that will be considered for the LRMP amendment.
4. Meet with the State, to include preliminary discussion of elements of the LRMP planned amendment.
5. Consider, to the maximum extent possible and incorporate, as appropriate, the information provided by the State into the appropriate SEIS and planning documents.
6. Make the final decision on the content of all SEIS and planning documents.

D. THE STATE SHALL:

1. Use the State special expertise, with respect to the SEIS and LRMP amendment in the area of bighorn sheep population management including:
 - a. State Fish and Game Department information on bighorn sheep population locations.
 - b. State management plans for bighorn sheep and the effects on lands adjacent to the State and Payette National Forest.
 - c. Development of adaptive management strategies to implement when bighorn sheep population locations are identified.
 - d. Development of adaptive management strategies for occupation of bighorn sheep habitat by the wildlife sheep species.
 - e. Development of separation strategies, distances and the effects between bighorn sheep and domestic sheep of such strategies.
2. Complete a review and analysis of draft and final SEIS.

- a. Review and provide comments within 15 days of receipt for the provided sections of the draft supplemental environmental impact statement:
- b. Review and comment within 15 days of receipt of analysis information and associated management direction considered in detail.
- c. During the public review periods for the draft SEIS, provide the Forest Service with any comments or recommendations on those documents that the State believes are useful.
- d. The State will provide, at any time, any other background information about the bighorn sheep viability analysis that the State believes will be useful to the SEIS team.
- e. Be available to discuss with the SEIS Team any documents or analysis provided by the State.

E. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. The Forest Service and the State agree to use their best efforts to meet the time frames established in this agreement, to work cooperatively, and to resolve differences as quickly as possible.
2. CONFIDENTIALITY: The interdisciplinary team will have access to and review draft and preliminary information that is incomplete, subject to differing interpretations, and subject to additional analysis and refinement. Indeed, one of the functions of the interdisciplinary team is to evaluate this information and determine how it should be interpreted or further refined.
Premature release of such information can be confusing and even misleading to the public and other entities not involved in the interdisciplinary process. It is understood by team members that dissemination of preliminary and draft information is inappropriate, until there is general consensus among team members that the information is complete. Further, it is understood that disseminating interpretations of such data is inappropriate until there is general consensus among team members as to the meaning or significance of such data. Where team members are compelled to release such information by applicable laws or regulations, information should be labeled as "draft," "preliminary," or "incomplete" as appropriate. Further, when such information must be released, team members should refrain from providing interpretations of the meaning or significance of the data that do not reflect a consensus of all team members, and should qualify any interpretation of data provided by the team member releasing the data by indicating that it is the team member's interpretation and that there may be disagreement as to the meaning or significance of such data.
3. FREEDOM OF INFORMATION ACT (FOIA): Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

4. PARTICIPATION IN SIMILAR ACTIVITIES: This instrument in no way restricts the Forest Service or the State from participating in similar activities with other public or private agencies, organizations, and individuals.
5. RESPONSIBILITIES OF PARTIES: The Forest Service and State and their respective agencies and office will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
6. ESTABLISHMENT OF RESPONSIBILITY: This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.
7. NON-FUND OBLIGATING DOCUMENT: Nothing in this MOU shall obligate either the Forest Service or State to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the Forest Service and State will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.
8. PRINCIPAL CONTACTS: Each participating entity has designated a liaison to act as the point of contact for the Forest Plan Amendment process. An entity may change its point of contact at any time by providing written notice to the other party. The principal contacts for this instrument are:

Forest Service Liaison Contact	State Liaison Contact
Pattie Soucek	Paul Wik
Interdisciplinary Team Leader	Assistant District Wildlife Biologist
Payette National Forest	Blue Mountain District
800 W. Lakeside Ave.	1049 Port Way
McCall, ID 83638	Clarkston, WA 99403
Phone: (208) 634-0812	Phone: (509) 758-3972
Email: psoucek@fs.fed.us	Email: wikipaw@dfw.wa.gov

9. COMMENCEMENT/EXPIRATION/TERMINATION: This MOU will become effective on the date of the last signature, and may be subsequently modified through a written request by either party and subsequent written concurrence by all parties. The Forest Service or the State may terminate this agreement by providing a 60-day notice of termination to the other party. If not terminated sooner, this agreement will end when the notice of availability for the final SEIS is published in the Federal Register or no more than five years from the date of execution.
10. AUTHORIZED REPRESENTATIVES: By signature below, the State certifies that the individuals listed in this document, as representatives of the State, are authorized to act in their respective areas for matters related to this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last written date below.

John Andrews
State of Washington, REGIONAL DIRECTOR

7/11/08
Date

Suzanne C. Rainville
SUZANNE C. RAINVILLE, Forest Supervisor
Payette National Forest

8/22/08
Date

THE AUTHORITY AND FORMAT OF THIS INSTRUMENT
HAVE BEEN REVIEWED AND APPROVED FOR SIGNATURE

Gladys V. Hamilton 1/29/08
GLADYS V. HAMILTON DATE
Grants & Agreements Specialist