



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Mark Gordon, Governor

Todd Parfitt, Director

November 7, 2023

Wind River Ranger District
Attn: Green Union Project/ Tanner Shuler
1403 West Ramshorn
PO Box 186
Dubois, WY 82513

Via: tanner.shuler@usda.gov

Re: Shoshone National Forest Green Union Project Scoping

Dear Tanner Shuler,

The Wyoming Department of Environmental Quality - Water Quality Division (WDEQ-WQD) has reviewed the October 5, 2023, United States Department of Agriculture, Shoshone National Forest, Wind River District Public Notice for the Green Union Project. The project aims to decrease fuel loading and fire risk by manually and mechanically thinning and conducting prescribed burns on 9,683 acres of Forest Service lands within the Dunoir Fireshed near Dubois. The project also aims to improve and restore watershed conditions and function by installing beaver dam analogues where appropriate, decommissioning and rehabilitating unauthorized user-created routes, and improving stream crossing functionality on existing roads and trails.

The Green Union Project was approved as an authorized emergency action under Section 40807 of the 2022 Infrastructure Investment and Jobs Act (Bipartisan Infrastructure Law), which authorized the Secretary of Agriculture to identify and implement actions necessary to address human health and safety hazards and mitigate threats to natural resources on National Forest Service land or adjacent land. Since the project is authorized under this emergency authority, the project is not subject to the same National Environmental Policy Act requirements as the non-emergency Forest Service projects, including the pre-decisional objection process. If it is determined that the project will require an environmental assessment or environmental impact statement, the documents are only required to have a proposed agency action and a no action alternative.

In accordance with Title 35, Chapter 11 of the Wyoming Statutes and Wyoming's Water Quality Rules, the WDEQ-WQD is responsible for the protection and restoration of the quality of waters of the state. The WQD also implements portions of the federal Clean Water Act, including development of surface water quality standards, identification of impaired waters, and development of total maximum daily loads for impaired waters under Section 303; inventorying water quality under Section 305; discharge permitting under Section 402; water quality certifications under Section 401; and addressing nonpoint sources of

pollution under Section 319. As such, WDEQ/WQD is providing the following comments to help facilitate the review of potential impacts to water quality and ensure the project analysis, should it be necessary, adequately reflects and adheres to Wyoming's Water Quality Rules. The comments are not intended to be comprehensive and may not include all of the water quality requirements necessary to complete the analysis. Therefore, WDEQ/WQD recommends the Forest Service conduct additional research and coordinate with WDEQ-WQD as needed to ensure all potentially applicable requirements are identified.

WDEQ-WQD recommends the analysis identify surface and ground waters in proximity to the project area, evaluate potential impacts to the quality of those waters, and identify steps to minimize potential impacts. The analysis should specifically explain how groundwater and surface waters will be protected from the release of chemicals, petroleum products, produced water, and any other hazardous substances, should any of these be associated with the project.

Surface Waters. WDEQ/WQD has identified a number of Class 2AB (List 1) and Class 3B (List 2) waters within proximity to the Green Union Project Area. Class 2AB waters are designated for drinking water, cold-water game fish, nongame fish, aquatic life other than fish, recreation, agriculture, industry, wildlife, and scenic value uses. Class 3 waters are designated for aquatic life other than fish, recreation, agriculture, industry, wildlife, and scenic value uses. Wyoming's Water Quality Rules, Chapter 1, Surface Water Quality Standards include information regarding designated uses, water quality criteria, and antidegradation protections for surface waters of the state. The project should ensure compliance with Wyoming's Water Quality Standards. Additional information on Wyoming Surface Water Quality Standards is available at <https://deq.wyoming.gov/water-quality/watershed-protection-2/surface-water-quality-standards/>.

List 1. Class 2AB waters in proximity to the project area.

- | | | |
|---------------------------------|----------------------------|-----------------------------------|
| • Wind River | • Indian Creek | • Snowshoe Creek |
| • Middle Fork of the Wind River | • Little Warm Spring Creek | • Wildcat Creek |
| • Warm Spring Creek | • Salt Creek | • Kitten Creek |
| • Coyote Creek | • Fish Lake Creek | • South Fork of Warm Spring Creek |
| • Trout Creek | • Sheridan Creek | • Crooked Creek |
| • Trappers Creek | • Green Creek | • North Fork Warm Spring Creek |
| • Du Noir Creek | • Timbers Creek | |
| • Camp Creek | • Cow Creek | |

List 2. Class 3B waters in proximity to the project area.

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|-------------------|-----------------|-------------------|
| • Devils Creek | • Narrows Creek | • Canyon Creek |
| • Fremont Creek | • Geyser Creek | • Buckboard Creek |
| • Phil Creek | • Tomcat Creek | |
| • Biologist Creek | • Tabby Creek | |

Surface Water Quality Data. DEQ/WQD has collected water quality data on Trappers Creek, Warm Springs Creek, Little Warm Springs Creek, Wind River, and Middle Fork of the Wind River and can provide this data upon request should the data be useful to the analysis.

Priority Aquifer. WDEQ/WQD's evaluation indicates that a priority aquifer is located in the project area. As such, WDEQ/WQD recommends that the analysis identify and minimize potential impacts to groundwater as needed through activities such as implementation of best management practices (BMPs) to prevent spills during construction activities. Additional information is available at <http://deq.wyoming.gov/waterquality/groundwater>.

Nonpoint Source (NPS) Pollution. WDEQ/WQD encourages the Shoshone National Forest to minimize potential impacts to surface and ground water quality by implementing best management practices (BMPs) for activities that do not require WDEQ-issued permits. Per the 2021 Memorandum of Understanding between WDEQ and USFS, the WQD supports implementation of the USFS's NPS strategy as compliance with the Wyoming NPS Management Program and approves the use of USFS's National Core BMPs as meeting the requirements of BMPs in the Wyoming NPS Management Plan. The USFS recognizes the Wyoming NPS Program's objectives and is responsible for implementing NPS pollution controls consistent with the Program on National Forest Service lands in Wyoming. Further information about the Wyoming NPS Program can be found at <http://deq.wyoming.gov/wqd/non-point-source/>.

In addition to the above recommendations, WQD would also like to highlight the following requirements and permits that may apply to the project and should be noted in the analysis, depending on the eventual scope of the project. The permits identified below are not intended to be a comprehensive list. Additional research will be necessary to ensure that all applicable local, state, and federal permits are included in the analysis.

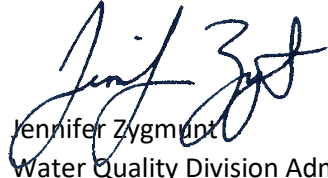
Requirements for Beaver Dam Analogues (BDA): If any BDAs will be installed on a Water of the United States, the Forest Service should ensure they obtain a Clean Water Act 404 Dredge and Fill permit issued by the United States Army Corps of Engineers and a Clean Water Act Section 401 Water Quality Certification issued by WDEQ-WQD. The 401 Certification ensures that the federal permit will comply with Wyoming's Water Quality Rules, Chapter 1, Wyoming Surface Water Quality Standards, and conditions of the 401 Certification are included as conditions of the federal permit. Additional information is available at <https://deq.wyoming.gov/water-quality/watershed-protection-2/cwa-section-401-turbidity-wetland/401-water-quality-certification/>.

Construction Stormwater Permits. If construction activities, including associated access roads, borrow and stockpile areas, and equipment staging and maintenance areas, associated with the project will cumulatively disturb one or more acres, a WYPDES storm water discharge permit is required. Coverage under the Large Construction General Permit is required for construction activities that cumulatively disturb five or more acres, and coverage under the Small Construction General Permit is required for construction activities that cumulatively disturb between one and five acres. If any part of a construction project falls within a Greater Sage-Grouse Core Area (SGCA), the owner or operator must coordinate with Wyoming Game and Fish to ensure that the project is consistent with the Governor's Executive Order 2019-3, Greater Sage-Grouse Core Area Protection. A map of sage-grouse core areas in Wyoming can be found here <https://wgfd.wyo.gov/Habitat/Sage-Grouse-Management/Sage-Grouse-Data>. Additional information is available at <https://deq.wyoming.gov/water-quality/wypdes/discharge-monitoring-reports/storm-water-permitting/>.

Spill Reporting. Wyoming Water Quality Rules, Chapter 4, requires that the WQD be notified of any oil or hazardous substances which have been released and which enter, or threaten to enter, waters of the state. Spills can be reported to WDEQ by calling 307-777-7501 or at <http://wyospills.org/>.

WDEQ/WQD appreciates the opportunity to participate in the scoping process for the Green Union Project. Should you have any questions regarding our comments or need additional information, please contact Tori Nye at tori.nye@wyo.gov or 307-777-7050.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer Zygmunt', is written over the printed name.

Jennifer Zygmunt
Water Quality Division Administrator

cc: Keith Guille, WDEQ Outreach Coordinator