



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

April 16, 2024

Bear Lodge Ranger District
Attn: North Sand Project
P.O. Box 680
Sundance, WY 82729

Via: <https://www.fs.usda.gov/project/?project=65540>

Re: North Sand Project Scoping

Dear North Sand Forest Management Project,

The Wyoming Department of Environmental Quality, Water Quality Division (WDEQ-WQD) has reviewed the United States Forest Service (USFS) Proposal and Opportunity to Comment for the North Sand Forest Management Project, led by the Black Hills National Forest. The project is located on 11,062 acres of USFS land in Crook County, WY. The project will include the thinning of suppressed or unhealthy ponderosa pine trees, mechanical treatment, chipping or burning small oak trees and shrubs and potential planting, and prescribed burns. The project will follow the current Black Hills Forest Management Plan, as the updated version is still under revision.

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 adequately reflects and adheres to Wyoming's Water Quality Rules and the commitments outlined in the 2021 Memorandum of Understanding (MOU) between WDEQ-WQD and the USFS.

The following comments are not intended to be comprehensive and likely do not include all water resources, analyses, and permits necessary to develop the Environmental Assessment. Therefore, WDEQ-WQD recommends the USFS conduct additional research to ensure the EA sufficiently covers water resources.

Surface Waters. Per the 2021 MOU, the USFS committed to recognizing designated uses of Wyoming waters and ensuring attainment of Water Quality Standards on forest service lands. As such, WDEQ-

WQD recommends the following waters within the project area be addressed in the Environmental Assessment: Sand Creek, Dugout Creek, Red Canyon Creek, and various unnamed drainages. Wyoming's Water Quality Rules, Chapter 1, Wyoming Surface Water Quality Standards classify Sand Creek as a 2AB water designated for drinking water, cold-water game fish, nongame fish, aquatic life other than fish, recreation, agriculture, industry, wildlife, and scenic value uses. Dugout Creek, Red Canyon Creek, and the various unnamed drainages are classified as 3B waters 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. Additional information on Wyoming Surface Water Quality Standards is available at <https://deg.wyoming.gov/water-quality/watershed-protection-2/surface-water-quality-standards/>.

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

Nonpoint Source (NPS) Pollution. WDEQ-WQD encourages the Black Hills National Forest to minimize potential impacts to surface and groundwater 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. In addition, the USFS committed to recognizing 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://deg.wyoming.gov/wqd/non-point-source/>.

WDEQ-WQD did not identify any WQD monitoring points, Wyoming Pollutant Discharge Elimination System permitted discharges, or assessed waters in proximity to the project area.

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

Clean Water Act Section 401 Water Quality Certifications. If the project will result in the discharge of dredge and fill into Waters of the United States that will require a Clean Water Act Section 404 Dredge and Fill permit issued by the United States Army Corps of Engineers, the project will also require a Clean Water Act Section 401 Water Quality Certification from 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 stormwater 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. Additional information is available at <https://deq.wyoming.gov/water-quality/wypdes/discharge-monitoring-reports/storm-water-permitting/>.

Temporary Turbidity Waiver. If the project involves any activity that will result in an increase in turbidity for waters designated as drinking water supplies and/or fisheries, a temporary turbidity waiver is recommended. In accordance with Chapter 1, Section 23(c)(ii), the Water Quality Division Administrator may authorize temporary increases in turbidity above the numeric criteria and may impose whatever controls, monitoring, and best management practices are necessary to maintain and protect all water uses. Applications must be submitted and waivers approved by the Administrator before work begins. Additional information is available at <https://deq.wyoming.gov/water-quality/watershed-protection-2/cwa-section-401-turbidity-wetland/>

Spill Reporting. Wyoming Water Quality Rules, Chapter 4, requires, unless specifically exempted, any person owning or having control over oil or a hazardous substance which, after release, enters, or threatens to enter waters of the state to immediately notify WDEQ-WQD of the type, quantity, and location of the release. Spills can be reported to WDEQ by phone at 307-777-7501 or online at <http://wyospills.org/>.

WDEQ-WQD appreciates the opportunity to participate in the scoping process for North Sand Forest Management Project. Should you have any questions regarding our comments, please contact Tori Nye at tori.nye@wyo.gov or 307-777-7050.

Sincerely,



Jennifer Zygmunt
Water Quality Division Administrator

cc: Ross Breedlove, WDEQ NEPA Coordinator
Keith Guille, WDEQ Outreach Coordinator