



## **DEPARTMENT OF AGRICULTURE**

### **Natural Resources Conservation Service**

**[Docket No. NRCS-2024-0020]**

#### **Notice of Intent to Prepare a Programmatic Environmental Impact Statement for the Hermit's Peak and Calf Canyon (HPCC) Burn Scar Project Watershed Plan, in Mora, Colfax, Taos, Rio Arriba, Santa Fe, Guadalupe, and San Miguel Counties, New Mexico**

**AGENCY:** Natural Resources Conservation Service, U.S. Department of Agriculture (USDA).

**ACTION:** Notice of Intent (NOI) to Prepare a Programmatic Environmental Impact Statement (PEIS).

**SUMMARY:** The Natural Resources Conservation Service (NRCS) New Mexico State Office announces its intent to prepare a PEIS for the HPCC Burn Scar Project, in Mora, Colfax, Taos, Rio Arriba, Santa Fe, Guadalupe, and San Miguel Counties, New Mexico. The PEIS will examine alternative solutions to address flooding, sedimentation, erosion, water quality impairments, and agricultural water management on private lands due to loss of land cover and the overall burn severity of the HPCC fire. The project area is approximately 500 square miles and includes 33 Hydrologic Unit Code-12 watersheds within nine Hydrologic Unit Code-10 watersheds (nine watersheds). The primary purpose for the PEIS is to provide improvement to increase the flood resilience to protect the communities that have been affected by the HPCC fire and restore the project areas' function that is essential to healthy streams and clean water; healthy forest, soil, and ecosystem; and healthy flora and fauna on private lands and in conjunction with other restoration efforts on National Forest System (NFS) lands. NRCS is requesting comments to identify significant issues, potential alternatives, information, and analyses relevant to the Proposed Action from all interested individuals, Federal and State agencies, and Tribes and Pueblos.

**DATES:** The 45-day public scoping period begins on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and extends to **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Comments must be postmarked or submitted electronically at the addresses listed below no later than **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** We invite you to submit comments in response to this notice. You may submit your comments through one of the methods below:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and search for docket ID NRCS-2024-0020. Follow the online instructions for submitting comments; or
- *Mail or Hand Delivery:* Merceidez Fabok, Watershed Program Manager, 100 Sun Ave NE, Suite 602, Albuquerque, NM 87109. In your comments, specify the docket ID NRCS-2024-0020.

All comments received will be posted without change and made publicly available on [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Merceidez Fabok, telephone: (505) 761-4421; email: [Merceidez.Fabok@usda.gov](mailto:Merceidez.Fabok@usda.gov).

Individuals who require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720-2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay service (both voice and text telephone users can initiate this call from any telephone).

#### **SUPPLEMENTARY INFORMATION:**

##### **Purpose and Need**

The primary purpose for the PEIS is to independently analyze the nine watersheds to identify resource concerns and propose alternative solutions on private lands. The HPCC fire resulted in severe impairment across the nine watersheds, posing a threat to life and property. The HPCC wildfire burned over 341,735 acres across northern New Mexico in 2022 with two-thirds of the burned area on private property.

There are multiple authorized purposes that will be evaluated, both independently and combined, for the nine watersheds encompassing the burn scar on private lands, including: flood prevention (flood damage reduction), watershed protection, agricultural water management, municipal or industrial water supply, and water quality management. The higher elevations of the nine watersheds consist primarily of public land managed by the Forest Service used for multiple use. The Forest Service has implemented some restoration activities and is planning for more under its authorization. The lower elevations of the nine watersheds consist of private land and rural communities. In this PEIS, NRCS is focusing proposed actions on these private lands which are under its authorization, not on National Forest System lands. Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954 (Pub. L. 83-566), as

amended, and the Flood Control Act of 1944 (Pub. L. 78-534). The Forest Service is expected to participate as a cooperating agency in the development of this PEIS to coordinate efforts between the two agencies toward restoration and mitigations on the effected lands.

### **Preliminary Proposed Action Alternative Types, Including No Action**

The PEIS objective is to formulate and evaluate alternatives for the purposes of agricultural water management in the HPCC Mora, Colfax, Taos, Rio Arriba, Santa Fe, Guadalupe, and San Miguel Counties, New Mexico on the private lands. As a cooperating agency the Forest Service will provide what activities are being proposed and conducted on NFS lands. The two agencies will work together to ensure the activities proposed on public and private lands meet the overall objectives toward recovery of the watersheds. The PEIS is expected to evaluate four alternatives: three action alternatives and one no action alternative.

The NRCS would provide technical and financial assistance for the proposed project through the NRCS Watershed Protection and Flood Prevention Program, and NRCS would also design and implement the selected alternative(s).

The alternatives that may be considered for detailed analysis include:

- *Alternative 1 – No Action Alternative:* Taking no action would consist of activities conducted if no Federal action on private lands or funding for those activities were provided. If the No Action Alternative is selected, there would be no implementation of any measures, and the risks of flooding, sedimentation, erosion, water quality impairments, and lack of fauna diversity would continue. The conditions of this alternative were used as the baseline to evaluate the effectiveness of the other alternatives in addressing the selected purpose and need. No action or funding would be associated with the No Action Alternative.
- *Alternative 2 – Proposed Action – Reasonable Structural Alternative.* This alternative would address the purpose and need for action within the program authorities of NRCS.
- *Alternative 3 – Non-structural Alternative.* This alternative would address the purpose and need for action, including, but not limited to, the following: flood-proofing of structures, floodplain regulation, acquisition of floodplain lands, moving buildings and facilities, and conversions of land use to forest on private lands.

- *Alternative 4 – Project Land Treatment.* The Proposed Action would be formulated solely to enhance onsite economic benefits on private lands, for example, reducing production costs or increasing yields. Onsite benefits will be included in the documentation and evaluation of the alternative plans. Costs, including operation, maintenance, and replacement costs, expected to be incurred over the period of analysis will be included.

### **Summary of Expected Impacts**

The PEIS will rely on a phased approach for the development and validation of the overall project, so there is no indication of what action alternative described above is likely to be selected as the preferred. The PEIS will consist of a 4-phased approach in order to develop, analyze, and implement the alternatives selected as the preferred in each of the 9 watersheds encompassing the burn scar.

The resource concerns identified during the preliminary planning process that will be analyzed for potential impacts include, but are not limited to, erosion, sedimentation, organic matter depletions in soils, water quality, floodplain connectivity, loss of animal and plant species' diversity and habitat, degradation of acequias, and public health and safety due to post-wildfire flooding. The full list of concerns to be addressed for impacts will be developed through public scoping, agency consultations, and other components of the NEPA process.

The PEIS will be prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) and USDA regulations in 7 CFR Subtitle A Part 1b (7 CFR 1b).

### **Anticipated Permits and Authorizations**

The following permits and authorizations are anticipated to be required:

- *Federal Emergency Management Agency, Floodplain Development permit.* Implementation of the Proposed Action would require coordination with the local floodplain administrator and may require a Floodplain Development Permit to ensure all development and engineering requirements for construction within the Special Flood Hazard Areas are implemented.
- *Clean Water Act (CWA) and National Pollutant Discharge Elimination System (NPDES).* The project would require water quality certification

under Section 401 of the CWA, permitting under Section 402 of the NPDES, and Section 404 of the CWA for potential wetland impacts.

- *National Historic Preservation Act (NHPA) Section 106.* Consultation with Tribal Nations and interested parties would be conducted as required by NHPA.
- *New Mexico Office of the State Engineer Dam Safety Permit.* The project would require review and approval applicable to the final engineering plans and to provide a permit prior to construction, if necessary.

### **Schedule of Decision-Making Process**

A Draft PEIS (DPEIS) will be prepared and circulated for review and comment by agencies, Tribes and Pueblos, consulting parties, and the public for 45 days. The DPEIS is anticipated to be published approximately 18 months after publication of this NOI. A Final PEIS is anticipated to be published within 3 months of completion of the public comment period for the DPEIS.

NRCS will decide whether to implement any of the action alternatives as evaluated in the PEIS. A Record of Decision will be completed and made publicly available. The responsible Federal official and decision maker for NRCS is the New Mexico NRCS State Conservationist.

*NRCS Decision:* NRCS will decide whether to implement any one of the Action Alternatives or the No Action Alternative identified in the PEIS in the Record of Decision.

### **Public Scoping Process**

An Agency Engagement Meeting presenting the project and developing the scope of the PEIS was held on Tuesday, March 4<sup>th</sup>, 2025. A Public Engagement Meeting presenting the project and developing the scope of the PEIS was held on Tuesday, March 11<sup>th</sup>, 2025. The presentation materials are available on the project website, along with project background information and status updates:

<https://www.nrcs.usda.gov/programs-initiatives/watershed-protection-and-flood-prevention-operations-wfpo-program/new-mexico>. The 45-day public scoping period begins on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and extends to **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

NRCS coordinated the scoping process to correspond with Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108) as allowed in 36 CFR 800.2(d)(3) and 800.8.

### **Identification of Potential Alternatives, Information, and Analyses**

NRCS invites agencies, Tribes and Pueblos, consulting parties, and individuals that have special expertise, legal jurisdiction, or interest in the EIS project area to provide written comments concerning the scope of the analysis and identification of potential alternatives, information, and analyses relevant to the Proposed Action.

The information about historic and cultural resources within the area potentially affected by the proposed project will assist NRCS in identifying and evaluating impacts to such resources in the context of both NEPA and NHPA.

NRCS will consult with Native American Tribes and Pueblos on a government-to-government basis in accordance with the regulations in 36 CFR 800.2 and 800.3, Executive Order 13175, and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources and historic properties, will be given due consideration.

### **Authorities**

This document is published as specified by the NEPA regulations regarding publication of an NOI to issue a PEIS. Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954, as amended and the Flood Control Act of 1944.

### **Federal Assistance Programs**

The title and number of the Federal Assistance Program as found in the Assistance Listing<sup>1</sup> to which this document applies is 10.904, Watershed Protection and Flood Prevention.

### **Executive Order 12372**

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This project is subject to the

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<sup>1</sup>See <https://sam.gov/content/assistance-listings>.

provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

### **USDA Non-Discrimination Policy**

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410; (2) Fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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**Juan Montoya,**

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