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Done at Washington, DC, on: April 24, 2002.

William J. Hudnall,
Acting Administrator.

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DEPARTMENT OF AGRICULTURE

Forest Service

Kootenai (KNF) and Idaho Panhandle National Forests (IPNF); Montana, Idaho and Washington; Revised Land and Resource Management Plans

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement in conjunction with revision of the Land and Resource Management Plans (hereafter referred to as Forest Plan or Plans) for the Kootenai and Idaho Panhandle National Forests (Kootenai Idaho Panhandle Zone, hereafter referred to as KIPZ) located in Lincoln, Sanders, and Flathead counties in Montana; Bonner, Boundary, Kootenai, Shoshone and Benewah, Latah, and Clearwater counties in Idaho; and Pend Oreille county in Washington.

SUMMARY: The USDA—Forest Service will prepare an environmental impact statement in conjunction with the revision of Land and Resource Management Plans for the KIPZ. This notice describes the initial revision topics and issues with the current Forest Plans, estimated dates for filing the environmental impact statement, information concerning public participation, and the names and addresses of the agency officials who can provide additional information.

DATES: Comments concerning the scope of the analysis must be received in writing by December 1, 2002. The draft

environmental impact statement is expected by December 2003 and the final environmental impact statement is expected by April 2005.

ADDRESSES: Send written comments and suggestions to Forest Supervisor, c/o Forest Plan Revision, Kootenai National Forest, 1101 W Hwy 2, Libby, MT 59923.

FOR FURTHER INFORMATION CONTACT: Joe Krueger at (406) 293-6211 or Gary Ford at (208) 765-7478.

SUPPLEMENTARY INFORMATION:

Plan revisions are warranted in light of the combined effects of multiple needs for change. The preliminary revision issues have been developed from discussions with Kootenai and Idaho Panhandle National Forests employees, our Monitoring and Evaluation Reports, current science and assessments, and our daily contact with our public. The preliminary issues have been divided into two categories:

Revision Topics—This category includes topics for which resource conditions, technical knowledge, or public perception of resource management have created a “need for change” in the Forest Plans. These topics generally would be significant amendments because their resolution could result in changes to management direction over large areas of the Forests, changes in the mix of goods and services that the Forests provide, and changes to other decisions made in the Forest Plans. They involve choices in management direction where there is no clear public consensus on the best course of action.

Other Revision Items—A number of items were identified that need to be addressed in the Forest Plans, but do not meet the above criteria for Revision Topics. In general, these items represent inadequate or out-of-date Forest Plan direction and addressing these items would not require a significant amendment to the Forest Plans. There appears to be general consensus on how to resolve the issue by rewriting and updating the Forest Plans Standards and Guidelines during Forest Plan Revision. Following are the Revision Topics/Preliminary Issues that have been identified to date:

I. Revision Topics

National Forest System lands are capable of contributing essential elements in managing for sustainability. Sustainability is widely recognized as the overarching objective of land and resource management. Sustainability in land management has three components: ecological, economic, and social. These different components of

sustainability are interrelated. The sustainability of ecological systems is a necessary prerequisite for strong, productive economies and enduring human communities. At the same time, we compromise human welfare if we fail to sustain vital, functioning ecological systems. In addition, strong economies and communities are often a prerequisite to societies possessing the will and patience needed to sustain ecological systems.

The revision topics have been developed around the ecological, economic, and social components of sustainability. The planning questions for each revision topic provide information that further defines the topic and how we intend to address it in plan revision.

Ecological Components of Sustainability

Ecological sustainability is defined as: “The ability to maintain diversity, productivity, resilience to stress, health, and yields of desired values, resource uses, products, or services over time in an ecosystem while maintaining its integrity.” (cited from Sustaining Ecosystems: A Conceptual Approach, USDA Forest Service, Pacific Southwest Research Station, R5-EM-TP-001, p. 212).

Topic 1—Terrestrial

Forest plan monitoring, geographic area assessments, the Northern Region Overview, and the Interior Columbia River Basin Ecosystem Management Project have identified problems in maintaining terrestrial sustainability on our national forest lands. Examples of findings in these assessments indicate we are lacking in early seral tree species and have an increasing amount of shade-tolerant, fire intolerant, and insect and disease prone tree species dominating the landscape. Decades of fire suppression have resulted in higher fuel loading and landscapes that may pose risk to terrestrial sustainability. There is a reduction in large snags on portions of the landscape. Past timber harvest has resulted in a decrease in interior habitat in late successional stands.

Planning Question #1

What structure, composition, and function of vegetation components are needed to contribute to long-term terrestrial sustainability?

Planning Question #2

What species are at risk and which are not and what strategies are needed to contribute to sustaining all native and desired non-native species?

Proposed Actions

Based on monitoring results, preliminary analyses, and public input, the following actions may be proposed in one or more EIS alternative:

- Define the desired conditions for contribution of national forest system lands to terrestrial ecosystem sustainability for appropriate temporal and spatial scales.
- Base management practices on understanding and consideration of natural disturbance processes, including the intensity, frequency, and magnitude of those disturbance regimes.
- Develop a strategy for aggressively treating noxious weed populations through various means, including mechanical, biological and chemical control.
- Develop a monitoring strategy that will measure appropriate indicators of ecological sustainability at multiple scales, and will serve to facilitate adaptive management.

Topic 2—Aquatic

Forest Plan monitoring, geographic area assessments, the Northern Region Overview, and Interior Columbia River Basin Ecosystem Management Project have identified problems with the hydrologic condition of many of our watersheds and aquatic life in our national forest lands. Approximately 165 stream segments or water bodies have been listed by the States as impaired water quality under section 303(d) of the Clean Water Act. Landscape assessments have found that approximately 20 percent of our watersheds are “not properly functioning,” and 30–50 percent may be “functioning at risk.” In recent years under the Endangered Species Act, two fish species have been listed as “threatened” or “endangered,” and three additional species are being studied for possible future listing.

Planning Question #1

What are the conditions and trends of the Forests’ watersheds, riparian areas, and aquatic biota? How well do the aquatic systems’ condition, status and trend contribute to aquatic sustainability?

Planning Question #2

What management strategies are needed to effectively contribute to the maintenance or restoration of aquatic sustainability?

Proposed Actions

Based on monitoring results, preliminary analyses, and public input, the following actions may be proposed in one or more EIS alternative:

- Provide strategies that maintain the conditions and water quality of watersheds that are “properly functioning” and are fully supporting beneficial uses.
- Provide strategies that will restore watershed conditions and water quality in “not properly functioning,” and “functioning-at risk” watersheds adequately to fully support beneficial uses.
- Facilitate Total Maximum Daily Load (TMDL) implementation plans and schedules coordinated with the States’ restoration priorities in watersheds that contain water quality limited (303d) segments and waterbodies.
- Develop strategies that will protect, and where feasible, recover native aquatic and riparian dependent species and prevent the introduction and spread of undesirable non-native aquatic species.
- Develop strategies that will restore aquatic resources, including water quality, watershed systems, streams, lakes and other water bodies, wetlands, riparian areas, and floodplains.
- Prioritize watershed systems for restoration by designing and applying effective Best Management Practices and watershed-scale restoration projects cooperatively with States, Tribes, adjacent land interests, and the public.

Topic 3—Soil Productivity

The inherent capability of soil to support vegetative growth is central to forest management and is rooted in our land ethic and resource laws. Soil physical and chemical status, within acceptable ranges, is an indicator of maintaining or improving soil productivity. Some soil nutrients are derived from parent materials (geological types); others from organic debris (woody or vegetative materials), wind or water deposits, climate and other factors.

Management practices, such as logging or prescribed fire, may disturb the natural balance of soil nutrients and physical condition, and, particularly with potassium-limited soils, contribute to regeneration problems, slowing growth, and thereby increasing susceptibility to insects and disease. Current research by the *Intermountain Forest Tree Nutrition Cooperative* is showing that potassium is inherently very low within portions of the Precambrian meta-sedimentary rocks known as the Belt Super-group. Approximately 80% of the KIPZ is located on this Belt Super-group formation. This research indicates that 20–30% of this area may be inherently deficient in potassium. Limited potassium nutrition has been shown to

significantly affect Douglas-fir root biochemistry, making these trees much more susceptible to insects and disease.

Other key soil elements that address sustainability of forest soil productivity are detrimental disturbances (compaction, displacement, erosion, and severe burns) and nutrient cycling (residual organics debris). These elements are adequately addressed in the current Forest Plans, FSH direction and best management practices, and will not be part of the plan revision topics.

Planning Question #1

Does the soil nutrient conditions, and trends support long-term soil productivity on nutrient limited (i.e., potassium-limited) sites?

Proposed Actions

Based on monitoring results, preliminary analyses, and public input, the following actions may be proposed in one or more EIS alternative:

- Develop criteria to maintain and restore soil productivity on potassium and other nutrient limited soils.

Social and Economic Components of Sustainability

Social and economic components of sustainability include meeting the economic, social, aesthetic, and cultural needs and desires of local communities without reducing the capacity of the environment to provide for the needs and desires of future generations.

Topic 4—Production and Use Levels

National Forest System lands contribute many values, services, outputs, and uses that allow economies and communities to persist, prosper, and evolve.

Recreation, the production of wood fiber, grazing of livestock, and mining are important historic and current uses of the Forest. The level of production of these commodities and recreation uses affects the social and economic environment of local communities. These production and use levels must be sustainable in order to contribute to sustainable economies and communities. Monitoring indicates that wood fiber production levels are far below those estimated to occur in the current Forest Plans. Timber harvest levels for the past 13 years are less than 50% of those projected in the current Forest Plans. Recent assessments indicate that motorized and non-motorized recreation use has increased above levels projected in the current Forest Plans.

Planning Question #1

What are the jobs, income, costs and values associated with the Forest production and use levels?

Planning Question #2

How are the lifestyles, values, and beliefs of local communities affected?

Proposed Actions

Based on monitoring results, preliminary analyses, and public input, the following actions may be proposed in one or more EIS alternative;

- Identify acres suitable for timber production, suitable for grazing, and areas to be withdrawn from mineral entry.
- Identify timber sale volume, grazing levels, mineral development potential, and recreation use associated with each alternative. Estimate the jobs and income generated by these levels of production and use, and their contribution to local communities.
- Identify how scenery management may be used in conjunction with ecosystem management objectives.
- Incorporate the social and cultural values into the alternative development and desired future conditions.

Topic 5—Access and Recreation

Access to national forest lands is one of the most controversial elements in forest management. Since the 1987 Forest Plans were developed, motorized and non-motorized forms of travel have increased and become more diversified. The advent of mountain bikes and all-terrain vehicles, the growing popularity of four-wheel-drive vehicles and snowmobiles, and increasing non-motorized uses such as hiking, backcountry skiing, and snowshoeing, are all competing for the same land base.

Planning Question #1

What are the types, quantities, and distribution of access and recreation opportunities?

Planning Question #2

What are the desired future conditions related to access and recreation?

Proposed Actions

Based on monitoring results, preliminary analyses, and public input, the following actions may be proposed in one or more EIS alternative:

- Identify a road and trail transportation network that provides an environmentally sound and socially responsive travel management system.
- Specify criteria for developing access strategies by appropriate modes and season of use.

- The Forests may be zoned into various classifications of “recreation opportunity spectrum” for summer and winter uses.

Topic 6—Fire Risk

Decades of active fire suppression have altered some ecosystems by increasing fuel levels beyond an acceptable range. In addition, increasing numbers of people are moving from urban areas toward more rural near public lands. This has resulted in more homes and other structures being built near and around national forests. As people, homes, and structures increasingly occupy the wildland/urban interface and as hazard fuels continue to accumulate, a high risk and volatile situation needs to be addressed. Geographic area assessments, the Northern Region Overview, and Interior Columbia River Basin Ecosystem Management Project have identified an increase in fuel loading, duff depth, stand density, and a fuel ladder that can carry fire from the surface into the tree crowns. As a result, wildfire intensity has increased.

Planning Question #1

Where and when will we manage fire? Where and when will we manage fuels to reduce risks to communities and the environment? How do we balance risks posed by fire and the benefits to the ecosystem that fire provides?

Proposed Actions

Based on monitoring results, preliminary analyses, and public input, the following actions may be proposed in one or more EIS alternative:

- Develop fire management units (FMU's) consistent with Land and Resource Management Plans that identify appropriate management response strategies for each unit.
- Identify FMU's where wildland fire use, fire protection, and limited or modified wildland fire use is an appropriate tool.
- Identify lands by condition class or risk category.
- Establish monitoring and evaluation programs and measures in Land and Resource Management Plan revisions for restoration activities in fire-adapted ecosystems.

Topic 7—Inventoried Roadless Areas and Recommended Wilderness

Inventoried Roadless Areas (IRAs) continue to be a topic of interest and controversy to many people in north Idaho and northwest Montana. The IPNF has 47 IRAs totaling 823,000 acres. The KNF has 43 IRAs totaling 638,000 acres. Recent efforts to resolve this issue

at the national level have been unsuccessful, leaving the issue to be addressed at the local level during Forest Plan Revision. The 1982 Planning Regulations require that we inventory, evaluate and consider all roadless areas for possible inclusion in the National Wilderness Preservation System.

Planning Question #1

Which IRAs have potential for Wilderness? Which of the IRAs should be recommended for Wilderness? How should the IRAs not recommended for wilderness be managed?

Proposed Actions

Based on monitoring results, preliminary analyses, and public input, the following actions may be proposed in one or more EIS alternative:

- Identify and recommend roadless areas for wilderness designation.
- Provide management direction for those roadless areas not recommended for wilderness designation.

II. Other Revision Items

Preliminary topics discussed in this section are also important issues to be addressed during Plan revision. However, they are likely not substantial or widespread enough to be major drivers in the EIS alternative themes or forest-wide management area prescriptions and standards.

Special Areas

The planning area includes several unique or outstanding areas and resources of outstanding physical, biological, or social interest. Collectively these are known as “special areas.” Potential formal designations of special areas may include Wilderness (see Revision Topic 7, above); Wild and Scenic Rivers; Research Natural Areas (RNAs); and Special Interest Areas (SIAs) with scenic, historical, geological, botanical, zoological, paleontological, archaeological, or other special characteristics. Research Natural Areas have been established on both Forests. The Plan revision will address establishment of RNAs and SIAs, including an assessment of the needs for additions to the RNA and SIA network.

Planning Questions—Special Areas

- Which rivers, or river segments, on the Forests are potentially eligible for addition to the Wild and Scenic Rivers System?
- Are there sufficient RNAs and SIAs designated within the Planning Zone to meet the intent of the national and regional RNA Program and intent of SIA objectives?
- Do designated RNA's need management plans?

- Do designated SIAs need reviews and objectives assigned?
- Which portions of the Forest qualify for other special area designations?

Heritage

There are currently several historic properties representing the historic period (50–200 years ago) and the prehistoric period (8,000 to 200 years ago) on the Forests. Many of these properties have been evaluated and are eligible to the National Register of Historic Place. Many other properties have not been evaluated. Historic properties are protected by law. Portions of the Forests are part of the traditional homeland of the Kootenai and Salish, Kalispel, Coeur d' Alene, Colville, Pend Oreille, Nez Perce, and Spokane Tribes. The prehistoric properties on the Forest are considered by the Tribes as part of their heritage and they attach traditional cultural significance to these sites.

Planning Questions—Heritage

- Should landscapes containing concentrations of cultural or historic resource properties that are potentially eligible for, or eligible to the National Register of Historic Places, receive special land management prescriptions?
- What kinds of cooperation are needed between the Forest Service, the Tribes, other agencies, and private individuals to protect these areas?

Lands

Landownership adjustment is generally considered a tool to accomplish resources or socioeconomic objectives, rather than a driving issue in and of itself. Plan revision offers an opportunity to develop agreements about desired future patterns of land ownership that could be achieved through exchanges or purchases. Access to public land is often a related concern where private land development is happening, or likely will occur, adjacent to the Forests.

Planning Questions—Lands

- Which areas of the Forests need strengthened programmatic direction to guide land ownership pattern adjustments?
- How can goals, objectives, standards, and guidelines for lands adjustment be improved to prioritize agency action, enhance management efficiency, and assist local communities?

Purpose and Need for Action

The existing Forest Plans were approved in 1987, which indicates it's been approximately 15 years since they were approved. Experience and

monitoring have shown the need for changes in management direction for some resources or programs. Several sources have highlighted needed changes in the current Forest Plans. These sources include:

- Public involvement, which has identified new information and public values;
- Monitoring and scientific research, which have identified new information and knowledge gained;
- Forest plan implementation, which has identified management concerns to find better ways for achieving desired conditions; and
- Changes in laws, regulations, and policies.

In addition, direction specific to restoration strategies are not in place to guide management under our current Forest Plans. Changing public views and changes in information and scientific understanding of these ecosystems has also occurred. Some new information is a product of research, while other information has resulted from changes in technology.

Proposed Action: See specific Proposed Actions under each Revision Topic/Preliminary Issue in the Supplementary Information section above.

Responsible Official: The Responsible Official is Brad Powell, Regional Forester, Northern Region, 200 East Broadway, PO Box 7669, Missoula, Montana 59807.

Nature of Decision To Be Made

Pursuant to Part 36 Code of Federal Regulations (CFR) 219.10(g), the Regional Forester for the Northern Rockies Region gives notice of the agency's intent to prepare an environmental impact statement for the revision effort described above. The Forests are beginning an environmental analysis and decision-making process for this proposed action so that interested or affected people can participate in the analysis and contribute to the final decision. The Forest Plans describe the intended management of National Forests. According to 36 CFR 219.10(g), Land and Resource Management Plans are ordinarily revised on a 10 to 15 year cycle. Key decisions made in the Forest Plan for long-term management of National Forests are:

- Establishment of forest-wide multiple use goals and objectives, 36 CFR 219.11(b);
- Establishment of forest-wide management requirements (forest-wide standards and guidelines), 36 CFR 219.13–219.17;

- Establishment of management area direction, 36 CFR 219.11;

- Designation of suitable timber land and establishment of allowable sale quantity. Designation of land suitable for grazing and browsing. Identification of lands suitable and available for oil and gas leasing. Provision for a broad spectrum of forest and outdoor recreation opportunities. 36 CFR 219.14–219.16, 219.20–219.21;

- Establishment of requirements for monitoring and evaluating the implementation of the revised plan to meet the requirements of 36 CFR 219.11(d);

- Documentation that we will/will not recommend any further additions to the wilderness preservation system.

A range of alternatives will be considered when revising the Forest Plans. The alternatives will present different options to address the revision topics. A reasonable range of alternatives will be evaluated and reasons given for eliminating some alternatives from detailed study. A “no-action alternative” is required, meaning that management would continue under the existing Plan. Alternatives will provide different ways to address and respond to public issues, management concerns, and resource opportunities identified during the scoping process. In describing alternatives, desired vegetation and resource conditions will be defined. Resource outputs will be estimated in the Forest Plan based on achieving desired conditions.

Scoping Process

Opportunities will be provided to discuss the Forest Plan revision. The public is invited to help identify issues and define the range of alternatives to be considered in the environmental impact statement. Forest Service officials will lead these discussions, helping to describe issues and preliminary alternatives. These officials will also explain the environmental analysis process and the disclosures of that analysis, which will be available for public review. Comments identifying issues for analysis and the range of alternatives are encouraged. Issue identification (scoping) meetings will be scheduled for early summer through November 2002. Alternative development meetings will be held in the fall of 2002 and early 2003. Public notice of dates, times, and locations for specific meetings will be provided in local newspapers and posted on the Forest's web sites: <http://www.fs.fed.us/rl/kootenai/> or <http://www.fs.fed.us/rl/ipnf>. Additionally, we will send notices/newsletters to those on the forest plan revision mailing list.

Requests to be placed on this mailing list should be sent to the comment address stated above.

Consulting and Collaborating With Tribal Governments

The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive orders, and court decisions. In fulfillment of our Government-to-Government responsibilities, the Forest Service will be working with Tribal governments in order to address natural and cultural resource issues, treaty rights, and any issues that significantly or uniquely affect Tribes. Meaningful consultation will assure that tribal issues will be addressed within the most critical context of current and projected interests, values, objectives for and uses of national forest lands.

Comment Requested

This notice of intent initiates the scoping process, which guides that development of the environmental impact statement. This revision effort is being undertaken to develop management direction that may help contribute to basic agency goals of ecological, social and economic sustainability.

Early public participation will identify the topics to be addressed during Forest Plan revision. The preceding discussion of preliminary revision topics is based upon our assessment of a Plan monitoring and evaluation results; public and agency input during project planning and Plan amendment efforts; and socioeconomic, demographic and political changes. We expect this list to change as people engage in the planning process.

An atmosphere of openness is one of the objectives of the public involvement process, in which all members of the public feel free to share information with the Forest Service regularly. All parts of this process will be structured to maintain this openness.

The Forest Service is seeking information, comments, and assistance from individuals, organizations, tribal governments, and federal, state, and local agencies who are interested in or may be affected by the proposed action (36 CFR 219.6). The Forest Service is also looking for collaborative approaches with members of the public who are interested in forest management. Federal and state agencies and some private organizations have been cooperating in the development of assessments of current biological, physical, and economic conditions. This

information will be used to prepare the Draft Environmental Impact Statement (DEIS). The range of alternatives to be considered in the DEIS will be based on public issues, management concerns, resource management opportunities, and specific decisions to be made. Public participation will be solicited from known interested and affected public. News releases will be used to give the public general notice, and public scoping opportunities will be offered in numerous locations. Public participation activities will include (but will not be limited to) requests for written comments, open houses, focus groups, field trips, and collaborative forums.

Public participation will be especially important at several points along the way. The first formal opportunity to comment is during the scoping process (40 CFR 1501.7). Scoping includes (1) identifying potential issues, (2) from these, identifying significant issues or those that have been covered by prior environmental review, (3) exploring alternatives in addition to No Action, and (4) identifying the potential environmental effects of the proposed action and alternatives.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment by the winter of 2003. The comment period on the draft environmental impact statement will be 90 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, 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 position 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 of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th 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

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.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

After the comment period on the DEIS ends, comments will be analyzed, considered, and responded to by the Forest Service in preparing the Final EIS. The FEIS is scheduled to be completed in 2005. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making decisions regarding these revised Forest Plans. The responsible official will document the discussions and reasons for the decisions in Record of Decisions for the revised Plans. The decisions will be subject to appeal in accordance with 36 CFR 217.

Dated: April 23, 2002.

Bradley E. Powell,

Regional Forester, Forest Service-Northern Region.

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DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: North Central Idaho Resource Advisory Committee, Grangeville, Idaho, USDA, Forest Service.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-