

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

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May 11, 2017

Kathleen McNulty, Environmental Protection Specialist
US HUD Region 9, Office of Environment and Energy
One Sansome Street, Suite 1200
San Francisco, CA 94104

RE: Department's Adoption of USFS Rim Fire Recovery Final Environmental Impact Statement

Dear Ms. McNulty:

The California Department of Housing and Community Development ("HCD or Department") is completing an Environmental Review Record (ERR) for Forest and Watershed Health Program ("FWHP") activities under the HUD grant agreement number B-13-DS-06-001, which was awarded under the National Disaster Resiliency Competition (NDRC). The ERR includes the Department adopted United States Forest Service ("USFS") 2013 Rim Fire Recovery Final Environmental Impact Statement ("FEIS"). HCD has determined that adopted FEIS is appropriate for Community Development Block Grant-National Disaster Resiliency ("CDBG-NDR") funding because the area and activities evaluated in the FEIS are the same as those funded by CDBG-NDR. The Department also completed HUD environmental review form for an activity that is Categorically Excluded Subject to Section 58.5. This completed form is provided in the ERR to document compliance with HUD 24 CFR Part 58 NEPA regulations.

HCD appreciated HUD staff's assistance with completing the FEIS adoption public noticing process. Once all public comment periods and public comments have been addressed, then HCD will submit a Notice of Intent to Request a Release of Funds to HUD so HUD's public comment period can be completed and Authorization to use CDBG-NDR grant funding for FWHP activities can be provided to HCD.

Sincerely,

A handwritten signature in black ink, appearing to read "Moira Monahan". The signature is fluid and cursive, written over a horizontal line.

Moira Monahan
Operations Branch Chief

Cc: Patrick Talbott, Contract Manager



U.S. Department of Housing and Urban
Development

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Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5

Pursuant to 24 CFR 58.35(a)

Project Information

Project Name: Forest and Watershed Health Program (FWHP)

Responsible Entity: State of California, Department of Housing and Community
Development

Grant Recipient (if different than Responsible Entity):

State/Local Identifier: 16-NDR-Recovery FEIS

Preparer: Patrick Talbott

Certifying Officer Name and Title: Moira Monahan, Branch Chief

Grant Recipient (if different than Responsible Entity):

Consultant (if applicable):

Direct Comments to: Patrick Talbott

Project Location: County of Tuolumne

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

These forms are part of the California Department of Housing and Community Development's ("HCD") Environmental Review Record (ERR). The ERR includes the adopted United States Forest Service ("USFS") 2013 Rim Fire Recovery Final Environmental Impact Statement ("FEIS"). HCD has determined that the adopted FEIS is appropriate for FWHP funded activities under HCD's HUD award of Community Development Block Grant-National Disaster Resiliency ("CDBG-NDR") because the area and activities evaluated in the FEIS are the same as those funded by CDBG-NDR. This document is provided in the ERR to document compliance with HUD 24CFR Part 58 NEPA regulations. This document is included with the adopted Rim Fire Recovery FEIS as part of HCD's ERR.

Level of Environmental Review Determination:

This Document reflects an Environmental Impact Statement (EIS) level of review. The ERR consists of adoption of a FEIS and per the description above, this document is being used in

conjunction with the USFS Rim Fire Recovery FEIS to constitute a full compliance with NEPA laws and regulations.

Funding Information

Grant Number	HUD Program	Funding Amount
B-13-DS-06-001	CDBG-NDR	\$70,359,459

Estimated Total HUD Funded Activity Amount:

\$28,000,000

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:

\$28,000,000

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	This Compliance Factor was not addressed in the Rim Fire Recovery FEIS. The FWHP activity does not require compliance steps or mitigation because the project area is a rural forested area and there are no airport sites in the region.
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	This Compliance Factor was not addressed in the Rim Fire Recovery FEIS. There are no coastal barrier resources in HUD Region IX (CA, AZ, NV, HI, Guam, No. Mariana Islands).

Improvement Act of 1990 [16 USC 3501]		
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	This Compliance Factor was not addressed in the Rim Fire Recovery FEIS. FWHP activities will not involve work on physical structures and no physical structures will be impacted as all work will be conducted in forested areas.
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	<p>The FWHP activities will not require mitigation because they will be conducted in accordance with an approved EPA California Smoke Management (CSM) Program.</p> <p>The Clean Air Act of 1970 provides for the protection and enhancement of the nation's air resources. No exceeding of the federal and state ambient air quality standards is expected to result from any of the alternatives. The Clean Air Act makes it the primary responsibility of States and local governments to prevent air pollution and control air pollution at its source.</p> <p>California has a plan that provides for implementation, maintenance, and enforcement of the primary ambient air quality standards. This project is located in an area designated as non-attainment for Ozone. The burn treatments under Modified Alternative 4 will be conducted under an EPA approved California Smoke Management Program (SMP). Under the revised Conformity Rules the EPA has included a Presumption of Conformity for prescribed fires that are conducted in compliance with a SMP; therefore, the federal actions conform and no separate conformity determination is indicated (EIS Chapter 3.02).</p>

		See USFS FEIS, p. 15-16, 65, 67, 68, 254, 436.
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	This Compliance Factor was not addressed in the Rim Fire Recovery FEIS. FWHP activities will not involve work in or near any Coastal Zone per definition of a coastal zone: Coastal Act Public Code 30103. Therefore, there will be no impact on any coastal zones.
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	This Compliance Factor was not addressed in the Rim Fire Recovery FEIS. FWHP activities involve work in a rural/forested area. No toxic sites exist within or near the project area. Project activities will not create any toxic hazards.
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>	FWHP activity will be conducted so as to not impact current species listed on threatened or endangered list. Section 7 (d) of the Endangered Species Act (ESA) of 1973 requires that after initiation of consultation required under section 7(a)(2), a Federal agency “shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative which would not violate subsection (a)(2).” The Rim Fire started on August 17, 2013. Several days later, when it became clear the Rim Fire was a large incident, the US Forest Service initiated contact with the US Fish and Wildlife Service (USFWS) to alert them of potential impacts from the fire or fire suppression activities to listed species, including valley elderberry longhorn beetle and listed or candidate amphibian species. Forest Service biologists conducted a field trip with a USFWS biologist in the Rim Fire burn area on November 4, 2013 to discuss conditions and concerns for listed species.

The Forest Service then prepared a Biological Assessment (BA) and a subsequent addendum following a meeting with USFWS, considering the effects to three federally listed species: California red-legged frog (Threatened), Sierra Nevada yellow-legged frog (Endangered), and valley elderberry longhorn beetle (Threatened) are found within the project analysis area in Tuolumne County, California (USFWS 2014). That BA requested concurrence with the determination that the overall project “may affect, not likely to adversely affect” the valley elderberry longhorn beetle, and “may affect, likely to adversely affect” California red-legged frog and Sierra Nevada yellow-legged frog. As such, the Forest Service engaged with the USFWS in formal consultation and requested a Biological Opinion (BO) in support of these determinations with the acknowledgement that effects to individuals or habitat are not discountable.

The determination of “may affect, likely to adversely affect” for California red-legged frog and Sierra Nevada yellow-legged frog was limited to 7 locales. Section 7(a)(2) of the ESA requires Federal agencies, in consultation with USFWS and the National Marine Fisheries Service (NMFS), to ensure that their actions are “not likely to jeopardize the continued existence of any” listed species (or destroy or adversely modify its designated critical habitat; 16 U.S.C. § 1536(a)(2)). As such, the decision is that no operational implementation activities will occur in those 7 locales as part of this decision until such time as formal consultation with USFWS results in issuance of a BO.

Approval and operational implementation of Rim Recovery project activities outside of the 7 very limited locales referred to above during consultation and prior to completion of formal consultation with USFWS and issuance of a BO is consistent with the

		<p>requirements of ESA Section 7(d) because approval and/or conduct of these activities will not foreclose the formulation or implementation of any Reasonable and Prudent Alternative (RPA) measures that may be necessary to avoid jeopardy (or the likely destruction or adverse modification of critical habitat). The project does not lie within a critical habitat unit for the California red legged frog per the Federal Register (March 17, 2010; Volume 75, Number 51) and is not within a proposed critical habitat unit for the Sierra Nevada yellow legged frog per the Federal Register (April 25, 2013; Volume 78, Number 80).</p> <p>Consistent with such, the Rim Recovery project unit specific treatments detailed in Table B.02-1 (Appendix B) reflect project management requirements and the content of the BA and subsequent addendum including minimization measures. No operational implementation activities or treatments associated with the 7 very limited locales related to California red-legged frog and Sierra Nevada yellow-legged frog will be undertaken prior to completion of formal consultation with USFWS and issuance of a B●.</p> <p>See USFS FEIS, p. 15-16, 30-31, 36-37 45, 75-79, 321-322, 324, 331, 386, 406, 413-414, 436-437.</p>
<p>Explosive and Flammable Hazards</p> <p>24 CFR Part 51 Subpart C</p>	<p>Yes No</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>This Compliance Factor was not addressed in the Rim Fire Recovery FEIS. FWHP activities will not involve work related to creation of congregant spaces where groups will gather. In addition, there are no above ground flammable storage tanks in or around the area. The project will not create any potential hazards of this kind.</p>
<p>Farmlands Protection</p> <p>Farmland Protection Policy Act of 1981 particularly sections</p>	<p>Yes No</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>This Compliance Factor was not addressed in the Rim Fire Recovery FEIS. FWHP activities will take place in public national</p>

<p>1504(b) and 1541; 7 CFR Part 658</p>		<p>forest lands, which do not contain any protected farmland. Therefore, proposed activities will not lead to conversion of farmland to nonagricultural uses.</p>
<p>Floodplain Management</p> <p>Executive Order 11988, particularly section 2(a); 24 CFR Part 55</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/> o</p>	<p>FWHP activities will not have an adverse impact on floodplains. Activities will be beneficial and reduce flood hazards and erosion in the area.</p> <p>Executive Order 11988 applies to Floodplain Management. Floodplains are found along stream channels throughout the project area. Implementation of this decision would maintain or improve the existing condition of these floodplains by maintaining or improving meadow conditions. The intent of Executive Order 11988 would be met since this project would not affect floodplains in the Rim Recovery analysis area and thereby would not increase flood hazard. As described in the EIS (Chapter 3.14) no measurable changes in stream flow are anticipated from treatment actions under Alternative 4 (hence Modified Alternative 4 also).</p> <p>See USFS FEIS, p. 281, 437.</p>
<p>Historic Preservation</p> <p>National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The Programmatic Agreement between SHPO and the Stanislaus National Forest was signed on July 24, 2014.</p> <p>For all action alternatives, commercial timber harvest, hazard tree removal along low standard roads, new construction, reconstruction, and construction of temporary roads would have no direct effect, minimal indirect effects and no cumulative effects to cultural resources. Cumulative effects for Alternatives 3 and 4 are the same as Alternative 1 (FEIS p. 148).</p> <p>The National Historic Preservation Act (NHPA) of 1966 is the principal, guiding statute for the management of cultural resources on NFS lands. Section 106 of</p>

		<p>NHPA requires federal agencies to consider the potential effects of a Preferred Alternative on historic, architectural, or archaeological resources that are eligible for inclusion on the National Register of Historic Places and to afford the President’s Advisory Council on Historic Preservation an opportunity to comment. The criteria for National Register eligibility and procedures for implementing Section 106 of NHPA are outlined in the U.S. Code of Federal Regulations (36 CFR Parts 60 and 800, respectively). Section 110 requires federal agencies to identify, evaluate, inventory, and protect National Register of Historic Places resources on properties they control.</p> <p>The Stanislaus National Forest developed a specialized agreement: “Programmatic Agreement Among United States Department of Agriculture, Forest Service, Stanislaus National Forest, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Program of Rim Fire Emergency Recovery Undertakings, Tuolumne County, California” (Rim PA 2014). This agreement defines the Area of Potential Effects (APE) (36 CFR 800.4(a)(1)) and includes a strategy outlining the requirements for cultural resource inventory, evaluation of cultural resources, and effect determinations; it also includes protection and resource management measures that may be used where effects may occur. Additionally, this agreement provides opportunities to remove both commercially valuable timber and hazard trees from within site boundaries utilizing a variety of harvest methods (EIS p. 439).</p> <p>See USFS FEIS, p. 143,439.</p>
<p>Noise Abatement and Control</p> <p>Noise Control Act of 1972, as amended by the Quiet</p>	<p>Yes No ●</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The FWHP activity is not a “noise sensitive use” under HUD regulations. Project area is not urban and no existing residential units</p>

<p>Communities Act of 1978; 24 CFR Part 51 Subpart B</p>		<p>will be impacted by noise created from project activity implementation.</p> <p>HUD requires that grantees give adequate consideration to noise exposures and sources of noise as an integral part of the urban environment when HUD assistance is provided for planning purposes (24 CFR part 51 Sec. 51.101). This project is located in a rural area. Any noise resulting from the project would be short in duration and cease when project activities are complete; thus, not creating a permanent and long-lasting new source of noise in the project area.</p> <p>See USFS FEIS, p. 62, 93, 98, 193, 199-200, 202, 264, 272, 332, 340, 353, 362, 374, 391 408, 410-411, 428, 616-617, 649, 674, 731, 747.</p>
<p>Sole Source Aquifers</p> <p>Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>FWHP activity will not impact a sole source aquifer based on EPA locations of these aquifers. The USFS EIS (p. 281) display the laws, regulations and direction that applies to the Recovery project. No sole source aquifers are identified in the project area; however, the EIS (p. 293-317) describes the effects on water quality in great detail. There are no adverse effects on watershed, water quality or other beneficial uses of water.</p> <p>See USFS FEIS, p. 317-319.</p>
<p>Wetlands Protection</p> <p>Executive Order 11090, particularly sections 2 and 5</p>	<p>Yes No <input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>FWHP activities will not have a negative impact on wetlands. Reforestation efforts will help preserve existing wetlands.</p> <p>Executive Order 11990 requires protection of wetlands. Wetlands within the project area include meadows, stream channels, springs, fens, and shorelines. The EIS (Chapter 3.03 and Chapter 3.14) and the Watershed Report (project record) address wetlands and riparian vegetation. This project is consistent with Executive Order 11990 since this project would maintain or</p>

		<p>improve the condition of wetlands in the Rim Recovery project area (EIS Chapter 3.14) [EIS p. 439].</p> <p>See USFS FEIS, p. 281, 439.</p>
<p>Wild and Scenic Rivers</p> <p>Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)</p>	<p>Yes No</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>There are wild and scenic rivers in the project area. FWHP activities will not have an impact on the river.</p> <p>Under Alternatives 1, 3 and 4, proposed activities would have negative short-term effects on the scenic quality of the river corridors; however, these effects would be minimal in comparison to the already degraded scenic quality due to the Rim Fire itself. While some sedimentation could occur, it is anticipated to be minimal and of short duration and is not expected to affect the long-term beneficial uses and purposes for which these rivers were designated or made eligible. Over time as vegetation regrows, effects to the scenic beauty, vegetative diversity, and wildlife habitat are all expected to decrease until they are no longer evident. Table 3.12-5 displays the summary of actions within the three Wild and Scenic Rivers by alternative (EIS p. 273-274).</p> <p>See USFS FEIS, p. 251, 273.</p>
<p>ENVIRONMENTAL JUSTICE</p>		
<p>Environmental Justice</p> <p>Executive Order 12898</p>	<p>Yes No</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p>	<p>The FWHP activities will not lead to higher concentrations of low-income persons or place families into areas that are unhealthily. The project will make job and learning opportunities available to low-income persons through California Conservation Corps training programs.</p> <p>Executive Order 12898 “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population” requires that federal agencies make achieving environmental justice part of their mission by identifying and addressing, as</p>

		<p>appropriate, disproportionately high and adverse human health and environmental effects of their programs, policies, and activities on minority populations and low-income populations. As described in the EIS (Chapter 3.10), Alternative 4 (hence Modified Alternative 4 also) will not disproportionately impact minority or disadvantaged groups (EIS p. 437).</p> <p>See USFS FEIS, p. 211, 215-216, 231, 437.</p>
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Field Inspection (Date and completed by): **See USFS Rim Fire Recovery FEIS.**

Summary of Findings and Conclusions:

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

All FWHP activities will be conducted in accordance with procedures and measures stated in the Rim Fire Recovery FEIS.

Determination: Adoption of the USFS Rim Fire Recovery is appropriate for compliance with NEPA regulations. The FWHP activities do not trigger any compliance or mitigation under HUD regulations 24 CFR 50.4, and 58.6 laws and Authorities.

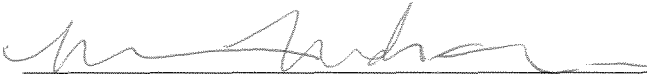
- This categorically excluded activity/project converts to **EXEMPT** per Section 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license; **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR

- This categorically excluded activity/project cannot convert to Exempt status because one or more statutes or authorities listed at Section 58.5 requires formal consultation or mitigation. Complete consultation/mitigation protocol requirements, **publish NOI/RRoF and obtain "Authority to Use Grant Funds"** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR
- This project is not categorically excluded OR, if originally categorically excluded, is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

Preparer Signature:  Date: May 11, 2017

Name/Title/Organization: **Patrick Talbott, Contract Manager, California Department of Housing and Community Development**

Responsible Entity Agency Official Signature:

 Date: 5/12/17

Name/Title: **Moira Monahan, Branch Chief, California Department of Housing and Community Development**

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).