

RECORD OF DECISION

Issued by:

STATE OF CALIFORNIA
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

For:

RIM FIRE RECOVERY ACTIVITIES FUNDED BY THE
CDBG-NDR FOREST AND WATERSHED HEALTH
PROGRAM (FWHP)

OCTOBER 5, 2017

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1. Background

In 2013, California experienced one of the worst wildfires in the state's history. The fire started in August and burned for over two months. Once it was over, the Rim Fire had burned more than 250,000 acres, and was declared a major disaster by President Obama.

In response to the 2013 Rim Fire, the United States Forest Service (USFS), which is charged with forest management activities in the Rim Fire disaster area, prepared an Environmental Impact Statement (EIS) to assess the potential environmental impacts of the proposed recovery activities, which included: fuel reduction, salvage logging, road repair, and wildlife habitat enhancement. The resulting Final USFS Environmental Impact Statement - Rim Fire Recovery (43033) (FEIS) and Record of Decision were completed in August 2014.

On September 17, 2014, the United States Department of Housing and Urban Development (HUD) released a Notice of Funding Availability (NOFA) for the Community Development Block Grant - National Disaster Resilience Competition (NDRC). Through the NDRC NOFA, HUD awarded nearly \$1 billion in Community Development Block Grant National Disaster Resilience (CDBG-NDR) funding for disaster recovery and long-term community resilience. All states and local governments with major disasters declared in 2011-2013 were eligible to apply.

On behalf of the State of California, the California Department of Housing and Community Development (HCD) applied for funding under the NDRC, and received an award of CDBG-NDR funding to implement a series of projects designed to help the impacted area recover from the Rim Fire and to make the area more resilient to future wildfires.

All grantees that received CDBG-NDR funds were required to complete an environmental review for all project activities prior to obligating any CDBG-NDR funds. The terms of the grant agreement between HUD and HCD, as well as 24 Code of Federal Regulations part 58.4, require HCD, as the responsible entity (RE), to "assume responsibility for the environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA." HUD regulations allow the RE to adopt a final EIS prepared by another agency, provided that the EIS was prepared in accordance with 40 Code of Federal Regulations parts 1500 through 1508. (See 24 C.F.R. § 58.52.)

Similarly, the Council on Environmental Quality (CEQ), the agency tasked with implementing the National Environmental Policy Act (NEPA), permits and encourages federal agencies to adopt a Final EIS, or portion thereof, issued by another federal agency, if the EIS or portion thereof "meets the standards for an adequate statement" and the actions covered by the original environmental impact statement and the proposed action are "substantially the same." (40 C.F.R. §§ 1500.4(n), 1500.5(h), 1506.3.)

The proposed action considered in this Record of Decision is to authorize funding for USFS to implement a portion of the activities analyzed in the FEIS. HCD determined that adopting the FEIS was appropriate because the area and activities evaluated in the FEIS are the same as those funded by the CDBG-NDR grant. Furthermore, HCD determined that the FEIS met the standards for adequacy and the action covered is substantially the same as HCD's proposed action in the HUD approved NDRC application.

HCD prepared and posted a 24 Code of Federal Regulations part 58 (Part 58) evaluation of the FEIS to confirm that all applicable HUD compliance factors were analyzed in the FEIS and associated documents. Based upon this review, HCD determined that the FEIS was prepared in accordance with 40 Code of Federal Regulations parts 1500 through 1508 and demonstrates compliance with all applicable laws and authorities cited in 24 Code of Federal Regulations parts 50.4, 58.5, and 58.6.

Accordingly, HCD adopted the FEIS pursuant to NEPA regulations. In order to commence the appropriate comment and review period, HCD prepared and filed its Part 58 evaluation¹ and notified the Environmental Protection Agency (EPA). The EPA published a Notice of Availability (NOA) on its website and in the Federal Register on May 26, 2017 (82 FR 24345).

2. Decision

After careful consideration of the potential environmental impacts, HCD has decided that it will implement the proposed action and, in doing so, authorized USFS to use CDBG-NDR funds to conduct the proposed fuel reduction activities on up to 14,897 acres. This decision is consistent with the USFS Record of Decision (USFS ROD) issued in August 2014 and will only include treatment units and types as described in Modified Alternative 4 below (see Appendix A for a list of proposed units and Appendix B for a map of the unit locations).

3. Purpose and Need for the Proposed Action

Purpose and Need

The proposed action consists of providing funding for fuel reduction in the Rim Fire disaster area in Tuolumne County. The purpose and need for the proposed action are clearly stated in Chapter 1 of the adopted FEIS (pgs. 9-10). Specifically, addressing the need to reduce fuels for future forest resiliency is essential to the success of HCD's Forest

¹ <http://www.hcd.ca.gov/community-development/disaster-recovery-programs/docs/Recovery-NEPA-Statutory-Worksheet.pdf>

and Watershed Health Program (FWHP), as stated in the NDRC application².

As discussed in the adopted FEIS, removing dead trees and fuels, where tree mortality exceeds the needs for snag retention and log recruitment, is the first step to meet desired fuel conditions. The goal is to leave no more than 20 tons per acre and 10 tons per acre in Strategically Placed Landscape Area Treatments (SPLATs) and Strategic Fire Management Features (SFMF) while working with other resources to ensure soil and hydrologic stability. Higher levels would make this area more prone to future high-intensity fires, burning through the recovering forest before it could mature. In order to reintroduce fire into these areas as soon as possible, the current fuel load needs to be reduced to a level where fire would burn in patchy, mostly low, with some moderate, vegetative burn severity.

Proposed Action

The proposed action in the FEIS consists of a number of different activities, from salvage logging and biomass removal to machine piling and mastication. Other activities analyzed under the FEIS include road repairs and wildlife enhancement.

The proposed action considered in this Record of Decision is to authorize funding for USFS to implement a portion of the activities analyzed in the adopted FEIS. HCD's decision is focused on funding fuel reduction, as stated in the CDBG-NDR grant application and subsequent award by HUD. Specifically, this project will focus on the treatment of biomass material (dead trees) for fuel reduction.

The proposed action is being conducted in conjunction with other CDBG-NDR approved activities to assist in building more resilient forests and communities, in order to protect them from future disasters and allow them to recover more quickly when future wildfires occur.

4. Basis of Decision

Based on HCD's review of the FEIS and its supporting documentation, along with extensive discussions with state and federal agency staff, other governmental bodies and members of the public, about 14,897 acres were selected within FEIS Alternative 4 (designated as Modified Alternative 4 in Section 5, below). This decision does not conflict with the USFS ROD, signed in August 2014. Furthermore, all implementation will be in line with activities and treatments proposed in the USFS ROD. A list of the units selected for potential treatment are shown in Appendix A.

The decision was made to provide CDBG-NDR funding to the USFS to conduct the

² See HCD's NDR webpage for more information on the FWHP and the complete California NDR application: <http://www.hcd.ca.gov/community-development/disaster-recovery-programs/ndrc.shtml>

proposed action under the Modified Alternative 4 because it meets the project's Purpose and Need (EIS Chapter 1.03), while also responding to significant issues related to: Health and Safety; Snag Forest Habitat; and Wildlife Habitat (EIS Chapter 1.08).

Modified Alternative 4 will help create a more traditional landscape where fires will burn at low to moderate vegetative burn severities and decreases the probability of large, high-intensity fires like the Rim Fire.

The decision to scale back the scope of Alternative 4 was made based on public comment, local collaborative groups and community representatives, as well as the limited amount of funding provided by this grant opportunity (not all 33,000 plus acres could be treated by this funding).

5. Alternatives Analyzed in the FEIS

Chapter 2.02 of the adopted FEIS describes and compares in detail the alternatives considered for the Rim Recovery project. It presents the alternatives in comparative form, defining the differences between each alternative and providing a clear basis for choice among the options for the decision maker and the public. These include the proposed action (Alternative 1), the no action alternative (Alternative 2), and two additional action alternatives (3 and 4) that provide a comprehensive range for the decision maker. FEIS Table 2.05-1 provides a summary of the proposed activities and FEIS Appendix E provides detailed information for each specific treatment unit.

The alternative selected by the USFS and approved for funding by HCD is Modified Alternative 4, as described in detail in the USFS ROD. In summary, Modified Alternative 4 reduces the amount of salvage logging and associated fuel treatments proposed in the original Alternative 4. Modified Alternative 4 approves salvage logging and fuel reduction on 15,383 acres. Modified Alternative 4 also approves fuel treatments on 26,890 acres (including fuels reduction on 11,507 acres that do not include salvage). The treatments include: 26,890 acres of dead tree removal, 2,671 acres of biomass removal; 1,150 acres of mastication; 1,450 acres of drop and lop; 18,381 acres of machine piling and burning; and, 3,238 acres of jackpot burning. CDBG-NDR funding will reimburse USFS in implementing Modified Alternative 4 on up to 14,897 acres, out of the 26,890 acres included in Modified Alternative 4 (see Appendix A for the treatment unit list and Appendix B for a map of locations authorized to receive CDBG-NDR funding). Modified Alternative 4 was selected because it achieves the fuel reduction goals stated in the FEIS's Purpose and Need while setting aside additional acreage for post-fire dependent species. Modified Alternative 4 also meets the goals of HCD's FWHP in creating a more resilient forest in the Rim Fire area.

Summary of Alternatives Evaluated in the FEIS

Four alternatives were fully developed under the FEIS, Chapter 2 (Section 2.02). Section 2.04 also discusses the eight additional alternatives that were considered, but not developed in detail.

Alternative 1, as described in the Notice of Intent (78 Federal Register 235, December 6, 2013; p. 73498-73499), with corrections based on updated data and map information and completion of California Spotted Owl Protected Activity Center (PAC) re-maps as stated in the scoping package (Chapter 1.04). These corrections and refinements provide additional resource protection and a more accurate and informed proposed action. Total acres of fuels reduction treatment under Alternative 1 is 35,968 acres. HCD did not select Alternative 1 because it does not provide the same increased opportunity for snag and down material retention as Modified Alternative 4.

Alternative 2 (No Action) serves as a baseline for comparison purposes. Under Alternative 2, no proposed activities would occur. HCD did not select this alternative because without removing dead trees, hundreds of tons of fuel per acre would persist in the areas analyzed. This heavy fuel loading would greatly increase the probability of another extreme wildfire.

Alternative 3 responds to issues and concerns related to: Snag Forest Habitat; New Road Construction, Wildlife Habitat; and, Soil and Watershed Impacts (EIS Chapter 1.08) and includes 38,099 acres of fuels reduction. Compared to Alternative 1, it addresses those issues by proposing: additional wildlife habitat enhancements (including biomass removal in Critical Deer Winter Range and the FCCC Forest Plan Amendment); additional soil and watershed protection (mastication and drop and lop); and, less new road construction. HCD did not select Alternative 3 because it does not include the additional acreage set aside for post-fire dependent species, such as the black-backed woodpecker.

Alternative 4 responds to issues and concerns related to: Snag Forest Habitat; New Road Construction, Wildlife Habitat; and Soil and Watershed Impacts (FEIS Chapter 1.08). Alternative 4 replaces new road construction with temporary roads and drops 2,500 acres of salvage logging in highly suitable black-backed woodpecker habitat. HCD did not select Alternative 4 because it does not include additional acreage set aside for post-fire dependent species, such as the black-backed woodpecker.

In addition to the four fully developed alternatives described above, the USFS considered an additional eight alternatives developed from internal scoping and input from the public. NEPA requires that federal agencies rigorously explore and objectively evaluate all reasonable alternatives and briefly discuss the reasons for eliminating any alternatives that were not developed in detail. (40 C.F.R. § 1502.14.) Chapter 2 Section 2.04 of the FEIS provides a detailed description of the alternatives considered but eliminated from detailed study as well as the reasons for eliminating them. They include: a) Remove the Maximum Amount of Timber Value; b) Hazard Tree Removal Only; c) Retain 100% Black-Backed

Woodpecker Modeled Pairs; d) Retain 75% Black-Backed Woodpecker Modeled Pairs; e) Retain Pre-Fire Spotted Owl PAC Boundaries, No PAC Remapping or Retiring; f) Natural Succession; g) Central Sierra Environmental Resource Center; and h) Sierra Forest Legacy. They are fully described on pages 47 through 50 of the FEIS.

6. Environmentally Preferable Alternative and Alternatives Comparison

As the lead agency, the USFS selected Modified Alternative 4 from the FEIS. HCD's decision is to also select a portion of this Modified Alternative 4 for funding.

The environmentally preferable alternative is often interpreted as the alternative that causes the least damage to the biological and physical environment, or the alternative which best protects and preserves historic, cultural and natural resources. Other factors relevant to this determination are provided in Section 101 of NEPA (42 U.S.C. § 4321 et seq.) which states that it is the continuing responsibility of the Federal Government to:

- Fulfill the responsibilities of each generation as a trustee of the environment for succeeding generations;
- Assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
- Attain the widest range of beneficial uses of the environment without degradations, risk to health and safety, or other undesirable and unintended consequences;
- Preserve important historic, cultural and natural aspects of our national heritage and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
- Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and,
- Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources. (42 U.S.C. § 4331(b).)

In consideration of the factors listed above and the effects disclosed in the FEIS, HCD concurs with USFS that Modified Alternative 4 is the Environmentally Preferred Alternative for the following reasons:

- Modified Alternative 4 best provides for the long-term management of the project area.
- The fuel reduction, through biomass removal, tractor piling, mastication and other actions, will provide for the creation of a resilient forest, as well as enhance habitat for migratory deer.
- Modified Alternative 4 includes additional protective measures beyond the minimum required by the Stanislaus National Forest Plan and USFS policy for species listed as Threatened, Endangered, and Sensitive while also taking into account the

needs of non-listed species. This alternative is designed to strike a reasonable balance between minimizing short-term impacts on some species and long-term conservation of other species, specifically California spotted owls, great gray owls, and northern goshawks.

- Modified Alternative 4 will not conduct habitat-disturbing actions in about 71% of the NFS lands within the Rim Fire (83% of the total Rim Fire). The treatments approved on USFS lands can meet multiple objectives including protecting habitat for post-fire species and allowing natural processes to occur.

7. Mitigation

No additional mitigation measures were identified in HCD's Part 58 compliance review. Project Management Requirements (mitigations) are identified for each resource³ and by Alternative in the FEIS and will apply to this decision where applicable.

8. Compliance with Environmental Laws and Authorities

The Rim Recovery project was prepared in accordance with the following applicable laws and regulations. HCD prepared a Part 58 evaluation to identify where all required HUD compliance factors were analyzed in the FEIS and associated documents. (24 CFR §§ 50.4, 58.5, 58.6.) This "crosswalk" is part of the project record and demonstrates how the proposed action will comply with all applicable environmental law and authorities.

National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires that all major federal actions significantly affecting the human environment be analyzed to determine the magnitude and intensity of those impacts and that the results be shared with the public and the public given opportunity to comment. The regulations implementing NEPA further require that to the fullest extent possible, agencies shall prepare EISs concurrently with and integrated with environmental analyses and related surveys and studies required by the Endangered Species Act of 1973, the National Historic Preservation Act of 1966, and other environmental review laws and executive orders. Other laws and regulations that apply to this project are described below.

Clean Air Act

The Clean Air Act of 1970 provides for the protection and enhancement of the nation's air resources. No exceedance 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

³ Resources include aquatic species, cultural, fire and fuels, invasive species, range, recreation, sensitive plants, soils, terrestrial wildlife, vegetation and watershed. Management Requirements are designed to minimize or avoid potential adverse impacts. These mandatory components of the project and will be implemented as part of the proposed activities.

responsibility of States and local governments to prevent air pollution and control air pollution at its source.

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 an SMP; therefore, the federal actions conform and no separate conformity determination is indicated (FEIS Chapter 3.02).

Clean Water Act

The Clean Water Act (as amended in 1972 and 1987 and previously known as Federal Water Pollution Control Act of 1948) establishes federal policy for the control of point and non-point pollution, and assigns the states the primary responsibility for control of water pollution. The Clean Water Act regulates, among other things, the dredging and filling of freshwater and coastal wetlands. Section 404 (33 U.S.C. § 1344) prohibits the discharge of dredged or fill material into waters (including wetlands) of the United States without first obtaining a permit from the U.S. Army Corps of Engineers. Wetlands are regulated in accordance with federal Non-Tidal Wetlands Regulations (Sections 401 and 404). No dredging or filling is part of this project and no permits are required.

Compliance with Section 401 of the Clean Water Act by national forests in California is achieved under state law. The California Water Code consists of a comprehensive body of law that incorporates all state laws related to water, including water rights, water developments, and water quality. The laws related to water quality (California Water Code sections 13000 to 13485) apply to waters on the national forests and are directed at protecting the beneficial uses of water. Of particular relevance for the Rim Recovery project is section 13369, which deals with non-point-source pollution and best management practices. As described in the FEIS (Chapter 3.14), all actions in Alternative 4 (hence Modified Alternative 4 also) result in the maintenance of the applicable beneficial uses of water in the Water Quality Control Plan for the California Central Valley Water Quality Control Board.

Endangered Species Act

The Forest Service prepared a Biological Assessment (BA) and a subsequent addendum following a meeting with the United States Fish and Wildlife Service (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, not likely to adversely affect” for California red-legged frog and Sierra Nevada yellow-legged frog was limited to seven locales. Section 7(a)(2) of the ESA requires Federal agencies, in consultation with USFWS and the National Marine Fisheries Service (NMFS), to insure 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)). Formal consultation with USFWS is completed and a BO has been issued. The Rim Recovery project unit specific treatments reflect project management requirements and the content of the BA and BO including minimization measures.

Environmental Justice

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 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.

Floodplain Management

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 FEIS (Chapter 3.14) no measurable changes in stream flow are anticipated from treatment actions under Alternative 4 (or in the USFS modified Alternative 4).

National Forest Management Act

The National Forest Management Act (NFMA) of 1976 amends the Forest and Rangeland Renewable Resources Planning Act of 1974 and sets forth the requirements for Land and Resource Management Plans for the National Forest System.

The Forest Service completed the Stanislaus National Forest Land and Resource Management Plan (Forest Plan) on October 28, 1991. The “Forest Plan Direction” (USDA

2010a) presents the current Forest Plan management direction, based on the original Forest Plan, as amended. The Forest Plan identifies land allocations and management areas within the project area including: Wild and Scenic Rivers, Proposed Wild and Scenic Rivers, Critical Aquatic Refuge (CAR), Riparian Conservation Areas (RCAs), Near Natural, Scenic Corridor, Special Interest Areas, Wildland Urban Intermix, Protected Activity Centers (PACs), Old Forest Emphasis Areas, and Developed Recreation Sites. Activities and areas approved under this decision and the NDRC grant are consistent with the Stanislaus National Forest Plan and all other requirements of the National Forest Management Act.

National Historic Preservation Act & Executive Order 11593, Protection and Enhancement of the Cultural Environment

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 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 36 Code of Federal Regulations Parts 60 and 800. Section 110 requires federal agencies to identify, evaluate, inventory, and protect National Register of Historic Places resources on properties they control.

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 C.F.R. §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.

Protection of Wetlands and Sole Source Aquifers

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 improve the condition of wetlands in the Rim Recovery project area (EIS Chapter 3.14).

Wild and Scenic Rivers Act

This project does not in any way assist in the construction of any water resources project that would have a direct and adverse effect on the values for which a wild and scenic river might be designated.

The Tuolumne River is a wild and scenic river. Project activities will not have an impact on the river. Under Modified Alternative 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 this river was designated. 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 of the FEIS displays the summary of actions within the three Wild and Scenic Rivers by alternative (EIS p. 273-274).

In addition to complying with the laws and regulations that apply to the USFS, HUD requires HCD to demonstrate compliance with the following laws and authorities cited in 24 Code of Federal Regulations parts 50.4, 58.5, and 58.6. The following laws and controls do not apply to the project:

- **Coastal Zone Management Act** - Project is located in the Sierra Nevada Mountains not in or near any Coastal Zone as defined by Coastal Act Public Code 30103.
- **Coastal Barrier Resources Act**– Project is located in the Sierra Nevada Mountains. There are no coastal barrier resources in HUD Region IV west coast area.
- **Flood Disaster Protection Act** - This Act applies to federally assisted housing units in a 100 year floodplain and specifically the floodplain insurance requirements for such housing units. The proposed project area has no housing units within it.
- **HUD Environmental Standards for Noise Abatement and Control** –None of the project activities meet the definition under HUD Regulations.
- **Farmland Protection Act** - The project does not contain protected lands or activities will not lead to conversion of these lands from existing desired uses.
- **Explosive and Flammable Operations** - This project is in a rural/forested area. The project activities are located at an Acceptable Separation Distance (ASD) from any above-ground explosive or flammable fuels or chemicals containers. The project will not create any new operations of this kind.
- **Hazardous, Toxic or Radioactive Materials & Substances** - This project is in a rural/forested area. No such sites exist within or near the project area. Project activities will not create any hazards.
- **Airport Clear Zones and Accident Potential Zones** - This project is in a

rural/forested area. The project activities are not within an airport clear zone as no airport sites exist within or near the project area.

9. Public Involvement

HCD published a Combined NOA of the FEIS for public review and comment on the State of California's Adoption of the FEIS and Notice of Intent to Request Release of Funds on May 18, 2017. The Combined NOA was published in the Union Democrat, Sonora, CA on May 18, 2017 with a comment period extending until June 26, 2017. HCD sent the NOA to individuals, organizations, agencies, Tribes and commenters who expressed interest during the USFS 2014 EIS public involvement process. In addition, HCD sent out an e-mail notification of the NOA to all contacts on HCD's "Interested Parties" list.

During the review period, the Sierra Nevada Conservancy (SNC, the project coordinator for the FWHP) and the USFS hosted public workshops in Sonora (June 13, 2017) and Groveland (June 14, 2017) to solicit feedback on locations and project activities to be funded by the CDBG-NDR FWHP. See Appendix C for written comments received by HCD and HCD's responses.

The Part 58 evaluation identifying all the HUD compliance factors was made available to the public on HCD's NDRC web site <http://www.hcd.ca.gov/community-development/disaster-recovery-programs/ndrc.shtml#notices>.

Public Involvement During the USFS Environmental Review

The USFS made great efforts to seek early and broad public involvement for this project due to the enormity of the Rim Fire and the tremendous public interest in management of the burned area. USFS public outreach began while the fire was still smoldering and continued up until the point of USFS's decision in August 2014. They sought input from individuals, non-profit groups, industry representatives, local governments, public agencies and Native American tribes. As a result, interested parties submitted a staggering amount of comments – in person, on the phone, in public meetings, and in thousands of letters and e-mails.

USFS engaged several collaborative groups representing a wide range of values and opinions during their NEPA process. One group, Yosemite Stanislaus Solutions (YSS), includes a wide variety of local stakeholders, including timber industry, environmental groups, government agencies and others. YSS fosters partnerships among private, nonprofit, state, and federal entities with a common interest in the health and well-being of the landscape and communities in the Tuolumne River Watershed. The group fosters an all-lands strategy to create a heightened degree of environmental stewardship, local jobs, greater local economic stability, and healthy forests and communities.

Another group, the Rim Fire Technical Workshop group, consisted of scientists and representatives from state and national environmental organizations, the timber industry, and government entities with a more national or statewide interest-base. This group was organized through the efforts of the SNC, whose mission is to initiate, encourage and support efforts that improve the environmental, economic and social well-being of the Sierra Nevada Region, its communities, and the citizens of California.

The USFS held its first field trip into the Rim Fire on October 16, 2013 with individuals from the Tuolumne Band of Me-Wuk Indians, Central Sierra Environmental Resource Center (CSERC), Sierra Club, Tuolumne County Alliance for Resources and Environment (TuCARE), California Fish and Wildlife Service, Audubon Society, Tuolumne County Supervisors, logging companies, SNC and the local collaborative group YSS. On November 14, 2013, the Rim Fire Technical Workshop group toured the burn area with several stops and discussions with Forest Service managers and researchers.

On December 6, 2013, the Forest Service published a Notice of Intent (NOI) that asked for public comment on the initial proposed action (Alternative 1) (78 Federal Register 235, December 6, 2013; p. 73498-73499). Interested parties submitted 4,200 letters during the comment period, including 174 unique letters and 4,026 form letters. Other interested parties submitted 3,627 form letters after the comment period closed. During the 30-day scoping comment period the USFS held public open houses in Sonora on December 13 and 14, 2013. The open houses were advertised on local radio stations, in the local newspaper, on the Stanislaus National Forest website, through a “tweet” to more than 68,000 followers, through direct mailings to those on their NEPA mailing list, and to those who showed interest in the project. Over 25 people attended the open houses, where USFS described the preliminary purpose and need for the project as well as proposed recovery treatments. USFS also hosted a Rim Fire Technical Workshop to share scoping information on December 18, 2013.

FOR FURTHER INFORMATION: To obtain additional information about CDBG-NDR proposed action (funding), or the environmental review process, contact Patrick Talbott at telephone 916-263-2297; or email: <mailto:ca-ndrc@hcd.ca.gov>.

10. Conclusion

This ROD draws upon the FEIS’s analysis and the compliance factor evaluation completed by HCD. HCD has complied with all procedural requirements of the environmental review including:

- Review of the FEIS and preparation of a Part 58 evaluation which ensured all HUD compliance factors were addressed;
- Filing and distribution of the FEIS and Part 58 Re-evaluation;
- Publication and distribution of a NOA of FEIS and Part 58 evaluation and Notice of

Intent to Request Release of Funds;

- Preparation of this ROD.

HCD approves the proposed action (funding of Modified Alternative 4) as defined in this ROD. In accordance with 40 Code of Federal Regulations part 1505.2, HCD has considered all practical means to avoid or minimize environmental harm associated with the implementation of the proposed action.

HCD finds that the proposed action would best realize the underlying purpose and need as set forth in its NDRC application. The No Action Alternative would not meet the purpose and need as it would not allow for long-term forest resiliency and lessened fire intensities.

Having considered the FEIS and HCD's Part 58 evaluation and having considered the above information relied upon to meet the requirements of NEPA, as amended (42 U.S.C. § 4371 et seq.), HCD certifies that, consistent with social, economic and other essential considerations from among the reasonable alternatives available, the proposed action avoids or minimizes adverse environmental impacts to the maximum extent practicable.

Based on the foregoing determinations and findings and the entire project record, HCD hereby approves the proposed action in accordance with the above-referenced applicable statutory and regulatory requirements to facilitate funding of forest recovery efforts in the Rim Fire disaster area.

The above ROD is approved and adopted by HCD on the following date:



Date 10/5/17

Moira Monahan

Operations Branch Chief

Department of Housing and Community Development, Division of Financial Assistance

Appendix A. Treatment Unit List

HCD's decision authorizes funding for up to 14,897 acres of fuel reduction treatments in the Rim Fire burn area. Of the total units authorized by USFS in the 2014 Record of Decision (ROD), implementation on up to 136 units will be funded by HCD's CDBG-NDR Forest and Watershed Health Program. For more detailed information on the treatments, see Chapter 2.01 of the adopted FEIS.

Table A.1 Fuel Reduction Treatments Authorized for Funding by HCD.

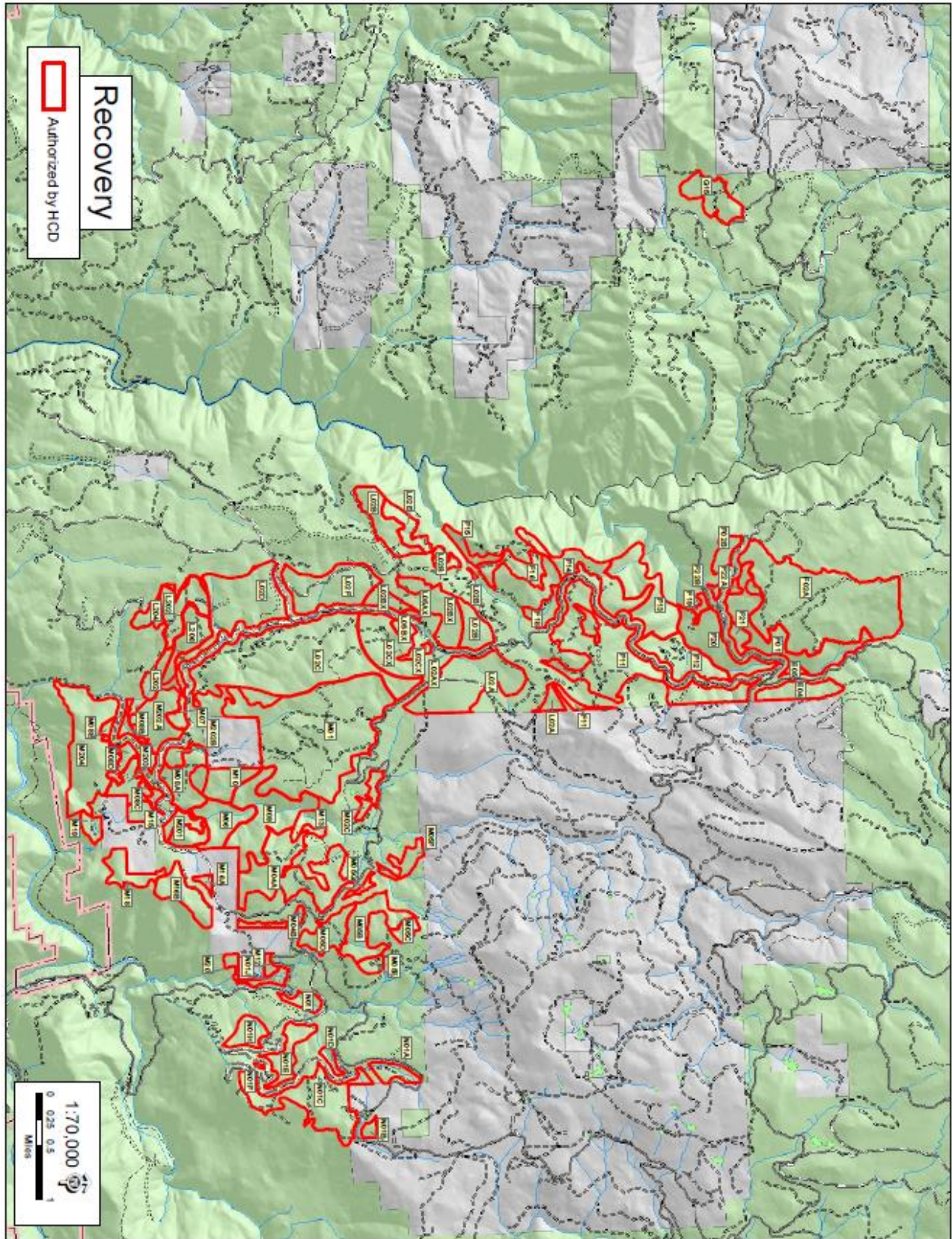
Unit	Acres	Unit	Acres	Unit	Acres
E04	72	L206	1	M201	31
E05	10	L206	80	M202A	111
F01	196	M01	701	M202B	21
F02A	604	M02C	30	M203	1
F02B	34	M04A	260	M203	62
F11	411	M04B	13	M204	7
F12	121	M04C	15	M204	275
F13	177	M05B	120	N01A	37
F14	135	M05C	24	N01B	13
F15	33	M05D	76	N01C	225
F16	69	M05E	21	N01D	14
F18	38	M05F	39	N01E	71
F19	12	M05G	11	N01F	2
F20	145	M06	97	N01H	49
F21	22	M07	21	N01I	28
F22A	7	M08A	98	N01J	21
F22B	6	M08B	29	Q13	81
G15	95	M08C	11	Q14A	395
L02A	258	M08D	27	Q14B	146
L02B	176	M08E	8	Q15	17
L02BX	148	M09	224	R01B	11
L02C	609	M10	71	R04A	52
L02CX	148	M12	12	R04B	41
L02D	257	M13	10	R12	8
L02E	60	M15	28	R12X	55
L02F	185	M16A	10	R15	66
L05AX	6	M16B	86	R16	98
L05BX	17	M18	58	R17X	72
L202	42	M19	27	R18X	17
L202	100	M20	15	R19A	52
L204	37	M201	43	R19B	12

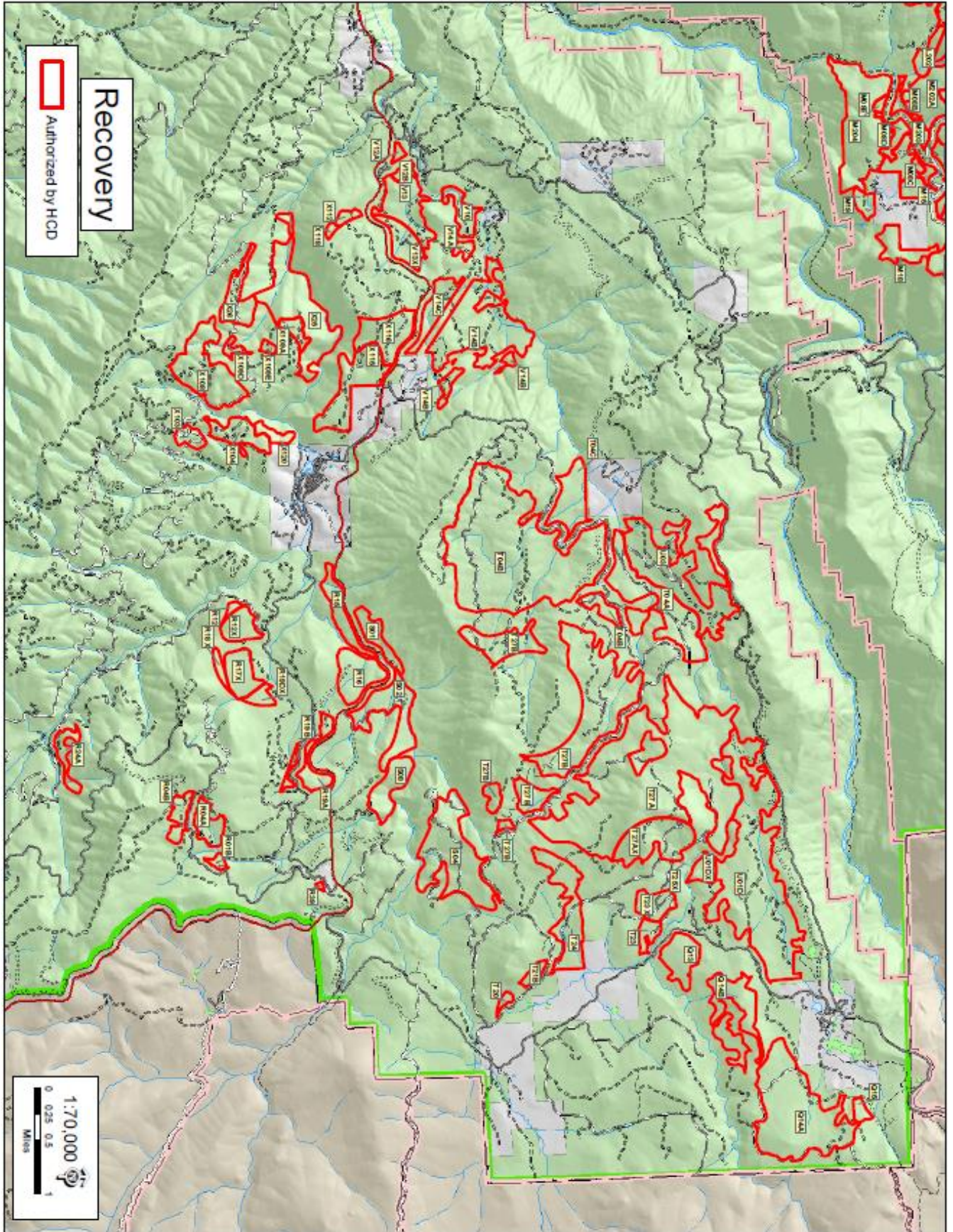
Unit	Acres
R19DX	24
R24A	41
R39	3
S01	53
S02	135
S04	266
S08	81
T04A	235
T04B	876
T04C	101
T20	9
T21B	18
T23	28
T23X	54
T24	154

Unit	Acres
T27A	926
T27AX	149
T27B	450
T27C	97
U01D	617
U01DX	33
U03	320
V10	50
V12A	9
V12B	16
V13	119
V13X	69
V14A	15
V14B	321
V14C	70

Unit	Acres
X103	28
X104	72
X108	183
X109A	28
X109D	13
X109E	9
X112	14
X115	150
X116	110
X118	7
X120	24
X25	253
X26	75

Appendix B. Treatment Maps





Appendix C. Response to Comments

The Environmental Protection Agency (EPA) published a Notice of Availability (NOA) in the Federal Register on May 26, 2017 for the FEIS completed by the U.S. Forest Service and adopted by the California Department of Housing and Community Development (HCD), acting as the Responsible Entity on behalf of the U.S. Department of Housing and Urban Development. CEQ regulations state that “an agency may request comments on a final environmental impact statement before the decision is finally made” (40 CFR 1503.1(b)). Pursuant to the CEQ regulations, HCD invited the public to comment on the FEIS. This 30-day comment period ended on June 26, 2017.

In response to HCD’s request for written comments, interested parties submitted 15 unique letters and 23 form style letters. Many comments pertain to both the adopted Rim Fire Recovery FEIS and the adopted Rim Fire Reforestation FEIS. As these are separate decisions, HCD has divided the response to some comments between this document and the Rim Fire Reforestation Record of Decision according to the proposed actions referenced in the comment.

This Appendix contains the summary comment statements (as allowed under 40 CFR 1503.4(b)) and responses to substantive issues.

- 1. Comment:** California forest lands have proven time and again that they can regenerate without disruptive human intervention. The Rim Fire site is further evidence of that. I urge you to abandon your plans to use this grant to log live and fire killed trees, disturb undergrowth with heavy machinery, apply poisonous herbicides and then plant seedlings in the Rim Fire sites that are already naturally regenerating with native trees.

Response: The FEIS does not propose removing any green/live trees, only trees with no visible green needles would be treated for fuels reduction.

Natural regeneration has been patchy at best and is mostly returning as shade tolerant white fir which is not likely to survive future fires and is shorter lived. Although brush does not inhibit conifer germination, it does efficiently uptake water and can easily out compete seedlings. As described in the Fire and Fuels section (Chapter 3.05 of the FEIS), under Alternative 2 (no action), surface fuels are projected to average 42 tons per acre within 10 years and 78 tons per acre within 30 years (from the standing dead trees that will fall over time). Fire effects under the No Action Alternative would result in higher losses as seen in the Rim Fire, with over 50% of the stand killed. It is expected that some fires, both human and lightning caused, would continue to escape initial attack under more severe weather conditions over the next 20 to 30 years. These fires are expected to kill natural regeneration and residual larger trees. Since only dead trees are being

proposed for treatment, seed dispersal from the remaining living trees would not be affected.

The potential impacts from the use of machinery were thoroughly analyzed in Chapter 3 of the FEIS. No herbicide use or tree planting is proposed under this decision.

- 2. Comment:** I urge you to reject the inadequate and outdated Forest Service Reforestation Final Environmental Impact Statement, and start fresh with new environmental analysis that takes into account not only the habitat loss that will occur, but also the damage to watersheds which will result from removing all the current vegetation, and the impacts to our climate that will result from biomass burning carbon emissions.

Response: The 753 page USFS Rim Fire Recovery FEIS analyzed the potential impacts of all of the proposed activities to wildlife habitat and species (FEIS, p.321-434) and watersheds (FEIS, p.281-320). The project's potential impact to climate change was considered and is documented in Chapter 3.01 of the FEIS. Emissions from various types of treatments including biomass removal and tractor piling and burning is discussed and displayed in the Air Quality section of the FEIS (p. 65-74). See responses to comments 7-9 and 11, below, to see how HCD's proposed action will minimize greenhouse gas emissions compared with other alternatives analyzed in the FEIS (including the no action alternative).

- 3. Comment:** Please note that our environmental center strongly supports the adequacy and the mitigations contained in the original NEPA analysis for the Rim Fire Reforestation project produced by the Forest Service. Many uninformed conservation activists have been misled into believing that widespread logging and other negative actions are proposed, when in reality the removal of dead trees, brush, and other fuel is beneficial both for reforestation and for reducing the risk of new stand-replacing high severity wildfires.

CSERC supports the adequacy of the USFS Rim Fire Recovery FEIS.

Response: Comment noted for project record.

- 4. Comment:** When forests burn, it is important that they remain upright as the nutrients remain in the forest and become the basis for future regrowth and regeneration. But when you log a burned forest, those nutrients are removed and this hinders the regrowth that is desired.

Response: While impacts to soil nutrients are not specifically analyzed, as described in Forest Service Manual Chapter 2550, the National Forest

Management Act (NFMA) of 1976 (which amended The Forest and Rangeland Renewable Resources Planning Act of 1974) requires the maintenance of productivity and protection of the land and, where appropriate, the improvement of the quality of soil and water resources. Impacts to soil productivity are analyzed in detail in the Soils Report for the project and are summarized in the FEIS (Section 3.11 Soils). See the response to comment 15, below for more information.

5. **Comment:** We also urge you to withdraw your proposal to adopt the U.S. Forest Service's 2014 and 2016 Environmental Impact Statements (EISs) as a means to comply with the National Environmental Policy Act (NEPA) as those documents are insufficient and/or significantly outdated with respect to several key issues such as climate change impacts and natural regeneration of conifer forest.

Response: The analysis completed in 2014 evaluated climate change impacts from the proposed activities and no new information has been brought forward that would change the existing analysis. The analysis looked at a 5 year time frame for timber salvage logging and a 7 year time frame for fuels reduction treatments on the landscape.

6. **Comment:** HCD must comply with the California Environmental Quality Act (CEQA) before taking any steps to approve or carry out any part of the overall project for which HUD funds are sought.

Response: HCD will comply with all applicable federal and state laws, rules, and regulations, including the California Environmental Quality Act (CEQA) before authorizing the use of any grant funds.

7. **Comment:** The funding at issue here seeks, among other things, to be used within the 2013 Rim Fire area to support (1) logging biomass material by chipping and removing to a biomass facility, (2) piling and burning woody material on site, as well as (3) artificially planting trees on about 25,000 acres. The woody biomass combustion is not carbon-neutral, as acknowledged by numerous scientific studies (see, e.g., Brandão et al. 2013, Repo et al. 2011, Searchinger et al. 2009), the Intergovernmental Panel on Climate Change (IPCC), and the EPA's science advisors. Rather, the combustion of wood for energy instantaneously releases virtually all of the carbon in the wood to the atmosphere as CO₂. Further, burning wood for energy is typically less efficient, and thus far more carbon-intensive per unit of energy produced, than burning fossil fuels (even coal). Measured at the smokestack, replacing fossil fuels with biomass actually *increases* CO₂ emissions. One recent study found that the climate impact per unit of CO₂ emitted seems to be even higher for the combustion of slow-growing biomass than for the combustion of fossil carbon in a 100-year time frame. Thus, the warming effect from biogenic

CO₂ can continue for decades or even centuries depending on the “feedstock.” As just one example of the impacts of bioenergy, measured at the smokestack, burning forests for kilowatts emits 45% more CO₂ than burning coal, for an equivalent amount of energy produced.

This CO₂ impact of burning logs and woody material in biomass plants (or piling and burning them on-site) must be addressed by HCD. The substantial greenhouse gas impacts of these desired actions remain unanalyzed, however, because the 2014 and 2016 Rim fire EISs, on which HCD seeks to rely, did not analyze these impacts. Therefore, HCD must conduct this analysis itself and cannot simply adopt the 2014 and 2016 Rim fire EISs.

Response: Federal agencies, and responsible entities such as HCD, are not required to analyze impacts of greenhouse gases (GHGs) under NEPA.

Though not necessary in complying with NEPA, the Rim Fire Recovery FEIS did analyze GHG emissions from bioenergy production and this analysis has informed HCD’s decision. Pages 69-74 include a detailed analysis of GHG and other air quality impacts likely to occur from pile burning, jackpot burning, biomass combustion in a bioenergy facility, and the no action alternative (Alternative 2). In this analysis, the USFS estimated that Alternative 2 (no action) would likely emit the largest amount of GHG emissions of all alternatives due to future wildfire in the proposed areas.

In comparing fuel treatments, the FEIS demonstrates that pile and jackpot burning is likely to have the same impact on carbon dioxide (CO₂) emissions as burning material for bioenergy. Furthermore, the FEIS estimates a 98% reduction in methane (CH₄) and a 97% reduction in particulate matter 2.5 (PM_{2.5}) when woody biomass is burned in a controlled bioenergy facility compared to pile and jackpot burning and the no action alternative (due to likelihood of wildfire).

These findings are also supported by Baker et al (2015), who compared GHG and criteria pollutant emissions from pile burning and a bioenergy facility in the Sierra Nevada. The authors found a 98-99% reduction in PM_{2.5}, CH₄, carbon monoxide (CO), Non-methane organic compounds (NMOC), and black carbon emissions when woody biomass was burned in a controlled bioenergy facility. These reductions are consistent with findings made by Jones et al. (2010), Lee et al. (2010), and Springsteen et al. (2011).

Baker et al (2015) also conclude that burning woody biomass in a bioenergy facility yielded a savings of 0.5 ton CO₂ equivalent (CO₂e) per bone dry ton of woody biomass due to the higher rates of CH₄, CO, NMOC, and BC emissions associated with pile burning and the displacement of fossil fuels on the electrical grid.

By utilizing biomass wherever feasible, GHG emissions will be reduced compared to piling and burning/jackpot burning and the no action alternative.

In addition, the studies cited by the commenter appear to compare efficiency of bioenergy to fossil fuels. The FEIS does not claim that bioenergy is more efficient than fossil fuels. Rather, the FEIS claims that bioenergy would have less negative climate and air impacts if used for energy production as opposed to burning or decaying in the woods.

- 8. Comment:** To date, roughly 4,000 to 5,000 acres of the planned logging in the Rim fire area has been completed, which means that most of the acres planned for logging and artificial planting have not been logged. Whether or not the remaining acres become logged is therefore highly dependent on the HCD funding, as are the resulting climate change impacts of logging these remaining acres of post-fire habitat, and burning the resulting logs and woody material to generate kilowatts (or simply piling and burning them).

Response: To date, over 15,000 thousand acres of logging have been completed in the Rim Fire area. This funding would allow both areas not implemented under a timber sale and those with remaining dead trees (mostly smaller) to be removed from the treatment areas on approximately 4,500 acres. These areas will utilize the standing dead material as biomass where feasible and pile and burn in place material that cannot be moved to the landing and chipped. Removing this material as biomass would generate less greenhouse gas emissions from the project (see response 7 above). In addition, the larger snags (a minimum of 5 per acre) would be left on site for wildlife utilization and for future soil habitat.

- 9. Comment:** The failure of the 2014 and 2016 Rim fire EISs to fully analyze the climate impacts of burning forest-sourced woody biomass are documented in the EISs (or their associated record of decision) themselves. On page 23 of the Forest Service's 2014 EIS regarding post-fire logging in the Rim fire, the Forest Service states the following with regard to biomass logging: "Biomass treatments would entail the mechanical removal of un-merchantable trees between 4 inches and 16 inches dbh." Page 8 of the 2014 Record of Decision (ROD) then states that the decision authorizes "2,671 acres of biomass removal" on national forest lands in the Rim fire area.

Therefore, the 2014 EIS (pp. 65-74) analyzed climate change impacts from greenhouse gas emissions based only on removal of small snags (generally less than 16 inches in diameter) on 2,671 acres.

Response: As stated above, federal agencies are not required to analyze GHG emissions under NEPA, though the analysis in the Rim Recovery FEIS has

informed HCD's decision.

Page 23 of the FEIS states that "Biomass treatments would entail the mechanical removal of un-merchantable trees between 4 inches and 16 inches dbh (*this varies depending on log merchantability and desire for retaining material on site for various resource needs*)" (emphasis added). The FEIS also states that log merchantability will be determined at time of harvest (pg. 22).

The 2014 ROD approved salvage logging and fuel reduction work on 15,383 acres, as well as fuel treatments on 26,890 acres which included the 2,671 acres of biomass removal referenced above. Almost 8,000 acres of biomass removal was analyzed under Alternative 3 of the FEIS. Biomass removal of the material not treated through timber harvesting was one of several options for fuel treatments analyzed in the FEIS. These treatments included mastication; fell, lop and burn; jackpot burning; and machine pile, lop and burn. The FEIS analyzed for the most potential impacts including tractor piling and burning on every acre. Pile burning would emit far more CO₂ into the environment than biomass removal, see above, and HCD's goal is to reduce this amount wherever possible.

10. Comment: The 2014 decision authorized the logging of 15,383 acres of post-fire habitat through "salvage logging" for lumber, plus several thousand acres of additional logging for lumber in post-fire habitat along dirt roads not maintained for public use.

Response: Hazard tree removal proposed in the Rim Fire Recovery FEIS was only along roads open to the public (p. 23-25), both paved and dirt roads.

11. Comment: However, by the time of the Forest Service's 2016 EIS—which incorporated the 2014 EIS and added over 22,000 acres of "reforestation" and herbicide spraying, plus a few thousand acres of additional post-fire logging—the agency fundamentally changed the planned logging, after acknowledging that the unlogged fire-killed trees were no longer merchantable as lumber, due to some decay. The Forest Service stated that planned logging would now be conducted for biomass burning for energy production instead of as standard "salvage" logging.

As a result of the change in plans, the acreage that was changed to biomass logging has not been analyzed in the 2014 and 2016 EISs with respect to the climate change impacts of the greenhouse gas emissions that will result from burning in biomass plants (or piling and burning) fire-killed trees of all sizes on more than 20,000 acres, as opposed to removing and burning as biomass just small snags on only 2,671 acres;

Response: The 2016 EIS did not incorporate the 2014 EIS and it added no

additional acres of post-fire logging. Neither did the document discuss salvage logging or biomass removal in the Rim Fire. The 2016 EIS did analyze additional acres (about 4,000) for feller buncher and/or dozer work to treat existing fuels prior to reforestation, these areas were not proposed for any treatment in the 2014 document.

Section 1.03 of the Rim Fire Recovery FEIS states the purpose and need for action (pages 9-10). In this section, a primary goal is to “reduce fuels for future forest resiliency” and “to leave no more than 20 tons per acre and 10 tons per acre in Strategically Placed Landscape Area Treatments (SPLATs)” (pg. 10).

Various treatments were proposed and analyzed to meet the need of reducing fuel loads in the project area. Salvage logging was proposed as the first treatment followed by fuel reduction activities, including: biomass removal, mastication, drop and lop, machine piling and burning, and jackpot burning.

In the Rim Fire Recovery FEIS, these salvage and fuel reduction acreages overlap. On page 50, the FEIS states “Salvage includes removal of dead trees and fuel reduction” and “Salvage and Hazard Tree acres overlap with Fuel Reduction acres and do not total.” Thus, the potential impacts of both fuel reduction and the removal of merchantable trees were analyzed in the FEIS on the same acreages.

Furthermore, the FEIS states that “Dead conifer trees greater than 16 inches dbh (*this diameter will vary based on tree merchantability at the time of harvest*) would be removed utilizing ground based mechanized equipment where practical” (pg. 22, emphasis added). Pages 22 and 23 of the FEIS clearly state that merchantability specifications for salvage and biomass removal will be assessed at the time of harvest. The USFS anticipated that salvage operations would commence in “September 2014 and continue for up to 5 years” and fuels treatments begin at the same time and continue for 7 years (pg. 22). Variations in merchantability were expected and does not change the underlying goal of fuel reduction or the activities used to achieve that goal.

As noted above, removing trees for either lumber or as feedstock for bioenergy facilities has a significantly lower impact on air quality emissions, including greenhouse gasses, than piling and burning/jackpot burning or the no action alternative due to the modelled wildfire predictions. For this reason, HCD has prioritized biomass removal over piling and burning wherever possible.

- 12. Comment:** The EISs did not analyze the climate change, or wildlife habitat, impacts of the additional \$22 million grant from the Trump Administration that would be used to create new forest biomass energy production plants in California. Consequently, these deficiencies must be analyzed in a supplemental draft EIS, as

required by the regulations at issue here.

Response: This comment is outside the scope of this decision.

- 13. Comment:** Unlogged areas of the Rim fire now contain abundant natural regeneration that must be addressed. In 2017 (four years post-fire), after two to three more years of post-fire growth and recruitment of new conifer seedlings and saplings, these 2014/2015 data are now outdated and inaccurate. Consequently, this new information must be addressed, and as a result, neither the 2014 nor the 2016 EISs can be relied upon under either NEPA or CEQA to conduct further logging, herbicide-spraying, or reforestation activities in the Rim fire.

Specifically, due to abundant new natural recruitment of conifer seedlings in high-intensity fire patches in 2016 and 2017, there is now natural conifer regeneration in well over 80% of field plots (see Appendix A, B), and even the relatively few plots with no conifer regeneration within plot boundaries have conifer seedlings/saplings growing just outside the plots. Overall, there are now hundreds of naturally regenerating conifer seedlings/saplings growing in the high-intensity fire patches—and thousands per acre in many places. Nowhere has the impact of planned logging on this new forest regeneration growth been analyzed under NEPA or CEQA, nor has the EISs' claimed reforestation need been reevaluated under NEPA or CEQA in light of this new information. Moreover, nowhere has the climate change impacts of crushing and killing this abundant and vigorous new forest growth—and the resulting release of CO₂, as well as the forgone or reduced carbon sequestration opportunities—been analyzed under NEPA or CEQA. Thus, in order to adequately and meaningfully address this new natural conifer regeneration, a supplemental draft EIS is necessary.

Response: This comment is outside the scope of this decision.

- 14. Comment:** As mentioned above, one of the two main premises of the proposed logging plan in the Rim fire is the assumption, based on Forest Service surveys conducted in 2014/2015, that there is low or no ground cover in high-intensity fire patches, creating potential for significant erosion and sedimentation in watersheds during rains. However, as with natural conifer regeneration, this premise is now outdated and inaccurate. In reality, unlogged high-intensity fire areas consistently have 90-100% ground cover (Appendix A)—far higher than the thresholds used by the Forest Service to indicate potential for erosion.

Moreover, post-fire logging, because it is ground-based, using heavy machinery, kills and removes nearly all of the existing ground cover, and creates increased potential for erosion and sedimentation in watersheds; these effects tend to be chronic and long-lasting after post-fire logging. So, for this reason as well, the

Forest Service's 2014 and 2016 EISs cannot be lawfully adopted under NEPA or CEQA.

Response: The above mentioned premise is not found in the Recovery FEIS. Post-fire vegetation response has provided a high level of ground cover in most locations 4 years post fire. Furthermore, the impacts from heavy machinery have been thoroughly analyzed in Chapter 3 of the FEIS.

- 15. Comment:** The vast majority of ecologists see the rare and unique forest type called “complex early seral forest”, or “snag forest habitat” (patches of forest dominated by snags, downed logs, montane chaparral, and regeneration of conifers and oaks) as highly important wildlife habitat, not “fuel” or “waste”. For example, in September 2015, over 260 scientists sent a letter to President Obama and Congress opposing proposals to conduct more logging of snag forest habitat on federal public lands, noting that “‘complex early seral forest,’ or ‘snag forest,’ is quite simply some of the best wildlife habitat in forests”.

Moreover, while logging advocates promote the logging of snag forest and subsequent artificial tree planting, and describe these logging policies as creating “heterogeneity” and “resilience,” the 262 scientists who wrote the September 2015 letter specifically rejected this claim as unscientific. The scientists concluded that this “unique habitat [snag forest habitat] is not mimicked by clearcutting,” and pointed out that snag forest habitat “is the least protected of all forest habitat types, and is often as rare, or rarer, than old-growth forest.” Further, they noted that the published science strongly indicates that logging destroys snag forest habitat, severely harms natural forest regeneration, and often increases, rather than decreases, future fire intensity.

The HCD proposal would promote the destruction of this important habitat in the Rim fire area.

Response: The value of post-fire conditions to many species of wildlife was recognized and incorporated into the design of the original proposed actions. Salvage logging and fuels reduction treatments were proposed on approximately 20% of the area within the Rim Fire perimeter 10% of which were removed as hazard trees along roads open to the public. Thus, under the original Forest Service proposal 70% of the area that burned would retain all snags. The areas that are proposed for treatment would also provide habitat for many species and a minimum of 5 of the largest snags per acre will be retained.

Direct, indirect, and cumulative effects to wildlife, watershed, soils, fuels, sensitive plants, and aquatic species, among other resources, as well as management requirements to minimize adverse effects, are addressed in the FEIS, with

appropriate references to the scientific literature. HCD acknowledges that there is uncertainty and conflicting science for some of the management actions. However, impacts to forest resources have been analyzed based on the rationale presented and input from Forest Service Pacific Southwest Research Station scientists. Numerous scientific publications are cited and utilized in the assessment of effects, showing both positive and negative effects.

Standing dead trees comprise a major habitat element for species that have evolved to reproduce, shelter, and/or forage in severely burned forests. Saab et al. 2007, along with several other papers on the importance of snags to several species of wildlife, was used in the effects analysis.

The effects of the different snag retention levels on snag-dependent species such as bald eagle, California spotted owl, great gray owl, northern goshawk and black-backed woodpecker were analyzed in the FEIS (Chapter 3.15 Wildlife), the Terrestrial BA/BE/Wildlife Report (Sec. 8. Effects of the Project Alternatives), the Wildlife MIS Report, and the Migratory and Landbird Conservation Report. Based on the effects analysis for the California spotted owl, it was determined that each of the alternatives may affect individuals, but is unlikely to lead to a trend in Federal listing or loss of viability of the species.

16. Comment: In addition, since the last time the Forest Service conducted field surveys in the Rim fire, in 2014/2015, there may be many rare and sensitive plant species that have grown in, and which would be harmed by planned ground-based logging, herbicide spraying, and artificial tree planting.

Response: Sensitive plant surveys were conducted for the Recovery FEIS in 2014 and continued in many of these areas through 2016. The ability for new populations of these plants to grow into the area is far less so many years after the fire. The amount of native and non-native vegetation cover across these sites is extensive and these species are far more competitive than most sensitive plants. In addition, any new sensitive plant populations discovered during implementation will be protected.

17. Comment: In addition to the issues described above, HCD has failed to provide for meaningful public comment. HCD intends to request release of funds on June 27, 2017, and thus HCD cannot evaluate and address public comments before taking action. We are thus notifying HCD of our objection to any request for release of funds under either NOI pursuant to 24 C.F.R sections 58.73 and 58.75(b) and (d). Specific grounds for objection include, but are not necessarily limited to, HCD's failure to comply with 24 C.F.R. sections 58.14 (requiring coordination of federal and state environmental review responsibilities), 58.52 (requiring preparation of a supplemental EIS if the "project" under consideration is different from that

considered in the adopted EIS), and 58.53 (requiring evaluation of environmental factors not previously addressed, analysis of consistency between the project under consideration and the project evaluated in the prior EIS, and updating of EIS to reflect “new environmental issues and data . . . which may have significant environmental impact on the project area covered by the prior EIS”).

Response: HCD’s adoption of the USFS FEIS is a separate process from requesting the release of funds from HUD. As stated in HCD’s public notice dated May 18, 2017, “HUD will accept objections to its release funds and HCD’s certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later).” Objections should be directed to HUD, and any potential objectors should contact HUD to verify the actual last day of the objection period.