STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY EDMUND G. BROWN JR., *Governor*

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 Reforestation Final Environmental Impact Statement

Dear Ms. McNulty:

The California Department of Housing and Community Development ("HCD") 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 Reforestation 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.

HUD staff assistance with completing the FEIS adoption public noticing process was appreciated. 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 the final public comment period can be completed and Authorization to use CDBG-NDR funding for FWHP activities can be provided to HCD.

Sincerely,

Moira Monahan
Operations Branch Chief

Cc: Patrick Talbott, Contract Manager

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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-Reforestation 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 Reforestation 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 24 CFR Part 58 NEPA regulations. This document and the adopted Rim Fire Reforestation FEIS are part of the HCD final ERR for the FWHP.

Level of Environmental Review Determination:
This document reflect the Environmental Impact Statement level of review for the FWHP activity. The ERR consists of the adopted FEIS, per the description above, this document is

being used in conjunction with the USFS Rim Fire Reforestation 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 ☒	This Compliance Factor was not addressed in the Rim Fire Reforestation 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 ☒	This Compliance Factor was not addressed in the Rim Fire Reforestation 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 ☒	This Compliance Factor was not addressed in the Rim Fire Reforestation 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. The project area is rural and forested with no existing habitable structures.
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 ☒	The FWHP activities will not require mitigation because they will be conducted in accordance with an approved EPA California Smoke Management (CSM) Program. 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. 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 in the action alternatives will be conducted under an EPA approved CSM Program. 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). **See USFS EIS, p. 14, 67, 69, 214, 462.**

Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes ☐ No ☒	This Compliance Factor was not addressed in the Rim Fire Reforestation FEIS. FWHP activities are located in Sierra Nevada mountains, not 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 ☒	This Compliance Factor was not addressed in the Rim Fire Reforestation FEIS. FWHP activities will not involve creation of any toxic hazards. The FWHP is in a rural/forested area and no toxic sites exist within or near the project area.
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes ☐ No ☒	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, it became clear the Rim Fire was a large incident, the forest 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. In February 2015, the Forest Service met with USFWS to discuss numerous projects with in the Rim Fire foot print including reforestation. On August 19, 2015, the Stanislaus National Forest formally requested to begin conferencing on the Reforestation project with USFWS.

		The Reforestation project unit specific treatments (EIS Appendix E) reflect project management requirement and the content of the BA. The project does not lie with the 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) **See USFS FEIS, p. 14, 30, 39-40, 75-76, 341-342, 360, 386, 414, 427, 442-443, 462-463.**
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes ☐ No ☒	This Compliance Factor was not addressed in the Rim Fire Reforestation FEIS. FWHP activities will not involve work related to creation of congregant spaces where groups will gather or where individuals or groups will live. In addition, there are no above ground flammable storage tanks in or around the FWHP area. The project will not create any new operations of this kind.
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes ☐ No ☒	This Compliance Factor was not addressed in the Rim Fire Reforestation FEIS. FWHP activities will not involve conversion of any protected farmland. The FWHP area is all public national forest property. FWHP activities will not lead to conversion of farmland to nonagricultural uses.
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes ☐ No ☒	FWHP activities will not have an adverse impact on floodplains. Activities will be beneficial and reduce flood hazards and erosion in the area. 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 Reforestation analysis area and thereby would not increase flood hazard. As described in the EIS (Chapter 3.15) no measurable changes in stream flow are anticipated from the action alternatives. **See USFS FEIS, p. 301, 463.**
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes ☐ No ☒	The Programmatic Agreement between SHPO and the Stanislaus National Forest was signed on July 24, 2014. For all action alternatives, mechanical site preparation methods which include: deep tilling forest cultivation (subsoiling), mastication (shredding), harvest of non-commercial timber using a tracked feller buncher, machine pilling and burning, and use of prescribed fire would have no direct effect, minimal indirect effects and no cumulative effects to cultural resources. Cumulative effects for Alternatives 3, 4 and 5 are the same as Alternative1. No anticipated direct effects and cumulative effects to cultural resources are expected under Alternative 2 (No Action), as no project activity would occur; however, some indirect effects are expected under Alternative 2 (EIS p. 115) The National Historic Preservation Act ("NHPA") of 1966 is the principal, guiding statute for the management of cultural resources on National Forest Service ("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 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. 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 reforest and remove/eradicate noxious weeds within some sites after consultation with the local tribe. **See USFS FEIS (p. 109, 465).**
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes ☐ No ☒	The FWHP activity is not a "noise sensitive use" under HUD regulations. Project area is not urban and no existing residential units will be impacted by noise created from project activity implementation. 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). 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. **See USFS FEIS, p. 63, 92, 140, 152-153, 156, 227, 375, 389, 398, 407, 418, 429, 431, 447 454.**
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes ☐ No ☒	FWHP activity will not impact a sole source aquifer. The USFS EIS (p. 301) display the laws, regulations and direction that applies to the FWHP Reforestation. No sole source aquifers are identified in the project area; however, the EIS (p. 313-338) describes the effects on water quality in great detail. There are no adverse effects on watershed, water quality or other beneficial uses of water. **See USFS FEIS, p. 338-340.**
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes ☐ No ☒	FWHP activities will not have a negative impact on wetlands. Reforestation efforts will help preserve existing wetlands. Executive Order 11990 requires protection of wetlands. Wetlands within the FWHP area include meadows, stream channels, springs, fens, and shorelines. The EIS (Chapter 3.03 Aquatic Species; 3.15 Watershed) and the Watershed Report 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 FWHP Reforestation project area. **See USFS FEIS, p. 301, 465.**
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes ☐ No ☒	The Tuolumne River is a wild and scenic river. FWHP activities will not have an impact on the river. With the exception of minor short-term impacts to the scenic quality from drift smoke, none of the alternatives is expected to change the free-flowing quality of any of the designated or proposed Wild and Scenic

		Rivers. Maintaining high water quality is also needed to maintain Wild and Scenic values. Management requirement minimize water quality impacts in all of the action alternatives. ORVs of each river are expected to be unchanged in each alternative. **See USFS FEIS, p. 221- 226.**
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	Yes ☐ No ☒	The FWHP activities will not lead to higher concentrations of low-income persons or place families into areas that are unhealthily. The activities will make job and learning opportunities available to low-income persons through California Conservation Corps training programs. 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 disproportionally impact minority or disadvantaged groups. **See USFS FEIS, p. 167, 171-172, 192, 463.**

Field Inspection (Date and completed by): **See USFS Rim Fire Reforestation 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 Reforestation FEIS.

Determination: Adoption of the USFS Rim Fire Reforestation is appropriate for compliance with NEPA regulations. The FWHP activities do not trigger any compliance or mitigation under HUD regulations 24 CRF 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).