

FEMA
FINDING OF NO SIGNIFICANT IMPACT
Tule River Tribe Fuels Reduction Project
HMGP-5205-001-001

The Tule River Tribe of California (Tribe) applied to the Federal Emergency Management Agency (FEMA) to fund a grant under FEMA’s Hazard Mitigation Grant Program (HMGP) for wildfire mitigation. The HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Public Law 93-288, as amended, 42 U.S. Code § 5121-5207).

The purpose of the Proposed Action is to reduce post-wildfire hazards related to erosion, stormwater runoff, and hazardous fuels on the Tule River Indian Tribe Reservation. The Proposed Action would remove standing dead trees (left in place after drought, insect activity, and the 2017 Pier Fire) and stabilize soils, as well as repair damaged roads and culverts and install new culverts, spillways, and erosion-control best management practices (BMPs). Implementation of the Proposed Action is needed because the project area is in steep and rugged terrain that was damaged by the Pier Fire and is prone to erosion and susceptible to future wildfires.

BACKGROUND

Some activities included in the Proposed Action were previously evaluated in FEMA’s December 2014 *Final Programmatic Environmental Assessment for Recurring Actions in Arizona, California, and Nevada* (PEA) and the updated version of that document, FEMA’s March 2019 *Supplemental Environmental Assessment to the Final Programmatic Environmental Assessment for Recurring Activities in Arizona, California, and Nevada*. However, the PEA does not address post-fire activities that have been authorized since the PEA was published, including revegetation by seeding or by planting seedlings with mechanical equipment. The PEA does not address contour felling for soil erosion control following a burn, nor does it address potential impacts on soils, water quality, and vegetation from the use of large burn piles and burn piles with large material (greater than 8 inches in diameter). The PEA does not allow the use of the herbicide “Milestone” within 200 feet of waterways, even though the Environmental Protection Agency (EPA) approved its use up to the edge of waterbodies.

The Proposed Action would result in impacts not described in the PEA and would require additional environmental mitigation measures to minimize those impacts. Therefore, FEMA prepared a Supplemental Environmental Assessment (SEA) pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4347 (2000), as implemented by the regulations promulgated by the President’s Council on Environmental Quality (40 Code of Federal Regulations [CFR] 30 §§ 1500–1508) and in accordance with FEMA Directive 108-1, *Environmental Planning and Historic Preservation Responsibilities and Program Requirements*

and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

The SEA evaluates those impacts and discloses the potential impacts of both the Proposed Action and a No Action alternative that have not been previously described in the Region 9 PEA.

PROJECT DESCRIPTION

The Proposed Action would conduct hazardous fuels reduction and post-wildfire mitigation on approximately 1,181 acres in the Pier Fire burn area, and 1,154 acres in unburned areas adjacent to the Pier Fire burn area where wildfire hazards are high. The Proposed Action would include removing standing dead trees and hazardous fuels and revegetating and stabilizing the land to reduce downslope erosion. Activities would also include repairing damaged roads and culverts, and installing new culverts to protect roads from the increased stormwater runoff that occurs following a fire.

The Proposed Action would involve the following activities:

- Remove all standing dead trees that pose a danger.
- Plant seedlings of indigenous species with both hand and mechanical equipment.
- Reduce hazardous fuels including ladder fuels.
- Dispose of slash through a combination of chipping, lopping and scattering, mechanical crushing, and/or piling for burning.
- Install erosion-control measures such as contour log felling, water breaks, and mulch.
- Spread native grass seed mix to prevent reestablishment of noxious weeds.
- Regrade damaged roads.
- Install new drainage dips or spillways.
- Remove debris from culverts.
- Replace approximately 35 damaged or undersized culverts.
- Install approximately 58 new culverts.
- Install warning signs to advise of the potential for hazardous conditions.
- Place erosion-control BMPs (such as sandbags, fiber rolls, straw bales, etc.) to prevent further erosion.
- Remove noxious weeds using the herbicide “Milestone”.

Along with a detailed description of the project, the SEA describes the equipment, staging, and sequencing of project implementation.

ENVIRONMENTAL IMPACT EVALUATION

The Proposed Action, as described in the SEA, would not result in any significant adverse impacts on geology, soils, topography, air quality, water resources, wetlands, floodplains, terrestrial and aquatic habitat, threatened and endangered species, migratory birds, invasive

species, historic properties, archeological resources, low-income or minority populations, public services and recreation, transportation, noise, hazardous materials and wastes, or visual resources. Based on a preliminary screening of resources and the project's geographic location, the SEA found that the following resources were not present in the project area and did not require a detailed assessment: coastal resources, farmland, sole-source aquifers, and federally designated wild and scenic rivers.

During implementation of the Proposed Action, short-term impacts on soils, air quality, terrestrial habitat, noise, hazardous materials and wastes, and public services and recreation are anticipated. Attachment A lists conditions to avoid, minimize, and mitigate potential short-term impacts. With the implementation of these conditions, none of the potential impacts will be significant. In the long-term, the project would have beneficial effects on visual quality and aesthetics, air quality and climate, surface waters and water quality, wetlands, floodplains, vegetation, fish and wildlife, threatened and endangered species, environmental justice, hazardous materials, transportation, utilities, and public health and safety from the reduced risk of wildfire damage.

AGENCY AND PUBLIC INVOLVEMENT

The Tribe, working with the Bureau of Indian Affairs (BIA), had previously consulted with the U.S. Fish and Wildlife Service (USFWS) in 2022 on the effects of implementation of the Tribe's Integrated Resource Management Plan on threatened and endangered species. The activities included in the Proposed Action are all components of the activities described in the Integrated Resource Management Plan. USFWS issued a programmatic biological opinion (PBO) on the Tribe's Integrated Resource Management Plan, concurring that the activities are not likely to adversely affect three species when species-specific measures are implemented:

- Fisher – Southern Sierra Nevada Distinct Population Segment (DPS) (*Pekania pennanti*); endangered
- California condor (*Gymnogyps californianus*); endangered
- Springville clarkia (*Clarkia springvillensis*); threatened

In coordination with the Bureau of Indian Affairs (BIA), FEMA and BIA determined that the PBO addresses the effects of the Proposed Action on Federally listed endangered and threatened species and designated critical habitat (USFWS 2022). FEMA will condition the grant award for the Proposed Action to require implementation of the conservation measures included in the BIA PBO.

Because the Proposed Action is on Tribal reservation land, FEMA communicated directly with the Tribe concerning the project and its potential implications for cultural resources. In coordination with BIA and the Tribe, a survey was conducted on part of the project area that had not previously been surveyed. FEMA then consulted with the State Historic Preservation Officer,

who concurred on March 24, 2023, that the undertaking would not adversely affect historic properties.

The Draft SEA was available for review at FEMA’s website at <https://www.fema.gov/emergency-managers/practitioners/environmental-historic/nepa-repository>. A printed copy was also available for viewing or photocopying at the Tule River Tribal Office at 340 North Reservation Road, Porterville, CA. A notice announcing the availability of the SEA for public review and comment was published in the Porterville Recorder on December 15, 2023, which started a 30-day review period. No comments were received; therefore, the draft EA is assumed to be final, and no changes will be made to the EA.

FINDINGS

Based upon conditions and information contained in the HMGP grant application and the SEA, and in accordance with FEMA’s Directive 108-1-1, *Environmental Planning and Historic Preservation Responsibilities and Program Requirements*; executive orders (EOs) addressing floodplains (EO 11988), wetlands (EO 11990), and environmental justice (EO 12898); the DHS Instruction Manual 023-1-1; the Council on Environmental Quality regulations in Title 40 CFR, Chapter V for implementing NEPA; and the Tribe’s anticipated adherence to the standard and special conditions contained in this FONSI, FEMA has determined that the Proposed Action will not have significant impacts on the quality of the natural and human environment. As a result of this FONSI, an environmental impact statement will not be prepared and the Proposed Action with the associated conditions described in Attachment A may proceed.

APPROVAL

CHELSEA D KLEIN Digitally signed by CHELSEA D KLEIN
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[Chelsea Klein]

Date

Lead Environmental Planning and Historic Preservation Advisor
OEHP

ATTACHMENT A - PROJECT CONDITIONS

The Tribe is responsible for compliance with federal, state, and local laws and regulations, including obtaining any necessary permits before beginning construction activities, and adhering to any conditions laid out in these permits. Any substantive change to the scope of work would require reevaluation by FEMA for compliance with NEPA and other laws and EOs. The Tribe is responsible for implementing BMPs appropriate for this scope of work. The PEA and the Record of Environmental Consideration lists typical BMPs.

The Tribe must adhere to the following conditions when implementing the Proposed Action. Failure to comply with FEMA grant conditions may jeopardize federal funding.

- The Tribe will implement the standard BMPs described in Appendix C of the PEA for:
 - Geology and Soils
 - Air Quality and Greenhouse Gas Emissions
 - Water Resources
 - Biological Resources – Special-Status Species

GEOLOGY, GEOHAZARDS, AND SOILS

- The Tribe would implement the following BMPs to mitigate short-term impacts on soils from dust and erosion:
 - Reforestation activities that involve mechanical site preparation would comply with the standards in the Tribe’s Forest Management Plan.
 - Maximum depth of ground disturbance would be 1 foot.
 - Chips would be spread back into the area burned in 2017.
 - Root balls would remain in place.
 - Soil erosion on steep slopes would be mitigated through contour log felling, installing water breaks, and mulching with the chips that result from tree and vegetation removal activities.
 - Erosion-control measures (such as sandbags, fiber rolls, and straw bales) would be placed on the edge of roads, trails, and bridges to channel water and dam areas to prevent further erosion.

AIR QUALITY AND GREENHOUSE GAS EMISSIONS

- The Tribe would be responsible for reducing potential air quality impacts from project activities and using minimization measures to limit fugitive dust and emissions. These measures would include:
 - Pile burning will be planned and implemented under a burn plan approved by the BIA Pacific Regional Office. The burn plan will outline site-specific measures for smoke management.
 - Planned burning will occur on burn days, as authorized by the San Joaquin Valley Air Pollution Control District.

- Dust abatement on unsurfaced roads will be applied while fuels reduction operations are active. This is a standard requirement on Tribal projects, particularly during the drier summer months.
- The following measures from the Pier Fire East Environmental Assessment (EA) will be incorporated into project guidelines to minimize ignition risk and maintain adequate fire protection:
 - i. Fire tools and/or equipment will be kept on-site while operations are active during fire season.
 - ii. Accumulations of slash generated from tree falling will be treated by a combination of chipping, lopping, and scattering along the ground surface, mechanical crushing, and/or piling for later burning.
 - iii. Warming fires for project personnel are subject to approval by the Tribal Wildland Fire Department and permitted only at designated locations.
 - iv. The measures identified under Roads and Community Safety are applicable to fire protection.

BIOLOGICAL RESOURCES

- Implementation of the following BMPs outlined in the PEA would avoid or minimize potential impacts on raptors, migratory birds, and threatened and endangered species.

Raptors

- Preconstruction surveys for raptors, other special-status birds, and appropriate nesting habitat will be conducted within 50 feet of each construction area no more than 3 days before ground-disturbing activities. If an active nest is found, the state or Tribal agency (i.e., California Department of Fish and Wildlife or the Tule River Indian Tribe Department of Natural Resources, as appropriate) will be consulted to determine the appropriate buffer area to be established around the nesting site and the type of buffer to be used. If establishment of a buffer is not feasible, the appropriate agency will be contacted for further avoidance and minimization guidelines.
- A qualified biologist will conduct weekly monitoring during construction to evaluate the identified nest for potential disturbances associated with construction activities. Construction within the buffer is prohibited until the qualified biologist determines the nest is no longer active.
If an active nest is found after construction begins, construction activities within the vicinity of the nest will stop until a qualified biologist has evaluated the nest and established the appropriate buffer around the nest. If establishment of the buffer is not feasible, the appropriate agency will be contacted for further avoidance and minimization guidelines.

Migratory Birds

- The following measures would be implemented for construction work during the nesting season (February 15 through August 31).

- i. A qualified biologist will conduct preconstruction surveys for nesting migratory birds in the project area no more than 3 days before starting ground-disturbing activities. If preconstruction surveys indicate the presence of any migratory bird nests where activities would directly result in bird injury or death, a buffer zone of 50 feet will be placed around the nest.
- ii. Buffers will be established around active migratory bird nests where project activities would directly result in bird injury or death. The size of the buffer may vary for different species and will be determined in coordination with the responsible agency. A qualified biologist will delineate the buffer using appropriate fencing, pin flags, and/or yellow caution tape.
- iii. Buffer zones will be maintained around all active nest sites until the young have fledged and are foraging independently.
- iv. If an active nest is found in an area after construction begins, construction activities within the vicinity of the nest will stop until a qualified biologist has evaluated the nest and established the appropriate buffer around the nest. If establishment of the buffer is not feasible, the responsible agency will be contacted for further avoidance and minimization guidelines.

Threatened and Endangered Species

- o To avoid or minimize impacts on threatened or endangered species, the following conservation measures for wildland fire management activities, as described in the PBO issued to BIA for forest management activities on the Tule River Indian Tribe Reservation (USFWS 2022), would be implemented:
 - i. During fuels management activities, an average of four to six large-diameter snags per acre will be retained. Additionally, clumps of snags will be retained for desired snag habitat.
 - ii. Trees known to contain avian nests or wildlife dens, or that show visible signs of prior nesting/denning activity, will be protected during wildland fire management activities.
 - iii. Large woody debris will be retained during wildland fire management activities. Selected large-diameter logs, and/or longer portions of felled dead trees, will be placed along the ground surface and distributed across the harvest area for wildlife use.
 - iv. Selected slash piles created during fuels reduction and other vegetation manipulation projects will be permanently left unburned and distributed throughout the project area for wildlife use.
 - v. Within fuels management activity areas, pockets of untreated stands of trees will be identified and remain undisturbed during project activities to maintain forest cover, structure, and diversity.
 - vi. No mature giant sequoia or California black oak trees will be marked for removal.
 - vii. Herbicide application methods and rates will conform to label instructions and all applicable EPA regulations and restrictions.

- viii. Equipment will be excluded within a protection zone extending 75 to 150 feet from the edge of perennial streams during fire management activities. Actual distance varies by slope gradient, soil type, and extent of vegetative ground cover. Within protection zones, existing canopy cover will be maintained.
- ix. Equipment will be excluded within a protection zone extending 50 to 75 feet from the edge of intermittent streams during fire management activities. If water is present, a 75-foot protection zone will be implemented. If the watercourse is dry, equipment may be permitted within 50 feet of the channel. The width of the protection zone varies by slope gradient, soil type, and extent of vegetative ground cover. Within protection zones, existing canopy cover will be maintained.
- x. During wildland fire management activities, meadows and wetlands will be flagged and avoided.
- xi. Heavy equipment will not operate on saturated or excessively wet soils.
- o The following species-specific measures will be implemented during the Tribe's wildland fire management activities and proposed projects that contain those activities:
 - i. The creation of permanent or otherwise continuous areas of open habitat in potential fisher denning habitat will be avoided. If needed to meet watershed protection objectives, fuels reduction activities that create areas of open habitat will be focused on ridgetops and other areas that support lower vegetation densities.
 - ii. In potential fisher denning habitat, a limited operating period will be implemented from March 1 through May 1 for prescribed fire projects (see exceptions below).
 - iii. When fuels management activities are implemented within or adjacent to potential fisher denning habitat, measures will be implemented to protect habitat structures, such as large diameter live and dead conifers, hardwoods, clumps of dense overstory and understory trees, down woody material, and trees with cavities and other structural deformities.
 - iv. Where ecologically appropriate, multistory conditions and understory heterogeneity will be retained to avoid reducing habitat quality for fisher.
 - v. If possible, known fisher den and rest trees will not be targeted by hazard tree removal activities. Trees that surround a known den or rest tree that could provide protection from weather or predators will also be retained if feasible. If a known fisher den tree must be removed, a March 1 to June 30 limited operating period will be implemented for this activity (see exceptions below).
 - vi. Any den structure known to have been active within the past 5 years will be buffered by 60 acres of the most suitable, connected habitat available. If 60 acres of suitable habitat are not available surrounding the den site, the buffer will consist of the amount of suitable habitat available near the den. Fuels reduction work within the buffer is permissible, provided the buffer area continues to meet the criteria of the fisher habitat category it falls into before starting activities (e.g., high-quality fisher denning habitat must remain high-quality fisher denning habitat). If the den buffer must be impacted through hazard tree removal, including the den tree itself (previous measure), USFWS will be consulted for any special protections to implement within the buffer area.

- vii. Conduct camera surveys where appropriate to determine whether fisher are absent from the project area following protocols approved by the USFWS (see exceptions below).
- viii. Mature giant sequoias and other conifer trees containing large cavities will be protected as potential condor nesting sites.
- ix. Fuels reduction measures will be used around the giant sequoia tree that was an active condor nest site in the 1950s.
- x. In advance of roadside fuels reduction activities in Springville clarkia habitat, the involved field personnel will visit the known roadside populations of this species during the blooming period for a field identification refresher and to flag the populations for avoidance. While conducting roadside fuels reduction activities, field personnel will scan the work area for Springville clarkia and will flag and avoid any additional populations that are identified.
- o The BIA-USFWS PBO (USFWS 2022) describes the following exceptions to the conservation measures:
 - i. The Tribe's goal is to implement conservation measures consistently across projects, but project logistics and special circumstances will cause the Tribe to deviate from that goal. For example, though many projects may conduct camera surveys and follow a limited operating period to avoid the breeding season, these conservation measures will not be implemented for every project. Camera surveys can be used to determine whether implementing a limited operating period is warranted within a project action area as well as identifying overall presence of fisher on the Reservation. Official protocols approved by USFWS will be followed to determine whether fisher are absent from the project area, and a limited operating period will not be followed if fisher are determined to be absent. The Tribe also may not be able to follow a limited operating period for all projects (e.g., where post-fire roadside hazards need to be cleared to ensure access in case of emergencies). Thus, camera surveys and following a limited operating period are not required measures the Tribe will follow on every project, and instead are used to determine whether communication with USFWS is required. In cases where the conservation measures to protect fisher cannot be followed completely (i.e., protect fisher habitat and denning fisher), then coordination with USFWS will be conducted to determine whether the project is not likely to adversely affect the fisher or is likely to adversely affect the fisher.

CULTURAL RESOURCES

- The project is subject to Stipulation III.B. of the *Programmatic Agreement Among the Federal Emergency Management Agency, the California State Historic Preservation Officer and the California Governor's Office of Emergency Services*, executed on October 29, 2019, in the event of unexpected discoveries, previously unidentified properties, or unexpected effects to historic properties during project work.

- The Tribe will ensure that a Tribal cultural resources monitor would be present during ground-disturbing activities to ensure any effects are not adverse.

TRANSPORTATION

- The operation of equipment, falling of trees, and truck traffic can present safety hazards for forest users. The following measures from the Pier Fire East EA (Tule River Indian Tribe 2018) will apply while project activities are underway:
 - Road closures will be enforced when tree felling and skidding activities are active along forest roads. These closures will be temporary to not obstruct access for emergency services.
 - Roads will not be blocked overnight or for extended time periods and will be kept clear and passable for emergency personnel.
 - Truck warning signs will be posted along routes used by log trucks and other heavy equipment.
 - Log trucks will be limited to a speed limit of 20 miles per hour (mph) on Tule River Indian Reservation unsurfaced roads and 25 mph on surfaced roads.
 - Dust abatement measures will be required for log truck routes and active log landings.
 - Log hauling on weekends and official Tule River Indian Reservation holidays may be restricted, according to the discretion of the Tule River Indian Tribal Council.

HAZARDOUS MATERIALS AND WASTES

- The implementation of environmental mitigation measures and BMPs addressed in the PEA and Pier Fire East EA (Tule River Indian Tribe 2018) would make hazardous material releases or accidents unlikely and would ensure that any accidental release would be finite and localized.
 - Application of herbicides would occur in the spring via targeted spraying (i.e., there would be no broadcast spraying) with gas-powered pumps and backpack sprayers.
 - A buffer of 50 feet would be implemented around all waterbodies; noxious weeds within this 50-foot buffer would be removed by hand.

REFERENCES

Tule River Indian Tribe. 2018. Environmental Assessment Report for the Pier Fire East Emergency Stabilization and Salvage Sale Projects.

U.S. Fish and Wildlife Service. 2022. Programmatic Biological Opinion on the Tule River Tribe Integrated Resource Management Plan for the Endangered Southern Sierra Nevada Distinct Population Segment of the Fisher on the Tule River Indian Reservation, Tulare County, California.