



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION IX**  
**75 Hawthorne Street**  
**San Francisco, CA 94105-3901**

March 31, 2022

Luis Palacios  
Klamath National Forest  
Salmon/Scott River District Ranger  
11263 North Hwy 3  
Fort Jones, California 96032

Subject: EPA Scoping Comments for the River Complex Risk Reduction Project, Siskiyou County, California

Dear Luis Palacios:

The U.S. Environmental Protection Agency has reviewed the U.S. Forest Service's Notice of Intent to prepare a Draft Environmental Assessment for the River Complex Risk Reduction Project. Our review and comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The Klamath National Forest is preparing an Environmental Assessment to consider and disclose the anticipated environmental effects of implementing the proposed River Complex Risk Reduction Project to respond to conditions created by the 2021 River Complex Fires. There is a need to reduce the amount of future dead and down fuel loading within areas that burned at high severity; improve conditions along ingress and egress routes, strategic ridgetop features, and adjacent to private property for future fire management; to accelerate the re-establishment of conifers within large patches of high severity fire; and to promote scientific research to increase knowledge regarding fire effects and post-fire management and recovery activities. This proposal aims to treat about 4,710 acres within the 15,900-acre project boundary.

The EPA offers the following scoping recommendations to the Forest Service to consider when preparing the Draft Environmental Assessment, including: biological resources, air quality, and cumulative impacts. These issues are discussed further in the attached Detailed Comments. The EPA appreciates that the River Complex Risk Reduction Project analysis will utilize best available science. If a Finding of No Significant Impact is reached, include details of how impacts were mitigated and what determined the threshold for "significance".

The EPA appreciates the opportunity to comment on the preparation of the Draft EA. Once it is released for public review, please provide an electronic copy to me at [zellinger.andrew@epa.gov](mailto:zellinger.andrew@epa.gov). If you have any questions, please feel free to contact me at (415) 972-3093 or by email.

Sincerely,

/s/

Andrew Zellinger

Environmental Review Branch

Enclosure: EPA's Detailed Comments

**U.S. EPA DETAILED COMMENTS ON THE SCOPING NOTICE FOR THE RIVER COMPLEX RISK REDUCTION PROJECT, SISKIYOU COUNTY, CALIFORNIA - MARCH 31, 2022**

**Purpose and Need**

In the Draft EA, clearly identify the underlying purpose and need to which the Forest Service is responding in proposing the alternatives (40 CFR 1502.13). The *purpose* of the proposed action is typically the specific objectives of the activity, while the *need* for the proposed action may be to eliminate a broader underlying problem or take advantage of an opportunity. The purpose and need should be a clear, objective statement of the rationale for the proposed project.

**Range of Alternatives**

All reasonable alternatives that fulfill the proposed action's purpose and need should be evaluated in detail. A robust range of alternatives will include options for avoiding significant environmental impacts. We encourage selection of alternatives that protect, restore, and enhance the environment, and we also support efforts to identify and select alternatives that maximize environmental benefits that avoid, minimize, and/or otherwise mitigate environmental impacts.

The environmental impacts of the proposed action and alternatives should be presented in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public (40 CFR 1502.14). The potential environmental impacts of each alternative should be quantified to the greatest extent possible (e.g., acres of habitat impacted; change in water quality). Include in the Draft EA reasons for eliminating alternatives to the proposed action (40 CFR 1502.14 (a)).

**Baseline Environmental Conditions**

When evaluating project effects, we recommend using existing environmental conditions as the baseline for comparing impacts across all alternatives, including the no-action alternative. This provides an important frame of reference for quantifying and/or characterizing magnitudes of effects and understanding each alternative's impacts and potential benefits. This is particularly important when there are environmental protections in place that are based on current conditions, such as total maximum daily loads (TMDLs) for impaired river segments. It can also be useful, although often less certain, to compare alternatives against a no action baseline that includes reasonably foreseeable future conditions. The EPA recommends that the NEPA analysis compare and present impacts to resources against the existing conditions baseline using a consistent method to measure project impacts for all alternatives. By utilizing existing environmental conditions as a baseline, future changes to environmental resources can be more accurately measured for all alternatives, including the No Action alternative. We recommend that the Forest Service consider the following when defining baseline conditions:

- Verifying that historical data (e.g., data 5 years or older) are representative of current conditions.
- Including resources directly impacted by the project footprint within the geographic scope of analysis, as well as the resources indirectly (or secondarily) impacted by the project. These indirectly impacted areas may include streams, wetlands, and aquatic, riparian, and meadow ecosystems.

**Biological Resources**

The document should identify all petitioned and listed threatened and endangered species and critical habitat that might occur within the project area. We recommend that the Forest Service identify and quantify which species and/or critical habitat might be directly, indirectly, or cumulatively affected by each alternative and mitigate impacts to these species. Emphasis should be placed on the protection and recovery of species due to their status or potential status under the federal or state Endangered Species

Act. The EPA recommends engaging the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife as early in the analysis as possible to assure that the proposed alternatives account for the following:

- Impacts to special-status species pieces found in the project area including the California Spotted Owl and Northern Goshawk;
- Migratory Bird Treaty Act compliance; and
- Protection from invasive species.

In the Draft EA include references to any relevant Biological Opinions or Biological Assessments conducted in compliance with the Endangered Species Act. Additionally, include any proposed mitigation measures for impacts to biological resources.

### **Air Quality**

The EPA recommends that the Forest Service coordinate closely with the appropriate air district to ensure that the project moves forward in a manner that reduces air quality impacts to the greatest extent possible. It is critical that the Draft EA provide a robust air quality impact analysis, including ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS), criteria pollutant nonattainment areas, and potential air quality impacts of the proposed action, including indirect and cumulative impacts. Such an evaluation is necessary to ensure compliance with state and federal air quality regulations, and to disclose the potential impacts from temporary or cumulative degradation of air quality. In the Draft EA, include smoke management and burn plans even if those plans are pending approval by the Siskiyou County Air Pollution Control District.

Estimate emissions of criteria pollutants from the proposed project and discuss the timeframe for release of these emissions over the construction period of the project. Specify emission sources by pollutant from mobile sources, stationary sources, and ground disturbance. Use source-specific information to identify appropriate mitigation measures and areas in need of the greatest attention.

Identify any specific actions proposed by the Forest Service to reduce emissions from the project, including use of low or zero-emissions construction equipment, and inclusion of alternative fuel and green technology infrastructure. Include an estimate of the air quality benefits and reduced adverse health effects that would result from each mitigation measure proposed. Identify any specific mitigation measures considered for sensitive populations (e.g., schools, daycare facilities, hospitals, senior centers, etc.).

### ***Construction Emissions***

Include in the Draft EA a list of all mitigation measures to be implemented as part of the construction emissions mitigation plan developed for the project. In addition to measures necessary to meet all applicable local, state, and federal requirements, the EPA recommends the following mitigation measures be included in the construction emissions mitigation plan:

#### **Fugitive Dust Source Controls**

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate. This applies to both active and inactive sites during workdays, weekends, holidays, and windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour. Limit speed of earth-moving equipment to 10 mph.

### Mobile and Stationary Source Controls

- Lease or buy newer, cleaner equipment using the best available emissions control technologies.
  - Use lower-emitting engines and fuels, including electric, liquified gas, hydrogen fuel cells, and/or alternative diesel formulations if feasible.
- Prohibit unnecessary idling from heavy equipment.
- Prohibit engine tampering to increase horsepower, except when meeting manufacturer's recommendations.
- Avoid routing truck traffic near sensitive land uses to the fullest extent feasible.

### Administrative Controls

- Identify all commitments to reduce construction emissions and quantify air quality improvements that would result from adopting specific air quality measures.
- Reduce construction-related trips of workers and equipment, including trucks.
- Develop a project traffic and parking management plan that minimizes traffic interference and maintains traffic flow.

### *General Conformity*

The EPA's General Conformity Rule, established under Section 176(c)(4) of the Clean Air Act, provides a specific process for ensuring that federal actions do not interfere with a state's plans to attain or maintain NAAQS. For any criteria pollutants in the air basin of the project area where the air quality status is in nonattainment or attainment – maintenance,<sup>1</sup> complete a general conformity applicability analysis (i.e., a comparison of direct and indirect emissions for each alternative with *de minimis* thresholds of 40 CFR 93.153). We recommend including a draft general conformity determination in the Draft EA to fulfill the public participation requirements of 40 CFR 93.156.

### *Carbon Sequestration of Forests*

When developing and implementing the plan to remove hazard trees and commercial harvest of timber, consider carbon sequestration as a way to curb total greenhouse gas emissions. Analyze the carbon storage capacity of mature, older trees including in forest stands which burned.

Consider the carbon sequestration of dead trees which decompose slowly as new vegetation grows. If fire-killed trees are left in place, the natural decomposition process might take decades to hundreds of years to release the trees' carbon. However, if those trees are commercially harvested to serve as energy-producing biomass, that same carbon could potentially enter the atmosphere much faster.

### Consultation with Tribal Governments

It is important that formal government-to-government consultation take place early in the scoping phase of the project to ensure that all issues are adequately addressed in the EA. The principles for interactions with tribal governments are outlined in the presidential "Memorandum on Government-to Government Relations with Native American Tribal Governments" (April 29, 1994) and Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (November 6, 2000).

In the Draft EA, summarize the results of tribal consultation and identify the main concerns expressed by tribes (if any), and how those concerns were addressed. As a resource, we recommend the document

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<sup>1</sup> Maintenance areas redesignated to attainment more than twenty years in the past are no longer required to comply with general conformity.

*Tribal Consultation: Best Practices in Historic Preservation*<sup>2</sup>, published by the National Association of Tribal Historic Preservation Officers. The EPA Region 9 has a robust tribal program. If you need assistance with consultation or updated tribal contacts, please contact John (JR) Herbst at (619) 235-4787 or [herbst.john@epa.gov](mailto:herbst.john@epa.gov).

### **National Historic Preservation Act**

Consultation for tribal cultural resources is required under Section 106 of the National Historic Preservation Act. Historic properties under the NHPA are properties that are included in the National Register of Historic Places or that meet the criteria for the NRHP. Section 106 of the NHPA requires a federal agency, upon determining that activities under its control could affect historic properties, to consult with the appropriate State Historic Preservation Office/Tribal Historic Preservation Office. Under NEPA, any impacts to tribal, cultural, or other treaty resources must be disclosed in the Draft EA. Section 106 of the NHPA requires that federal agencies consider the effects of their actions on cultural resources, following the regulation at 36 CFR 800.

In the Draft EA, discuss how the Forest Service would avoid or minimize adverse effects on the physical integrity, accessibility, or use of cultural resources or archaeological sites, including traditional cultural properties, throughout the project area. Clearly discuss mitigation measures for archaeological sites and TCPs. We encourage the Forest Service to append any Memoranda of Agreements to the Draft EA, after redacting specific information about these sites that is sensitive and protected under Section 304 of the NHPA. We also recommend providing a summary of all coordination with Tribes and with the State and Tribal Historic Preservation Offices, including identification of NRHP eligible sites and development of a Cultural Resource Management Plan.

### **Executive Order 13007**

Executive Order 13007, “Indian Sacred Sites” (May 24, 1996), requires federal land managing agencies to accommodate access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners, and to avoid adversely affecting the physical integrity, accessibility, or use of sacred sites. It is important to note that a sacred site may not meet the NRHP criteria for a historic property and that, conversely, a historic property may not meet the criteria for a sacred site. It is also important to note that sacred sites may not be identified solely in consulting with tribes located within geographic proximity of the project. Tribes located outside the direct impact area the plan area may also have religiously significant ties to lands within the plan area and should be included in the consultation process.

In the Draft EA, address the existence of Indian sacred sites in the project areas, including seeps and springs, that may be considered spiritual sites by regional tribal nations. Discuss how the Forest Service would ensure that the proposed action would avoid or mitigate for the impacts to the physical integrity, accessibility, or use of sacred sites.

### **Environmental Justice**

Executive Order 12898 “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (February 11, 1994) and the “Memorandum of Understanding on Environmental Justice and Executive Order 12898,” (August 4, 2011) direct federal agencies to identify and address disproportionately high and adverse human health or environmental effects on minority and low-income populations, allowing those populations a meaningful opportunity to participate in the

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<sup>2</sup> National Association of Tribal Historic Preservation Officers. May 2005. Tribal Consultation: Best Practices in Historic Preservation. Available at [http://www.nathpo.org/PDF/Tribal\\_Consultation.pdf](http://www.nathpo.org/PDF/Tribal_Consultation.pdf).

decision-making process. Council on Environmental Quality guidance<sup>3</sup> clarifies the terms low-income and minority population, which includes Native Americans, and describes the factors to consider when evaluating disproportionately high and adverse human health effects.

The EPA recommends that the Draft EA include an evaluation of environmental justice populations within the geographic scope of the project area. A minority population does not need to meet a 50 percent standard if “the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis.”<sup>4</sup> To best illustrate the presence of a minority population, we recommend that the Forest Service analyze block groups, the smallest geographical unit that the U.S. Census Bureau publishes data for. If such populations exist, describe how the proposed action would address the potential for disproportionate adverse impacts to minority and low-income populations, and the approaches used to foster public participation and coordination with these populations. The EPA recommends the following for development of the EJ analysis:

- Consider *Promising Practices for EJ Methodologies in NEPA Reviews* when developing the EJ section of the Draft EA.<sup>5</sup>
- Include a description of the area of potential impact used for the environmental justice impact analysis and provide the source of demographic information.
- Consider Using EPA’s Environmental Justice screening and Mapping Tool EJScreen<sup>6</sup> or Cal EPA’s CalEnviroScreen.<sup>7</sup>
- Disclose whether the project will result in a disproportionate and adverse impact on minority or low-income populations.
- Discuss potential mitigation measures for any anticipated adverse impacts to community members that could result from the project. If it is determined that minority and low-income populations may be disproportionately impacted, describe in the Draft EA the measures taken by the Forest Service to fully analyze the environmental effects of the action on minority communities and low-income populations and identify potential mitigation measures. Clearly identify a monitoring and adaptive management plan to ensure that mitigation is effective and successful.
- Include opportunities for incorporating public input to promote context sensitive design, especially in minority and low-income communities.
- Document the process used for community involvement and communication, including all measures to specifically involve low-income and minority communities. Include an analysis of results achieved by reaching out to these populations.
- Present opportunities for affected communities to provide input into the NEPA process. In the Draft EA, include information describing what was done to inform these communities about the project and the potential impacts it will have on their communities (notices, mailings, fact sheets, briefings, presentations, translations, newsletters, reports, community interviews, surveys, canvassing, telephone hotlines, question and answer sessions, stakeholder meetings, and on-scene information), what input was received from the

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<sup>3</sup> See [https://www.epa.gov/sites/default/files/2015-02/documents/ej\\_guidance\\_nepa\\_ceq1297.pdf](https://www.epa.gov/sites/default/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf).

<sup>4</sup> Council on Environmental Quality. Environmental Justice: Guidance Under the National Environmental Policy Act. December 1997. Available at [https://www.epa.gov/sites/production/files/2015-02/documents/ej\\_guidance\\_nepa\\_ceq1297.pdf](https://www.epa.gov/sites/production/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf).

<sup>5</sup> See [https://www.epa.gov/sites/production/files/2016-08/documents/nepa\\_promising\\_practices\\_document\\_2016.pdf](https://www.epa.gov/sites/production/files/2016-08/documents/nepa_promising_practices_document_2016.pdf).

<sup>6</sup> See <https://ejscreen.epa.gov/mapper/>.

<sup>7</sup> See <https://experience.arcgis.com/experience/4af93cf9888a424481d2868391af2d82/page/home/>.

communities, and how that input was utilized in the decisions that were made regarding the project.

### **Habitat Connectivity and Wildlife Movement**

In the Draft EA, analyze the proposed project's impacts to habitat connectivity in the project area and discuss measures that could avoid, minimize, or mitigate any identified impacts. Such measures may include appropriate infrastructure to facilitate wildlife movement across the project area. If appropriate, include design commitments that: 1) remove barriers to safe wildlife passage; 2) enhance use of identified wildlife corridors; and 3) provide crossings with suitable habitat and topography to accommodate multiple species. Include commitments to how the project will ensure design elements would be constructed to enable wildlife connectivity, including types of features and approximate locations.

### **Road and Landing Restoration**

The project may call for the decommissioning and restoration of roads. We recommend the Draft EA include a plan with a list and maps of the roads, landings and trails that will be impacted by the project. This plan should include specific information on the extent to which these roads and landings would be recontoured, replanted with appropriate vegetation to mitigate erosion, monitored, and closed to off-highway vehicle use.

The EPA recommends including in the Draft EA, a specific post-harvest schedule for closure of the temporary roads and landings. In the Draft EA, commit to scarifying the surface of roads, landings, and trails selected for decommissioning to break up compacted soils, seeding such areas, and blocking vehicle traffic with rocks and/or barricades when possible.

### **Monitoring and Adaptive Management**

The proposed project will impact a variety of resources for an extended period of time. As a result, we recommend that the project be designed to include an environmental inspection and monitoring program to ensure compliance with all mitigation measures and assess their effectiveness. In the Draft EA, describe the monitoring program and how it will be used as an effective feedback mechanism (i.e., adaptive management) so that any needed adjustments can be made to the project to meet environmental objectives throughout the life of the project. We also recommend that the Draft EA describe a mechanism to consider and implement additional mitigation measures.