



REGION 9

SAN FRANCISCO, CA 94105

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Subject: EPA Scoping Comments for the Sequoia and Sierra National Forests Prescribed Fire Project, Fresno, Kern, Madera, Mariposa, and Tulare Counties, California

Dear Teresa Benson and Dean Gould:

The U.S. Environmental Protection Agency has reviewed the U.S. Forest Service's notice to initiate a Draft EA for the above referenced project. The EPA's 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 Forest Service proposes forest-wide fuels reduction in Sequoia and Sierra National Forests in Fresno, Kern, Madera, Mariposa, and Tulare counties, California. The project would authorize prescribed burning that could be applied anywhere within the 2.4-million-acre project area with a goal to annually treat up to 32,000 acres in Sequoia National Forest and up to 50,000 acres in Sierra National Forest. Associated actions needed to implement prescribed burning also include mechanical and hand thinning, mechanical chipping and mastication, machine and hand piling, and felling hazard trees. It is unclear if temporary roads and skid trails would be needed, and the project duration is not disclosed.

We are providing the enclosed comments to assist in the development of the Draft EA. The topics that the EPA recommends to be fully analyzed and disclosed include impacts to water resources, air quality, environmental justice, and biological resources, among others.

In addition, with a proposed project of this size, the EPA is concerned that a Draft EA may authorize all future projects without disclosing and evaluating site-specific impacts. We recommend that the Forest

Service utilize the Draft EA as a programmatic document and conduct site-specific analyses in tiered NEPA documents to ensure that those impacts are evaluated, disclosed, and informed by public engagement. As noted in 40 CFR 1501.3(b)(1), significance varies with the setting of the proposed action and site-specific analyses are necessary as significance depends upon the effects in the local area. Different or additional minimization and mitigation measures may be necessary beyond what may be included in the Draft EA.

We appreciate the opportunity to provide scoping comments and look forward to continued participation in the NEPA process. If you have any questions, please contact me at (415) 972-3961 or samples.sarah@epa.gov.

Sincerely,

Sarah Samples
Environmental Review Branch

Enclosure: EPA's Detailed Scoping Comments

General Comments

Alternatives Analysis

Explore and objectively consider a full range of alternatives and evaluate in detail all reasonable alternatives that fulfill the project's purpose and need. 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.

Recommendations for the Draft EA:

- Present the environmental impacts of the proposed action and alternatives 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 (b)).
- Quantify the potential environmental impacts of each alternative to the greatest extent.
- Discuss the reasons for eliminating alternatives to the proposed action (40 CFR 1502.14 (a)).

Site-Specific Analysis

We expect impacts associated with the proposed action to vary based on site-specific conditions over the 2.4-million-acre project area. We are concerned that site-specific impacts will not be analyzed under the Draft EA since the Forest Service does not plan to "conduct subsequent National Environmental Policy Act analysis for actions covered within this environmental assessment" (Proposed Action for Scoping p. 6). All site-specific impacts must be addressed in the NEPA process. Without this information, it will be unclear whether the project would result in significant impacts and site-specific information is needed to support a Finding of No Significant Impact.

Because addressing site-specific impacts for a project of this magnitude is likely infeasible, a programmatic Draft EA would best define the overall landscape-scale strategy and sideboards of the program and allow for quicker and more efficient site-specific project analyses tied to it. A programmatic analysis followed by tiered site-specific NEPA analyses would be consistent with CEQ's regulations and would be expected to speed the consideration and implementation of individual treatments while providing the "hard look" and required opportunity for public review and input under NEPA (40 CFR 1501.11). Although the Forest Service proposes "stakeholder engagement" over five-year recurring cycles, this would not disclose site specific impacts through the NEPA process and may inhibit public involvement at a broader level.

Recommendations for the Draft EA:

- Disclose site specific impacts for all proposed actions for the entire project duration.
- If the Forest Service chooses not to or cannot disclose site-specific impacts due to the large project size, utilize the Draft EA as a programmatic NEPA document and conduct subsequent tiered site-specific NEPA analyses prior to the implementation of future projects. Please refer to 40 CFR 1501.11. This process would ensure that site-specific impacts are evaluated, disclosed, and informed by formal public engagement. As a project of similar scope, please refer to the North Yuba Landscape Resilience Project for tiering processes used by the Tahoe National Forest.

- Consider batching annual site-specific projects for NEPA review to streamline the process and annually publish one Schedule of Proposed Actions publication for public participation.

Project Duration and Implementation

The Proposed Action for Scoping document does not address the timeframe of this project. While the EPA understands that site-specific projects would be reviewed in five-year cycles (Proposed Action for Scoping p. 6), we are concerned that an indefinite timeframe could result in project implementation over multiple decades in which it can be expected that drought, intense precipitation events, fires, insects, and new invasive species will continue to alter the landscape and may thereby alter Forest Service management priorities. Over the past decade alone there have been changes in wildlife species' status and an ongoing improvement in the science to support resource management decisions that inform how the Forest Service manages its resources.

Recommendations for the Draft EA:

- Disclose the estimated project timeline.
- If an unspecified end date is retained, define circumstances outside of the five-year cycle to conduct an interdisciplinary review to determine if new information or changed circumstances relating to the proposed action are within the scope and range of effects considered in the original analysis. At the conclusion of this future review, we suggest issuing a Supplemental Information Report to determine whether a correction, supplement, or revision is needed, and if not, the reasons why, as identified in the Forest Service's NEPA handbook (Forest Service Handbook 1909.15, Section 18).

Cumulative Impacts

Cumulative impacts are those that are reasonably foreseeable, related to the proposed action, and subject to the Forest Service's jurisdiction and control. The EPA has issued guidance on how to provide comments on the assessment of cumulative impacts, *Consideration of Cumulative Impacts in EPA Review of NEPA Documents*.¹

Recommendations for the Draft EA:

- Evaluate impacts over the entire area of impact and the impacts when added to other past, present, and reasonably foreseeable future projects in the analysis area, including both the North Quincy Wildfire Risk Reduction, Claremont Forest Resiliency, Community Protection Central and West Slope, and the Community Protection Eastside Projects.
- Using the *Consideration of Cumulative Impacts in EPA Review of NEPA Documents* as a resource, include the following information:
 - Resources, if any, that are being cumulatively impacted.
 - Appropriate geographic area and the time over which the effects have occurred and will occur.
 - All past, present, and reasonably foreseeable future actions that have affected, are affecting, or would affect resources of concern.
 - A benchmark or baseline.
 - Scientifically defensible threshold levels.

¹ U.S. EPA May 1999. Consideration Of Cumulative Impacts in EPA Review of NEPA Documents. Available at <https://www.epa.gov/sites/production/files/2014-08/documents/cumulative.pdf>.

Water Quality

Waterbodies

Section 303(d) of the Clean Water Act requires that states, territories, and authorized Tribes identify waterbodies that do not meet water quality standards and to develop, with EPA approval, Total Maximum Daily Loads for waters identified as impaired to meet established water quality criteria and associated beneficial uses. Because surface water quality degradation is one of the EPA's primary concerns with the proposed project, understanding the setting for the project is important for preparing an impact analysis.

Recommendations for the Draft EA:

- Identify water bodies likely to be impacted by the project, the nature of the potential impacts, and the specific discharges and pollutants likely to impact those waters. Include a map to illustrate where these waterbodies are within the project area.
- Disclose information regarding relevant TMDL allocations for any impaired waters listed on the latest state CWA 303(d) list or Integrated Report, along with the water quality standards and pollutants of concern.
- As the CWA anti-degradation provisions will also apply, demonstrate that the proposed action will comply with anti-degradation provisions of the CWA that prevent deterioration of water quality within waterbodies that currently meet water quality standards.
- Where TMDL analyses for impaired waterbodies within or downstream of the project area still needed to be developed, ensure that proposed treatments are carefully managed to prevent any worsening of the impairment or avoided altogether where such impacts cannot be prevented.

Roads and Skid Trails

It is unclear from the Proposed Action for Scoping document if roads or skid trails would be needed for any mechanical removal of trees. Roads can contribute more sediment to streams than any other management activity and interrupt the subsurface flow of water, particularly where roads cut into steep slopes. In addition, roads have been shown to produce elevated volumes of chronic surface sediment runoff from the road surface. Roads and their use can also contribute to habitat fragmentation, wildlife disturbance, and the introduction or exacerbation of noxious weeds.

Recommendations for the Draft EA:

- Disclose if roads and skid trails would be needed under the proposed action.
- Include a map showing project area waters and identifying the existing road networks as well as a discussion of foreseeable construction, maintenance, and decommissioning activities by alternative.
- If temporary roads/skid trails would be created to facilitate the removal of biomass or hazard trees, disclose these actions as project activities and describe the anticipated number and location of newly created temporary roads segments and landing areas, as well as providing the size of landing areas.
- To reduce adverse impacts to watersheds, focus on the use of existing system roads to minimize road construction impacts on previously unimpacted areas to the maximum extent practicable.

- For temporary roads and landings that must be constructed, discuss design criteria and best management practices that will be followed to prevent negative effects to soil and water resources.
- The EPA's general recommendations to protect aquatic resources from road and skid trail impacts are as follows:
 - Locate roads and skid trails away from streams and riparian areas.
 - Locate roads and skid trails away from steep slopes, landslide prone areas, and erosive soils.
 - Minimize the number of stream crossings.
 - Construct unavoidable stream crossings during periods of low flow to avoid fish spawning and incubation periods, and/or dewater relevant stream segments prior to construction.
 - Provide adequate drainage and erosion control to avoid routing sediment to streams.
 - Use bottomless or textured bottom culverts if possible.
 - Design features to allow for natural drainage patterns.
 - Consider decommissioning or rehabilitation at an equal or greater rate than new construction to prevent increases in overall watershed impacts.
 - Develop a monitoring plan and schedule to assess the effectiveness of road decommissioning after project completion.

Clean Water Act Section 404 Applicability

The protection, improvement and restoration of wetlands and riparian areas are a high priority because they increase landscape and species diversity, support many species of western wildlife, and are critical to the protection of water quality and designated beneficial water uses. It is unclear if this project would impact wetlands, including fens or meadows.

Recommendations for the Draft EA:

- To limit the impacts of vegetation and fuels management activities to hydrology and riparian vegetation, address specific management requirements or design features to protect wetlands, including:
 - Avoid impacts to fens and meadows where feasible.
 - Remove logs from meadows or fens using suitable techniques to minimize equipment operations in the sensitive area and minimize dragging the logs on the ground.²
 - Conduct work in the dry season (June-October), if possible.
 - Monitor restoration to evaluate the success of management activities by including follow-up monitoring and assessments as a component of management plans.
- Confirm with the U.S. Army Corps of Engineers if any jurisdictional waters would require a CWA Section 404 permit for discharge of dredged or fill materials into waters of the United States, including wetlands and "special aquatic sites." If a permit is required, describe the impacts under individual or nationwide permits authorizing the discharge of fill or dredge materials to waters of the U.S.

² U.S. Forest Service. April 2012. National Best Management Practices for Water Quality Management on National Forest System Lands. Available at https://www.fs.usda.gov/naturalresources/watershed/pubs/FS_National_Core_BMPs_April2012.pdf.

Air Quality

In the Draft EA, include a quantitative discussion of ambient air conditions (existing conditions), National Ambient Air Quality Standards, and criteria pollutant non-attainment areas in the analysis area and vicinity. This type of evaluation is helpful in demonstrating compliance with state and federal air quality regulations and disclosing the potential impacts from temporary or cumulative degradation of air quality. Evaluate how prescribed fire and other project actions would affect air quality and include measures in the Draft EA that are needed to prevent significant impacts. Examples of potential air emissions associated with the proposed project activities include air pollutants from conducting prescribed burning, gasoline and diesel emissions from equipment used in the planned activity, emissions from idling equipment, emissions from vehicles traveling on paved and unpaved roads, and re-entrained dust.

Recommendations for the Draft EA:

- Characterize existing air quality conditions to set the context for evaluating project impacts, including identification of:
 - Class I areas, which are afforded special protections under the Clean Air Act.
 - Sensitive receptors in the vicinity (such as population centers, nonattainment areas, and Class II areas with sensitive resources).
 - Airshed classifications and monitored baseline conditions (design values) for each criteria pollutant.
 - Any regional concerns in the area (e.g., ozone, PM_{2.5}, seasonal wildfire smoke).
- Include modeled emissions of NAAQS and greenhouse gases.
- Evaluate whether project activities could affect air quality and include measures in the Draft EA that are needed to prevent significant impacts. Examples of potential air emissions associated with the proposed project activities include air pollutants from conducting planned burns or pile burning, gasoline and diesel emissions from equipment used in the planned activity, emissions from idling equipment, emissions from vehicles traveling on paved and unpaved roads, and re-entrained dust.
- Describe the management activities and provide timelines for implementation, if possible. This will be the basis of the information that will inform the level of emission generating activity and potential air quality impact.
- Include maps to identify areas where management activities will be focused in relation to existing Forest features and resources. This information will complement a qualitative discussion of potential air quality impacts in the Draft EA.
- Analyze reasonable and practicable mitigation measures to reduce project-related emissions. Typical mitigation measures include fugitive dust control measures, mobile and stationary source controls, and administrative controls. Ensure the Draft EA includes a comprehensive list of all best management practices and mitigation measures to be implemented as part of the project.
- Clearly disclose how the public would be notified of prescribed burns.

Valley Fever

The project may be in an area the Centers for Disease Control and Prevention has suspected is endemic for *Coccidioides immitis*, a fungus causing Valley fever (*Coccidioidomycosis*) in humans.³ According to the CDC, rising temperatures have allowed the fungus to spread to new areas that previously were too cold and wet for it to survive, including the entire project area. As a result, prescribed fire could disperse *Coccidioides* spores, if present, to wildland firefighters as well as nearby communities. To reduce the human health risk of contracting Valley fever, it will be important to identify how the Forest Service will educate wildland firefighters and nearby communities about the risks of contracting Valley fever and its symptoms.

Recommendation for the Draft EA:

- Identify measures to prevent or reduce the risk of exposure to wildlife firefighters, including training for workers and supervisors on the potential presence of Valley Fever spores, methods to minimize exposure, and how to recognize symptoms.
- For wildland firefighters, mitigation measures could include limiting workers' exposure to disease-endemic areas by directing wildlife firefighters to remove dusty clothing after fieldwork and store in closed plastic bags until washed. When exposure to dust is unavoidable, provide approved respiratory protection to filter particles. For the community, mitigation measures could include ensuring air-conditioned buildings are available for community members without air-conditioning if prescribed burns would take place in warm ambient temperatures.

Climate Change

Consistent with Executive Order 14008 goals, we encourage measures to provide for diverse, healthy ecosystems that are resilient to climate stressors; require effective mitigation and encourage voluntary mitigation to offset the adverse impacts of projects or actions; reduce greenhouse gas emissions from authorized activities to the lowest practical levels; identify and protect areas of potential climate refugia; reduce barriers to plant migration; and use pollinator-friendly plant species in restoration and revegetation projects.

Recommendations for the Draft EA:

- Discuss actions to improve forest adaptation to changing environmental conditions, such as selecting resilient native species for replanting. This should anticipate the effects rising temperatures may have on seeds/seedlings growth, the vulnerability of specific species under projected climate conditions in the short and longer term, and any anticipated shift of forest species to more suitable range elevations.
- Discuss reasonably foreseeable effects that changes in the climate may have on the proposed project, and what impacts the proposed project will have on climate change consequences. These considerations could help inform the development of measures to improve the resilience of the project.

³ Centers for Disease Control and Prevention. August 2022. Valley Fever (*Coccidioidomycosis*) Awareness. Available at <https://www.cdc.gov/fungal/features/valley-fever.html>.

Biological Resources, Habitat, and Wildlife

Threatened and Endangered Species

The Forest Service should work closely with the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife to determine potential impacts of the project on species classified rare, threatened, or endangered on either federal or state Endangered Species Act lists.

Recommendations for the Draft EA:

- 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 federal or state ESA.
- Include general locations of rare or special status plants and disclose how these sites would be managed to avoid impacts on the plants.
- Discuss the project's consistency with federal or state ESA.
- Summarize, or include as an appendix in the Draft EA, the USFWS's biological assessment/opinion and the Forest Service's biological evaluation. Demonstrate that the preferred alternative is consistent with both the biological assessment/opinion and biological evaluation.
- Discuss mitigation measures to minimize impacts to special status species, describe the effectiveness of such measures to protect wildlife, and indicate how they would be implemented and enforced.

Invasive Species

We encourage the Forest Service to promote integrated weed management, with prioritization of management techniques that focus on non-chemical treatments first, and mitigation to avoid herbicide transport to surface or ground waters. Early recognition and control of new infestations is critical to stop the spread of the infestation and avoid wider future use of herbicides, which could correspondingly have more adverse impacts on biodiversity, water quality, and aquatic resources.

Recommendations for the Draft EA:

- Include measures that are consistent with Executive Order 13112 on Invasive Species and any existing Forest Service direction for noxious weed management, a description of current conditions, and best management practices, which will be utilized to prevent, detect, and control invasives in the project area.
- Discuss measures that would be implemented to reduce the likelihood of introduction and spread of invasive species within the proposed project area.
- Promote integrated weed management, with prioritization of management techniques that focus on non-chemical treatments first, and mitigation to avoid herbicide transport to surface or ground waters.

Environmental Justice

The EPA's goal is to provide an environment where all people enjoy the same degree of protection from environmental and health hazards and equal access to the decision-making process to maintain a healthy environment in which to live, learn, and work. This goal is reflected through our review of NEPA analyses under Section 309 of the Clean Air Act. In addition, Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"

(February 16, 1994), directs federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations. It further directs agencies to develop a strategy for implementing environmental justice and providing minority and low-income communities access to public information and public participation.

Recommendations for the Draft EA:

- Include an environmental justice section that addresses potential adverse environmental effects of the proposed project on these communities and outline measures to mitigate for impacts. Recent projects, as mentioned in the cumulative impacts section, have omitted environmental justice sections.

As part of an environmental justice analysis, use EPA's EJScreen and/or the most recent American Community Survey from the U.S. Census Bureau to determine the presence of minority and low-income populations. However, it is important to note that minority and low-income can be measured in various ways.

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."⁴ To best illustrate the presence of a minority population, we also recommend that the Forest Service separately analyze block groups, the smallest geographical unit that the U.S. Census Bureau publishes data for. We caution using larger tracts as the basis for analysis, such as counties or cities, as these may dilute the presence of minority populations.

The NEPA Committee of the Federal Interagency Working Group on Environmental Justice has noted that, in some cases, it may be appropriate to use a threshold for identifying low-income populations that exceeds the poverty level.⁵ For this project, a low-income population may not be accurately recognized by U.S. Census Bureau data as it does not account for California's housing costs or other critical family expenses and resources. For example, the California Department of Public Health suggests that "200% of the federal poverty level (FPL) is a more realistic measure of financial hardship than the official 100% FPL" due to California's high cost of living.⁶ Therefore, we recommend that the Forest Service consider using a 200% FPL when analyzing low-income populations.

After the Forest Service has determined if minority and low-income populations exist in the project area, we recommend that the Draft EA discuss whether these communities would be potentially affected by individual or cumulative actions of the proposed action. Even though project impacts may be the same for all populations within the proposed project area, please note that social determinants

⁴ 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.

⁵ Federal Interagency Working Group on Environmental Justice & NEPA Committee. Promising Practices for EJ Methodologies in NEPA Reviews. March 2016. Available at https://www.epa.gov/sites/production/files/2016-08/documents/nepa_promising_practices_document_2016.pdf.

⁶ California Department of Public Health. April 2019. Poverty and Health: Healthy Communities Data and Indicators Project, Office of Health Equity (Factsheet). Available at <https://data.chhs.ca.gov/dataset/4ea80791-c308-4026-8a94-0e9070b53929/resource/ea66eef9-d854-4792-a587-636579780481/download/hci-one-page-poverty-fact-sheet-june-2019-lm.pdf>.

of health,⁷ such as language and literacy skills, education, job opportunities, and income, may result in minority and low-income populations bearing a disproportionate burden of environmental health risk from project impacts. For example, non-English speakers may bear disproportionate environmental health risk if burn notifications are not translated to Spanish, or lower educated populations may not fully understand environmental health risks if they are exposed to smoke from prescribed burning. These factors of risk should be accounted for in the Draft EA and considered in the analysis for determining if any alternative would cause any disproportionate adverse impacts.

In addition, people of low socio-economic status may be at greater risk of experiencing a health effect due to wildfire smoke, including prescribed burns, and may experience more severe effects.⁸ Socio-economic status uses indicators such as educational attainment, median household income, percentage of the population in poverty, race/ethnicity, and location of residence. Epidemiologic studies of fine particle pollution using indicators of socio-economic status provide initial evidence that populations of low socio-economic status may have an increased risk of mortality due to short-term exposures. In addition, socio-economic status may contribute to differential exposures to wildfire smoke across communities. For example, access to air conditioning reduces infiltration of particle pollution indoors. Less access to air conditioning may lead to greater exposure to wildfire smoke, increased sensitivity to extreme heat and, as a result, health disparities across communities. People of color and impoverished children and adults bear a disproportionate burden of asthma and other respiratory diseases and therefore they may be at increased risk of health effects from wildfire smoke exposure. As a result, additional outreach activities and support may be required to properly communicate actions that people of low socio-economic status should take to reduce exposure to and protect themselves from wildfire smoke.

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. Mitigation measures could include ensuring public notification procedures occur for all project area fuel treatments and pile burns, and media releases to inform locals and visitors about the expected impacts of the fire (specifically related to smoke, closures, and restrictions).

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

Recommendations for the Draft EA:

- Identify low-income and minority populations within the project area using block groups.

⁷ Centers for Disease Prevention and Control. September 2022. Social Determinants of Health. Available at <https://health.gov/healthypeople/priority-areas/social-determinants-health>.

⁸ U.S. EPA. October 2022. Which Populations Experience Greater Risks of Adverse Health Effects Resulting from Wildfire Smoke Exposure? Available at <https://www.epa.gov/wildfire-smoke-course/which-populations-experience-greater-risks-adverse-health-effects-resulting>.

- Clearly disclose potential impacts to these populations including disparate health effects (including risks), including risk to those with asthma.
- Discloses the opportunities the Forest Service provided for early and meaningful involvement and document early outreach as recommended by E.O. 14096 ((C)(ix)(C)).
- Disclose any measures to minimize or mitigate for health impacts, such as designating a community center for people to gather in the event of prescribed fire smoke and no access to indoor air conditioning.
- Identify how the Forest Service would notify the public of prescribe burns, and translate documents where areas of linguistically isolated populations exist. If needed, EJScreen's output clearly identifies linguistically isolated populations and languages present.
- If the Forest Service needs assistance with the environmental justice analysis, please contact Sarah Samples, lead the reviewer for this project, at samples.sarah@epa.gov.

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 Draft 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).

As resources, we recommend the document *Tribal Consultation: Best Practices in Historic Preservation*,⁹ published by the National Association of Tribal Historic Preservation Officers and *Traditional Knowledge and the Section 106 Process: Information for Federal Agencies and Other Participants* document.¹⁰ Please note that the Advisory Council on Historic Preservation (ACHP) considers that "[c]onsultation is more than simply notifying an Indian tribe about a planned undertaking."¹¹ While consultation should begin with a formal letter, the ACHP advises that "[f]ace-to-face meetings or on-site visits may be the most practical way to conduct consultation."

Recommendation for the Draft EA:

- Summarize the results of tribal consultation, identify the main concerns expressed by tribes, and clearly discuss how those concerns were addressed.

National Historic Preservation Act

Consultation for tribal cultural resources is required under Section 106 of the National Historic Preservation Act (NHPA). Historic properties under NHPA are properties that are included in the National Register of Historic Places (NRHP) or that meet the criteria for the NRHP. Section 106 of 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

⁹ National Association of Tribal Historic Preservation Officers. May 2005. *Tribal Consultation: Best Practices in Historic Preservation*. Available at <http://npshistory.com/publications/preservation/tribal-consultation.pdf>.

¹⁰ Advisory Council on Historic Preservation. May 2021. *Traditional Knowledge and the Section 106 Process: Information for Federal Agencies and Other Participants*. Available at <https://www.achp.gov/sites/default/files/2021-05/TraditionalKnowledgePaper5-3-21.pdf>.

¹¹ Advisory Council on Historic Preservation. June 2021. *Consultation with Indian Tribes in the Section 106 Review Process: The Handbook*. Available at <https://www.achp.gov/sites/default/files/2021-06/ConsultationwithIndianTribesHandbook6-11-21Final.pdf>.

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 Part 800.

Recommendations for 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.
- 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.
- Provide 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. We appreciate that the project would maintain appropriate access to and protection of sacred and ceremonial sites and to tribal traditional use areas (PAPN p. 8).

Recommendations for the Draft EA:

- Address the existence of Indian sacred sites in the project area, as mentioned in the PAPN, 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.
- Consult with Tribes located outside the direct impact area the plan area that may also have religiously significant ties to lands within the plan area.