

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE,
KLAMATH NATIONAL FOREST;
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER;
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
THE WESTSIDE FIRE RECOVERY PROGRAM,
SISKIYOU COUNTY, CALIFORNIA**

WHEREAS, the United States Department of Agriculture, Forest Service, Klamath National Forest (Forest) proposes to conduct a program of recovery efforts following the 2014 Westside Fires (program) which the Forest may fund, permit, or otherwise approve on the Happy Camp, Oak Knoll, Salmon, and Scott Ranger Districts in Siskiyou County, California; and

WHEREAS, the program consists of undertakings to be implemented within the 2014 Westside Fires burned areas including, but not limited to, salvage harvesting; roadside hazard treatments, hazardous fuel treatments; and reforestation; and

WHEREAS, the program is fully described in the Final Environmental Impact Statement Westside Fire Recovery Project, made available to the public on August 7, 2015; and

WHEREAS, the program will be implemented with Phase 1 undertakings (Appendix A) in calendar year 2015 if possible, followed by all subsequent undertakings. Appendix A may be amended in consultation with the signatories without having to amend this PA; and

WHEREAS, the Forest has defined the program's area of potential effect as 42,800 acres of National Forest System (NFS) lands within the burn perimeters of the Beaver Creek, Whites and Happy Camp Complex Fires on the Forest as illustrated in Appendix B; and

WHEREAS, the Forest has determined that the undertaking may have an adverse effect on one (1) historic property listed on the National Register of Historic Places, and may potentially adversely affect 158 known archaeological sites as yet unevaluated, and has consulted with the California State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. Part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 300101 et seq.); and

WHEREAS, the Forest has also determined that the effects of the undertakings cannot be fully assessed prior to the approval of the program and proposes identification and evaluation pursuant to 36 C.F.R. § 800.4(b)(2) in this Programmatic Agreement prepared in accordance with 36 C.F.R. § 800.14(b)(3); and

WHEREAS, the Forest has consulted, recognizing the government to government relationship between the federal government and Indian tribes, three federally recognized Indian tribes – the Karuk Tribe, Quartz Valley Indian Reservation, and Confederated Tribes of the Siletz – for which certain historic properties in the program APE have religious and cultural significance and asked them to be invited signatories to this agreement; and

WHEREAS, the Karuk Tribe has also expressed concern that the program may potentially adversely affect an as-yet unevaluated property of religious and cultural significance to them, that may be eligible for the National Register; and that such property is a place which is used by the Tribe for traditional and ceremonial activities; and that evidence of prescribed burning to manage the landscape may be a qualifying characteristic of this property; and

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WHEREAS, the Forest and Karuk Tribe acknowledge that it is not necessary to fully identify and evaluate the eligibility of this unevaluated Traditional Cultural Property during the duration of this agreement in order to protect it during program implementation; and

WHEREAS, the Forest has consulted with the Shasta Indian Nation and Shasta Nation, Inc., which are not federally recognized Indian tribes, and has invited them to concur in this agreement; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the Forest has notified the Advisory Council on Historic Preservation (ACHP) in a letter dated November 18, 2014 of its intent to prepare a Programmatic Agreement with specified documentation and the ACHP has chosen to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

WHEREAS, the February 2013 *Programmatic Agreement Among U.S.D.A. Forest Service, Pacific Southwest Region (Region 5), California State Historic Preservation Officer, Nevada State Historic Preservation Officer, Advisory Council on Historic Preservation Regarding the Processes for Compliance with Section 106 of the National Historic Preservation Act for Management of Historic Properties by the National Forests of the Pacific Southwest Region (Region 5 PA)* provides definitions of terms, roles and responsibilities, general program guidance, exemptions from review and a “screened” review process for routine forest undertakings which serve as the framework for this PA (Appendix C); and

NOW, THEREFORE, the Forest, SHPO, and ACHP agree that the program shall be implemented in accordance with the following stipulations in order to take into account the effect of the program’s undertakings on historic properties.

STIPULATIONS

The Forest shall ensure that the following measures are carried out:

I. FRAMEWORK OF THE REGION 5 PA

- A. The Forest will maintain qualified personnel fulfilling the roles and responsibilities defined in stipulation 2.0 of the Region 5 PA.
- B. The Forest will fulfill its curation, data sharing, and information management commitments defined in stipulations 5.2 and 5.3 of the Region 5 PA for each undertaking in the program.
- C. The Forest will fulfill its commitments for qualified staff in stipulation 10.0 of the Region 5 PA.
- D. The Forest will maintain its “certified” status defined in stipulation 11.0 of the Region 5 PA for the duration of this PA. Should the Forest become “decertified” during the duration of this PA, one or more of the parties to this PA may seek to amend or terminate it (see stipulations XI or XII of this agreement).

II. MEASURES TO ADDRESS POTENTIAL ADVERSE EFFECTS ON AN UNEVALUATED PROPERTY OF RELIGIOUS AND CULTURAL SIGNIFICANCE TO THE KARUK TRIBE

- A. The Forest shall prepare, with the possible assistance of contract support at the Forest’s discretion, a written summary of existing ethnographic and other appropriate historical accounts of tribal use and significance in the program APE.

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1. The Forest will consult with the participating Indian tribes to develop the scope of this summary.
 2. The Forest shall provide this written summary to the tribes no later than May 30, 2016. The tribes may provide written comments or objections to the Forest within 60 days of receipt of the draft summary. The Forest will consult with any objecting parties to resolve their concerns. The Forest or parties should initiate the Dispute Resolution process in Stipulations X to address any unresolved objections or concerns. If no comments are received within the 60 day timeframe, the Forest may proceed.
 3. The final summary will be incorporated as background and context for the Forest's survey reports prepared after its availability.
- B. The Forest Supervisor will facilitate an opportunity for a delegation of Karuk tribal officials to meet with the Regional Forester of Region 5 of the Forest Service to discuss opportunities for tribal consultation regarding Forest Plan revision and the tribe's interest in fire management policy for the National Forests in Northern California.
- C. The Forest Supervisor shall initiate consultation prior to March 31, 2016; with the participating Indian tribes, regarding mid-term (5-year) prescribed burning undertakings in the Forest.
- D. The Karuk THPO shall provide, subject to the roles and responsibilities and reimbursement to be established in a separate agreement with the Forest, the following support for Forest survey and implementation efforts within their ancestral territory to assist in the identification and protection of historic properties of religious and cultural significance to the tribe:
1. Cultural practitioners who may inspect the APEs of undertakings in Phase 1 of the program in accordance with Stipulation III.A.2 below.
 2. Cultural technicians who will participate in the survey of APEs of undertakings after Phase 1 of the program in accordance with Stipulation III.B.1 below.
 3. Karuk THPO who will provide training in accordance with Stipulation III.B.2 below.
 4. Cultural monitors who will be present during implementation activities in accordance with Stipulation IV below.
- E. The Forest shall provide, subject to reimbursement to be established in a separate agreement with the Karuk Tribe, support for "red card" training for qualified Karuk cultural monitors so that they may be available to assist during future fire emergencies in the Forest to help identify and protect historic properties of religious and cultural significance to the tribe during such situations.

III. PHASED REVIEW PROCESS

- A. Survey of Phase 1 Undertakings
1. The Forest shall implement the survey protocol (Appendix D) for the APE of each undertaking in Phase 1 of the program (as listed in Appendix A).
 2. If the Karuk THPO requests during the Forest's Phase 1 survey efforts, the Forest shall provide access to the APEs of the undertakings in Phase 1 of the program so that the Karuk THPO and cultural practitioners may identify and evaluate historic properties of religious and cultural significance to the tribe within their ancestral territory and, if warranted, assess the potential effects of the undertaking on such properties. The Karuk

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THPO shall provide a summary of such field views to the Forest Heritage Program Manager (HPM) so that it may be taken into account in the survey report (received September 11, 2015) (Stipulation III.C. below).

B. Survey of Undertakings after Phase 1

1. The Forest shall implement the survey protocol (Appendix D) for the APE of each undertaking, and when within Karuk ancestral territory, implement the survey protocol with the addition of a Karuk THPO-provided cultural representative. The cultural representative will be able to assist the Forest survey crew in the identification and evaluation of historic properties of religious and cultural significance to the tribe. The cultural technician will be a contributor to the survey report (Stipulation III.C. below).

2. The Karuk THPO or designee will provide at least a one-day training annually during the period of this agreement to the Forest Heritage Program Manager (HPM) and the heritage staff regarding the identification and evaluation of properties of religious and cultural significance to the Karuk Tribe. The first training will occur on or before September 1, 2015.

C. Survey Report and Consultation

1. The Forest shall prepare a written report on the results of its survey efforts, including any determinations of eligibility and findings of effects for each of the undertakings.

- a) The Forest shall document in the report the application of any expedited determinations of eligibility as defined in Appendix E to this agreement.
- b) If the report makes a finding of no historic properties present or affected or a finding of no adverse effect to historic properties, then the Forest shall provide the report to the consulting parties (except the ACHP). The consulting parties may provide written comments or objections to the finding to the Forest within 15 days of receipt of the complete report. If no comments are received from consulting parties within that timeframe, the Forest may proceed.
- c) The Forest may find that an undertaking has “no adverse effect” to historic properties through the application of Standard Protection Measures (SPMs) listed in Appendix F.
- d) If the report makes a finding of adverse effects to a historic property or properties, then the Forest shall provide the report and a Historic Properties Treatment Plan (HPTP) (Stipulation III.D below) to the Parties (except the ACHP). The consulting parties may provide written comments or objections to the finding or proposed treatment measures to the Forest within 30 days of receipt of the complete report. If no comments are received from the consulting parties within that timeframe, the Forest may proceed.

2. The Forest will consult with any objecting parties to resolve their concerns. The Forest or parties should initiate the Dispute Resolution process in Stipulation X to address any unresolved objections or concerns.

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D. Historic Properties Treatment Plan (HPTP)

1. The Forest shall prepare a Historic Properties Treatment Plan (HPTP) to resolve all adverse effects to historic properties for a single undertaking. A HPTP may address individual or multiple historic properties.
2. The Forest shall provide each HPTP to the Parties for review concurrent with the Forest survey report (see Stipulation III.C).
3. The Forest shall ensure that all provisions of a HPTP are carried out in a timely manner. Within one year after the completion of all work performed as part of the undertaking, the Forest shall submit to all Parties a final report documenting the results of all work prepared under a HPTP. The consulting parties may provide comments or objections regarding the final report to the Forest within 60 days of receipt of the complete report. If no comments are received from the consulting parties, the Forest may proceed.
4. The Forest will consult with any objecting parties to resolve their concerns. The Forest or parties should initiate the Dispute Resolution process in Stipulation X to address any unresolved objections or concerns.

E. Once the Forest has documented its finding, reached in consultation with the parties, of no historic properties present or affected, no historic properties adversely affected, or historic properties adversely affected with a HPTP, and resolved any objections through consultation or the Dispute Resolution process (Stipulation X), then the Forest may approve the undertaking and implement it as described, including any requirements of a HPTP. With the concurrence of the consulting parties, the Forest may approve an undertaking and begin implementing an undertaking when consultation to develop a HPTP is ongoing, provided that the Forest can ensure that no adverse effects to historic properties occurs prior the finalization of the HPTP.

F. Synthesis Report

Within one year of the completion of all survey and monitoring reports required in the HPTPs, the Forest will submit a draft synthesis report to the consulting parties. The synthesis report shall integrate the results of all survey and monitoring required by HPTPs, presenting summaries of the results of any analyses of surface artifacts and other materials. The report will discuss how the results of data recovery, should any be necessary, addressed the expectations of the research design and how the results contribute to our knowledge of prehistoric and historic life ways and land use. It will consider the appropriateness of a predictive model for the area of potential effect and its potential wider applicability. The consulting parties may provide written comments to the Forest within sixty (60) calendar days of receipt. The Forest shall consider the comments from these parties, address them in the final report, and provide a response to these parties explaining why certain comments may not be addressed prior to Forest's approval of the final report. If no comments are received within the 60-day timeframe, the Forest shall finalize the report and shall provide all consulting parties with the final report.

IV. CULTURAL MONITORING DURING IMPLEMENTATION

A. The Forest, in consultation with Karuk THPO and other tribes, shall ensure that a comprehensive plan for cultural monitoring during undertaking activities where *at risk* tribal cultural resources are present is prepared by the Forest Heritage Program Manager, who meets the Secretary of the Interior's Professional Qualification Standards.

B. The cultural monitoring plan shall be reviewed by the consulting parties. If no written comments are received after fifteen (15) calendar days of receipt, the Forest may finalize the plan

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and shall provide copies to the consulting parties. The plan shall be finalized prior to implementation and appended to this PA without requiring that this PA be amended

C. The cultural monitoring plan shall include:

1. Procedures for the identification, evaluation, documentation, and as appropriate retrieval and curation, of any artifacts or features that may be exposed as a result of ground disturbance;
2. A protocol for determining whether or not the undertaking activities can be modified so as to preserve the found cultural materials in place;
3. A protocol for notifying and consultation among Forest, timber sale purchasers/contractors, SHPO, and THPO about any discoveries of cultural resources during implementation;
4. A clear statement defining the responsibilities of the Forest HPM, Forest, Karuk Archaeologist and cultural monitors, other tribal monitors and timber sale purchasers/contractors regarding stopping or diverting implementation activities if something is found;
5. A protocol for the treatment of human remains or graves discovered during the undertakings in the program. To the extent practicable, the preference is for any human remains found to be preserved in place. The protocol shall be clear about:
 - who has authority to halt ground disturbing activities in the immediate area of such remains until all parties identified in the plan have been notified and any treatment plan has been carried out;
 - how any requirements of any state burial or unmarked grave laws will be met;
 - how the Forest HPM and SHPO will be notified, when, and by whom;
 - how the remains will be secured and stabilized until a treatment or disposition plan can be implemented.
6. Procedures for the Karuk Archaeologist to submit bi-weekly documentation of cultural monitoring activities to the Forest by email. Documentation will include the location of cultural monitoring activities for the reporting time period, as well as a description of any cultural resources identified and any actions taken. The Forest will provide copies of biweekly and monthly cultural monitoring reports to the consulting parties.

D. The Karuk Archaeologist shall ensure that cultural monitor(s) are on site during any ground disturbing activities near areas within Karuk ancestral territory designated for monitoring as specified in the monitoring plan.

E. The Karuk THPO will schedule mutually agreed upon meetings with the Forest and the monitors to ensure that work is being carried out according to applicable terms of the monitoring plan.

F. Cultural Monitoring Responsibilities:

1. The Forest will invite the Karuk Archaeologist to attend a pre-operation meeting with each timber sale purchaser.
2. The Karuk Archaeologist shall familiarize him/herself with the worksite and the specific activities to be implemented, before ground-disturbing activities begin. This would include, but not be limited to, becoming familiar with: project boundaries, known or suspected areas of historic/cultural sensitivity, responsibilities of any other monitors,

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and the sequence of operations to ensure that mitigation actions are implemented when Standard Resource Protection Measures are used.

3. All monitors will adhere to the applicable site safety rules and protocols anytime they are in the field. All monitors must attend any site safety training or briefings provided by the Forest as a condition of being in the field.

4. The Karuk Archaeologist will monitor all activities for on-site implementation for precontact or multicomponent sites within Karuk ancestral territory. The Forest will provide to the Karuk Archaeologist a weekly schedule of all ground disturbing activities planned for the following week. The Karuk Archaeologist will have access to the site and be present during all implementation activities as outlined in the monitoring plan. For safety purposes, prior to entering the site, the Karuk Archaeologist will notify the appropriate person as identified in the monitoring plan.

5. All Karuk Cultural Monitors shall be supervised by the Karuk Archaeologist, who meets the Secretary of the Interior's Professional Qualification Standards for Archaeology.

G. Upon completion of all cultural monitoring tasks and requirements implemented pursuant to this Agreement, the Karuk Archaeologist shall submit within three months a final monitoring report to the Forest for review and approval. The final monitoring report will describe the monitoring program and its findings and results, and present a detailed professional description, analysis, and evaluation of any cultural resources that were encountered and evaluated during implementation. The Forest will provide a copy of the monitoring report to the consulting parties.

V. APPENDICES

Any forthcoming documents, such as Monitoring Plans, Historic Properties Treatment Plans, or Historic Property Management Plans may, in consultation with the signatories to this PA, be attached to this PA as appendices without requiring the PA to be amended.

VI. DURATION

This PA will expire if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, the Forest may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation XI below.

VII. POST-REVIEW DISCOVERIES

A. In the event that either cultural resources are discovered, or historic properties are inadvertently affected, during implementation of an undertaking which has been duly considered under the terms of this PA, the Forest will submit written notification describing the circumstances of the discovery to the Regional Heritage Program Leader and SHPO within two working days (e.g., letter or email notification). The Forest will provide written reports describing the status or resolution of the discovery/inadvertent effect every six months until it is resolved.

B. In the event that properties are discovered during implementation of an undertaking which has been duly considered under the terms of this PA and in which the property cannot be protected, the Forest shall address the discovery in accordance with the provisions of 36 CFR 800.13. The Forest shall select the appropriate mitigation option, in consultation with the SHPO, ACHP and Indian tribes attaching religious and cultural significance to the property.

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C. In the event that properties are discovered during implementation of an undertaking which has been exempted under Stipulation 7.1 of the Region 5 PA, the HPM may recommend the use of standard protection measures (Appendix F) where appropriate based on professional judgment. If standard protection measures are not adopted as recommended by the HPM, the Forest shall consult with the SHPO, ACHP, consulting parties, and Indian tribes which may attach religious and cultural significance to the property to identify appropriate mitigation measures.

D. Where properties are inadvertently encroached on by project activities, and the HPM determines that no effects or no adverse effects to historic properties have occurred (e.g., trees felled into site boundaries or vehicles driven onto sites), SHPO and ACHP notification are not required, provided that HPM recommendations are limited to non-disturbing treatment measures (e.g. hand cutting of the tree and rolling it out of the boundary, piling brush over tire tracks) and these recommendations are implemented as prescribed. Once these treatment measures are implemented, the case will be considered resolved (Stipulation 7.10(d) of the Region 5 PA). If HPM recommendations will not be implemented, the Forest shall consult with the SHPO on effects and possible resolution, and with the ACHP, Indian tribes and consulting parties as appropriate if an adverse effect has occurred.

E. If consultation under 7.10 of the Region 5 PA determines that an adverse effect has occurred, the Forest will then consult with other consulting parties or Indian tribes as appropriate to identify acceptable mitigation or treatment measures. The results of any interested party or Indian tribe consultation will be included in further consultation efforts with the SHPO and/or ACHP to resolve the inadvertent effects.

F. In instances where the involvement of the SHPO occurs after appropriate steps have been taken under the stipulations of this PA, the Forest Supervisor or other Line Officer shall not be required to reconsider previous findings or determinations unless those findings or determinations are the subject of unresolved disputes or disagreements.

G. HUMAN REMAINS

1. The Forest shall ensure that in the event human remains are discovered during implementation of the undertaking, all work within 300 feet of the discovery will cease, the area will be secured, and the Forest authorized officer (Forest Supervisor) will be immediately contacted. The Forest shall notify the Siskiyou County Sheriff's Office and Coroner's Office of the discovery.

2. Native American human remains, funerary objects, sacred objects, or items of cultural patrimony found on federal land will be handled according to Section 3 of the Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing regulations (43 CFR Part 10). The Forest recognizes that any human remains, funerary objects, sacred objects, or items of cultural patrimony encountered during project operations shall be treated with dignity and respect.

VIII. PERFORMANCE

Each February 1st following the execution of this PA until it expires or is terminated, the Forest shall provide all parties to this PA a summary report detailing work undertaken pursuant to its terms and provide an opportunity for all parties to meet to discuss the report's findings and project implementation. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Forest's efforts to carry out the terms of this PA.

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IX. ANTI-DEFICIENCY ACT

The Forest's obligations under this agreement are subject to the availability of appropriated funds, and the stipulations of this agreement are subject to the provisions of the Anti-Deficiency Act. The Forest shall make reasonable and good faith efforts to secure the necessary funds to implement agreement in its entirety. If compliance with the Anti-Deficiency Act alters or impairs the Forest's ability to implement the stipulations of this agreement, the Forest shall consult in accordance with the amendment and termination procedures found at Stipulations XI and XII of this agreement.

X. PRESERVATION ACTIVITIES AS AN ELIGIBLE PROJECT COST

In accordance with Section 110(g) of the National Historic Preservation Act (54 U.S.C. § 306109), the Forest may include the costs of preservation activities stipulated in this agreement as eligible project costs, including reimbursement for tribal expenses.

XI. DISPUTE RESOLUTION

Should any consulting party in this PA object in writing at any time to any actions proposed or the manner in which the terms of this PA are implemented, the Forest shall consult with such party to resolve the objection. If a written objection is received, the Forest will notify all Signatories of the objection and invite their participation in dispute resolution. If the Forest determines that such objection cannot be resolved, the Forest will:

- A. Forward all documentation relevant to the dispute, including the Forest's proposed resolution, to the ACHP. The ACHP shall provide the Forest with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Forest shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The Forest will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Forest may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Forest shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.
- C. The Forest's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

XII. AMENDMENTS

Any signatory to this PA may propose an amendment at any time. The proposed amendment shall be submitted in writing to each party whereupon the Signatories shall consult to consider such amendment within 30 days of receipt. This PA will be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

XIII. TERMINATION

- A. If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately notify in writing and consult with the other parties to attempt to develop an amendment per Stipulation XI, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

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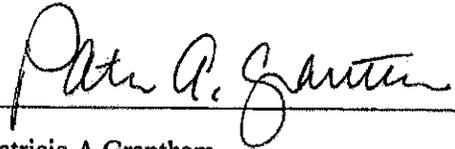
B. Once the PA is terminated, and prior to work continuing on any undertaking in the program, the Forest must either (a) follow the Section 106 review process in 36 C.F.R. §§ 800.3 – 7 for the undertaking, (b) execute a PA pursuant to 36 C.F.R. § 800.14(b)(3) and implement its terms for the undertaking, or (c) follow the Section 106 review process in the Region 5 PA subject to tribal consultation in accordance with 36 C.F.R. §§ 800.3 – 7 . The Forest shall notify the signatories as to the course of action it will pursue.

Execution of this PA by the Forest, California SHPO, and ACHP and implementation of its terms evidence that the Forest has taken into account the effects of this program of undertakings on historic properties and afforded the ACHP an opportunity to comment.

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REGARDING
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SISKIYOU COUNTY, CALIFORNIA

SIGNATORY:



Patricia A Grantham

Forest Supervisor

Klamath National Forest

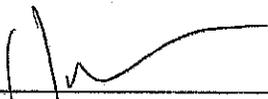
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Date

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SIGNATORY:



Julianne Polanco
California State Historic Preservation Officer

30 Sept 2015

Date

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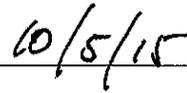
SIGNATORY:



John M. Fowler

Executive Director

Advisory Council on Historic Preservation



Date

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INVITED SIGNATORY:

Russell Attebery

Chairman

Karuk Tribe

Date

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INVITED SIGNATORY:

Harold Bennett

Date

Chairman

Quartz Valley Indian Reservation

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CONCURRING SIGNATORY:

Roy Hall, Jr.

Chairman

Shasta Nation, Inc.

Date

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CONCURRING SIGNATORY:

Janice Crowe

Chairwoman

Shasta Indian Nation

Date

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APPENDIX A:

LIST OF UNDERTAKINGS IN PHASE 1 OF PROGRAM

Salt Creek Fire Salvage SBA Timber Sale

Walker Creek Fire Salvage Heli Timber Sale

Tyler Meadows Fire Salvage Heli Timber Sale

Middle Creek Fire Salvage Heli Timber Sale

Blue Mountain Fire Salvage Heli Timber Sale

Slinkard Creek Fire Salvage Heli Timber Sale

Whites Fire Salvage Heli Timber Sale

Caroline Creek Fire Salvage Heli Timber Sale

Tom Martin Fire Salvage Timber Sale

Cold Springs Fire Salvage Timber Sale

Hamburg Heli Fire Timber Sale

Grider Ridge Fire Salvage Timber Sale

Cougar Hazard Fire Salvage Timber Sale

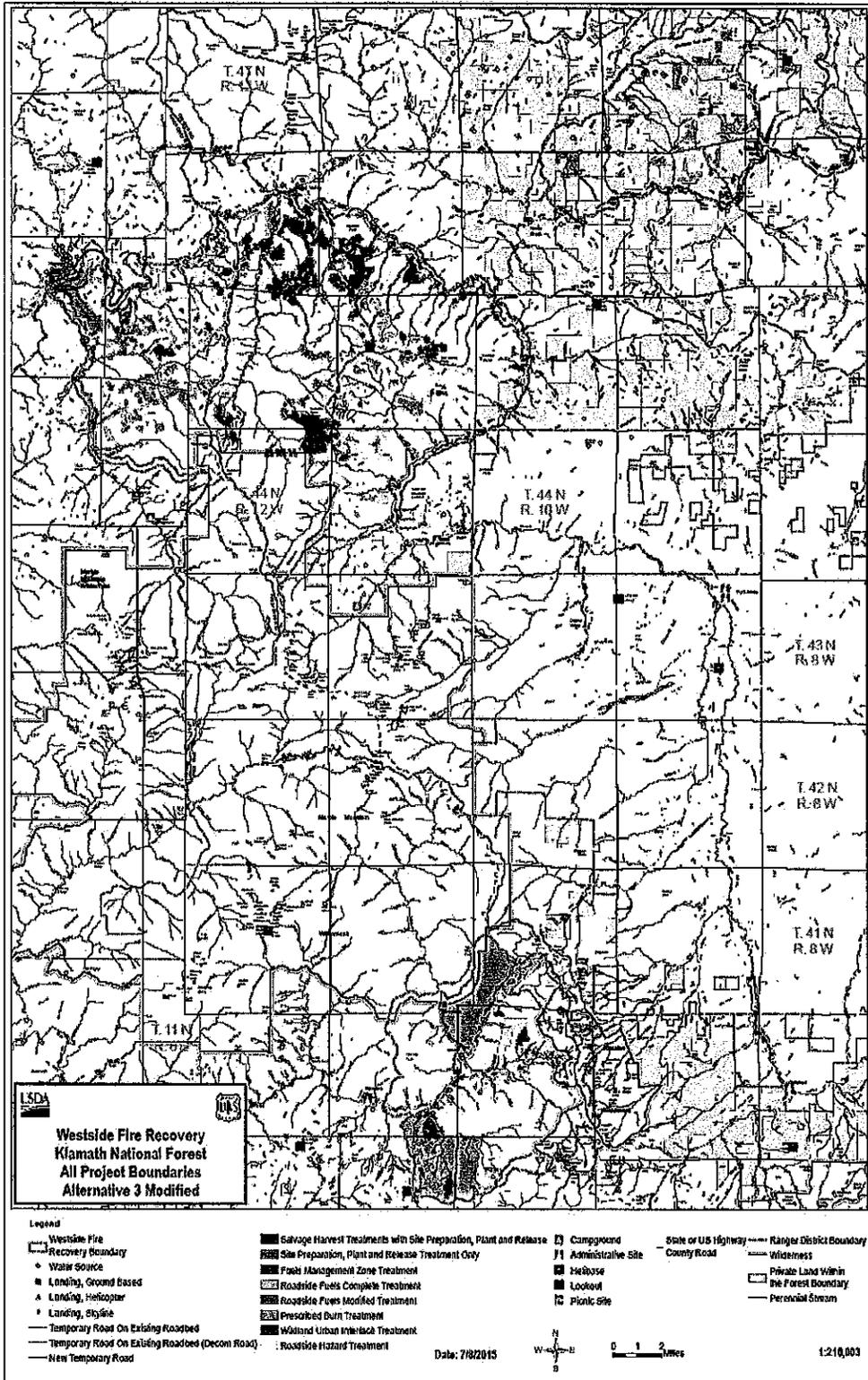
Beaver Hazard Fire Salvage Timber Sale

Note: Different subsets of this list will apply to the ancestral territories of the tribes party to this agreement.

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APPENDIX B:

MAP OF APE OF PROGRAM



APPENDIX C:
REGION 5 PA

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APPENDIX D:

SURVEY PROTOCOL

STRATEGY FOR INVENTORY OF HISTORIC PROPERTIES AND CULTURAL RESOURCES WITHIN THE WESTSIDE FIRE RECOVERY PROGRAM AREA OF POTENTIAL EFFECTS

Introduction

The Klamath National Forest proposes to utilize the following inventory strategy to identify previously unknown historic properties and/or cultural resources within the Westside Fire Recovery Program (WFRP) Area of Potential Effect (APE). This document outlines the methods and practices employed by KNF Heritage Resources staff when conducting field survey.

Previous Survey Coverage

A limited amount of field survey has already been performed within the Westside Fire Recovery Program APE associated with past projects. In order to be considered acceptable for WFRP purposes, previous survey coverage must meet the following criteria:

1. Survey was conducted by persons who meet current qualification standards;
2. Survey methods are consistent with current standards (e.g. intensive complete coverage with less than 30 meter transect interval);
3. Survey completed since 2010;

Following the fires surface visibility may have substantially improved in some areas previously surveyed. Therefore, select areas which have received previous survey to current standards may be re-surveyed if the following conditions are met:

1. Area is situated within the WFRP APE;
2. Area is classified as having a high probability for the presence of historic properties and/or cultural resources according to the criteria established in the *Determination of Probability* section of this document;
3. Area is located within a portion of the fire footprint classified as high vegetative burn severity;

Areas of previous survey coverage that meet the above criteria will be re-surveyed utilizing the same methodology as that which is employed for new survey coverage (see below).

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New Survey Coverage

New field surveys will be carried out within areas classified into two groups within the APE: high probability and non-high probability areas. High probability areas will receive intensive, complete survey coverage; select non-high probability areas will be sampled utilizing intensive coverage, while other non-high probability areas may receive varying levels of coverage or none at all.

Determination of Probability

Areas exhibiting certain attributes are considered to have a higher probability for the presence of historic properties and/or cultural resources on the KNF. Characteristics considered when determining areas of high probability commonly include (but are not limited to) landform context, proximity to fresh water sources, slope, aspect, and exposure, vegetative communities, proximity and/or association with other historic properties and/or archeological districts, and areas identified through tribal consultation and information sharing. Many of these areas may be identified in advance of survey, and then targeted for intensive surveys during fieldwork. This practice has the advantage of focusing the limited resources available for survey on those areas that are most likely to yield positive results. For purposes of the Westside Fire Recovery program, two types of high-probability areas have been established.

1) High Probability Classification within the WFR Project APE

An area will be considered as having a high probability for the presence of historic properties and/or cultural resources if one or more of the following criteria are met:

- a) *Landform Context*—area is situated on or within a naturally occurring distinctive topographical feature such as prominent ridges, mountain peaks, saddles / natural passes, terrace, bench, dormant landslide, caves, and significant rock outcrop features (e.g. cliffs, ledges, overhangs, etc.), etc.;
- b) *Proximity to Water Source*—area is immediately adjacent to a perennial water source such as rivers, streams, springs, seeps, etc.;
- c) *Slope, Aspect, Exposure*—area has as surface slope of less than 30% and is greater than one acre in size. Slope designations are calculated through a GIS exercise prior to initiating survey. Site specific observations regarding aspect and exposure may also be factored in;
- d) *Vegetative Community*—particular vegetative communities known to have been frequently occupied or utilized for specific past human activities;
- e) *Association with other Historic Properties and/or Archaeological Districts*—areas meeting some criteria listed above that are also within documented archaeological districts or in close proximity to other known historic properties;
- f) *Classification through Tribal Involvement*—discreet areas identified by tribal groups as culturally significant that may or may not meet other criteria listed above;

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2) *High Probability Classification within both the WFR APE and Karuk Ancestral Territory*

Any areas within the project APE, which are also within the ancestral territory of the Karuk Tribe, will be considered as having a high probability for the presence of historic properties and/or cultural resources if the criteria outlined in the previous section are met. In addition, high probability classification will be expanded to include select areas, which have surface slopes of less than 45% (rather than 30%) as follows:

- a) *Slope Criteria within Karuk Territory*—areas within the project APE, which have a surface slope of less than 45% and are also immediately adjacent to, or contiguous with, areas of less than 30% already classified as high probability. Areas of less than 45% surface slope which are not directly associated with areas of less than 30% (e.g. isolated mid-slope “pockets” greater than 30%, less than 45%) will not be considered under this expanded high-probability classification.

Areas Not Classified as High Probability

Select areas not classified as high-probability may still receive some level of survey coverage. For example, areas not classified as high probability which are located between two areas that are, may receive survey coverage as the survey team passes from one high probability area to the next; or areas not classified as high probability may receive coverage as the survey team travels to and from the high probability areas. In this manner, a portion of the areas not classified as high-probability will receive intensive survey coverage. Although this method of selectively surveying portions of non-high probability areas does not constitute a random sample, it should provide some basic insight as to the effectiveness of utilizing a probability based identification strategy.

Field Survey Methodology

Pedestrian Surface Survey

Survey will consist of a thorough inspection of the ground surface by qualified survey crews utilizing a pedestrian transect interval of no greater than 30 meters, and complete coverage of the area classified as high probability within the APE.

Limitations

High probability areas of limited surface visibility will receive intensive, complete coverage as outlined above. However, in such areas of reduced surface visibility, additional non-ground disturbing methods of assessment may be warranted. These may include boot scrapes, or selective, limited removal of surface vegetation and/or duff (i.e. raking) to more adequately inspect the ground surface. Utilization of such methods may be applied as needed, based on professional judgement and are considered on a site-specific basis.

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Areas of high probability, which are physically inaccessible, may not receive intensive complete coverage. Accessibility may be prevented due to impenetrable vegetation, excessively steep or dangerous terrain, deep mud or standing water, or other factors, which may otherwise pose a safety risk. Areas classified as high-probability that do not receive intensive complete coverage due to inaccessibility will be documented and included in the survey report.

Sub-Surface Investigations

If sub-surface investigation methods are determined to be necessary, no such methods will be employed without the prior involvement and/or participation of relevant tribal group(s).

Documentation / Reporting

Survey methods and results will be formally documented in an Archaeological Survey Report (ASR) for each undertaking within the Westside Fire Recovery program. Such a report will include information related to survey methods, extent of coverage, historic properties and/or cultural resources identified, and will include maps illustrating survey coverage and resource locations. Areas classified as high probability that did not receive intensive complete coverage due to limitations will be illustrated on survey coverage maps, as will areas that did receive coverage but were not classified as high probability. Additionally, ASRs will include information related to culturally significant vegetation identified during the survey.

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Glossary

Archaeological Site is a location that contains the physical evidence of past human behavior that allows for its interpretation.

Area of Potential Effect (APE) is the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if such properties exist.

Cultural Resource is an object or definite location of human activity, occupation, or use identifiable through field survey, historical documentation, or oral evidence. Cultural resources are prehistoric, historic, archaeological, or architectural sites, structures, places, or objects traditional cultural properties, and traditional or contemporary use areas. Cultural resources include the entire spectrum of resources for which the Heritage Program is responsible from artifacts to cultural landscapes without regard to eligibility for listing on the National Register of Historic Places.

High Probability Areas are those areas that have been identified as having an increased likelihood for the presence of historic properties or cultural resources based on certain criteria.

Historic Property means any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

Intensive Survey is a systematic, detailed examination of an area designed to gather information about the number, location, condition, and distribution of historic properties within an undertaking's APE.

Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

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APPENDIX E:

PROGRAM SPECIFIC EXPEDITED DETERMINATIONS OF ELIGIBILITY

Expedited ineligibility determinations shall be made by the HPM or certified professional staff under the conditions and stipulations outlined in the Region 5 PA, Appendix F. The Forest may apply these conditions and stipulations to the following property types under this program. Such determinations shall meet the consensus determination requirements of 36 CFR 800.4(c)(2).

- (1) Railroad grades whose existence can only be verified by contour or occasional hardware or grades that may have archival or contextual evidence of their existence but are unrecognizable on the ground.
- (2) Engineered roads built as part of the State Highway System do not require any documentation beyond what is on file at the California Department of Transportation and serves as HAER.
- (3) Engineered roads built as part of the Forest Service Road System do not require any documentation beyond what is on file at the Supervisor's Office, Klamath National Forest.
- (4) Cabin sites dating to the 1930s and 1940s where all structural and most artifactual remains were removed by bulldozers in the 1970s and 1980s. During the 70s and 80s, the Forest Service began systematically removing buildings and associated infrastructure at cabin sites to prevent occupancy trespass. While some of these cabin sites were recorded/documented prior to Forest Service demolition, there is no list of which sites and/or locations were demolished. The structural remains and artifacts were pushed into ravines or piles and then burned. The only identifiable features are flats and, in some cases domestic plantings. These sites are easy to distinguish from sites that have been mechanically manipulated and/or burned in the recent fires. Today, these sites are characterized by the lack of structural remains, fewer than 50 artifacts, obvious mechanical manipulation, and no historical associations. While this site type may be associated with 1930s gold prospecting, these sites are not good examples of a site type that is common on the westside of the Forest. These sites, for the purposes of this program, will be treated as expedited ineligibility determinations as outlined in the Region 5 PA, Appendix F. Cabin sites that retain integrity or are later additions to earlier, larger mining sites, e.g., 1870s hydro mines, or have historical associations will recorded and evaluated, as they do not meet the criteria for expedited determinations of eligibility.

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APPENDIX F:

STANDARD PROTECTION MEASURES

The Klamath National Forest (KNF) may determine that undertakings have “no adverse effect” to historic properties through the application of SPMs listed in Appendix E and in accordance with stipulation 7.8(b) of the Region 5 PA. The Forest may apply the following additional SPMs to historic mining sites in the same manner (these SPMs will not be used within precontact sites):

(a) Alternative Timber Harvest Methods within Site Boundaries—A number of historic properties, due to their site type, size, and burned condition level are at risk due to the presence of dead and dying trees. If left to fall on their own, the trees would likely cause an adverse effect to fragile features and overall site integrity. If left to fall and lie on the surface of the site, these trees create heavy fuel loading and result in hotter burns in future fire events, which will cause further adverse effects to the sites. The properties at risk are large-scale historic mining sites (tens to hundreds of acres) consisting primarily of earthen and rock features (e.g. hydraulic headwalls, ditches, raceways, waste-rock piles, processed sediment deposits, roads, etc.), which commonly, due to their size, have forest roads existing within their boundaries. At the request of the Forest Heritage Program Manager (HPM) and with required monitoring, the following harvest methods within site boundaries will be used:

(1) One-End Suspension—where full suspension is not feasible, use of a rubber tired skidder or tracked feller buncher to transport timber to designated landings (located outside of site boundaries or as designated in(b)(1) below) will be utilized. This method will only be used with whole tree (boughs/branches intact) removal; trees will be suspended by butt-end to reduce surface disturbance. Use of this method will be minimized. All site features and artifact concentrations will be avoided. Any resulting ground disturbance left by the dragging of logs will be restored using hand tools. At no time will this method be used within prehistoric sites.

(2) Use of Historic Routes—intact historic routes (consisting of unsurfaced railroad grades, roads, and trails, etc.) would only be used as transportation routes for log removal when alternate routes are not prudent or feasible. Rubber tired or tracked vehicles capable of one-end or full suspension shall be used. Use of this method will be minimized. Routes will be used as is and will not be bladed, widened, or modified other than limited vegetation removal necessary to open the route for use. Any resulting ground disturbance left by the dragging of logs will be restored using hand tools. At no time will this method be used within prehistoric sites.

(3) Where deemed necessary or beneficial by the HPM, small diameter trees will be felled or wood chips distributed within site boundaries to enhance soil stabilization.

(b) Timber Harvest Support within Site Boundaries—the program APE is characterized by steep, rugged terrain intersected by numerous watercourses and occasional spots of level ground, both natural and manmade. Due to the limited physical space in which to conduct program harvest activities, and with the prior approval of the Forest Heritage Program Manager (HPM), the following program activities may occur within the site boundaries of certain historic mining sites:

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(1) Existing landings and log decks—if no suitable log landing is available outside of site boundaries, existing landings within a site may be used provided the following conditions are met:

- a. Access to and from landings must be on previously established routes that are currently in use (e.g. KNF system roads). No new access routes will be constructed within sites.
- b. Only the current extent of existing landing will be used; there will be no expansion of existing landings or construction of new landings within sites.
- c. Existing landing must be devoid of historic features and/or artifact concentrations. Utilization of the landing area must not put features or artifact concentrations at risk of impact during use.
- d. If a subsurface component is or is likely to be present in the existing landing, the landing will be capped with foreign, non-archaeological material to prevent surface and subsurface impacts prior to use, as outlined in the Region 5 PA Appendix E, 2.1 (c).

(2) Slash pile locations—deposition of piled slash within sites is only to be permitted at locations selected in consultation with KNF Heritage Staff and approved by the HPM. These locations must meet the following guidelines at a minimum:

- a. Avoid historic features and artifacts concentrations.
- b. Use existing landings and/or areas of previous surface disturbance whenever possible.
- c. Slash piles may be burned when stipulations a. and b. are met and with the approval of the HPM.

(3) Water Conveyance Features—these include historic ditches, raceways, de-watering channels, etc. of earthen construction characterized by an established cut, trough, and berm, or two berms and trough.

- a. Crossing features will occur at existing breaches whenever possible following the Region 5 PA, Appendix E, 2.1(a).
- b. If a suitable breach is not available, the “corduroy” method may be used. This method consists of placing numerous log segments within the trough, and/or along the berm as needed, parallel to the feature alignment. Logs must be of a sufficient number to create a temporary bridge over the feature, which can then be used for a crossing.
- c. If a feature incurs minor damage as a result of a crossing (from either method a or b above), then re-construction of the feature using hand tools may be permitted to restore feature form and dimension.
- d. New breaches may be constructed at specific locations identified by a KNF hydrologist, and with the approval of the HPM, as an area at

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which the feature is at risk of eventual failure from repeated seasonal or storm water storage and release, and where such a failure would likely constitute an adverse effect to the feature. Such breaches will be constructed to the minimum dimension needed to achieve effective hydrologic operation.

- e. No “corduroy” crossings or new breach construction are to be made at locations with feature elements such as stacked stone components, discharge gates, penstocks, locations where wooden remains, hydraulic pipe, or other artifacts are present, flume and water storage feature junctions, etc.

(4) Historic Utility Lines—most commonly historic phone lines attached to trees, but may also include other utilities as well. Suspended utility wires can be very difficult to see and present a safety hazard to equipment operators. In order to provide for operational safety and avoid potentially adverse effects, in limited situations these lines may be cut as long as the following criteria are met:

- a. Utility line must no longer be in service.
- b. Line segments must already be “down” at one or more locations.
- c. Suspended wire must present a safety hazard to operations that cannot be mitigated through flagging or other methods.
- d. Associated utility poles, if present, will be avoided.
- e. No trees with insulators, guides, spindles, or other components of the feature may be removed.