



United States
Department of
Agriculture

Forest
Service

Lake Tahoe Basin Management
Unit

35 College Drive
South Lake Tahoe, CA 96150
(530) 543-2600

File Code: 1580

Date: February 24, 2009

To: Erosion Control Grantees

Dear Grantees:

Attached is a guidance document my staff has prepared to help streamline the environmental analysis process needed to support my project decisions under the National Environmental Policy Act (NEPA) related to awarding Erosion Control Grant funds for implementation, and/or authorizing special use permits for use of National Forest System lands, for EIP Urban Stormwater and SEZ Improvement Projects. My staff has outlined a path that we believe will accomplish this part of the planning work needed, in an efficient and cost effective manner to support these projects. Please contact the Grants program managers, Genevieve Villemaire (530-543-2783), or Barb Shanley (530-543-2657) if you have questions regarding the guidance provided. They will continue to work with you to help guide you through this process to avoid unnecessary delays, or expenditures of your planning funds.

Sincerely,

TERRI MARCERON
Forest Supervisor

cc: Kimble Corbridge- Washoe County, Kansas McGahan- Placer County, Stan Hill- CSLT, Sarah Hussong-Johnson- CSLT, Jennifer Quickel- CSLT, Scott Brown- NTCD, Doug Martin - NTCD, Steve Kooyman - El Dorado County, Lynn Nolan - STPUD, Mamood Azad- Douglas County, Karen Lommori - Douglas County, Barbara Shanley, Genevieve Villemaire, Holly Eddinger



NEPA analysis steps for USFS Erosion Control Grant Projects

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The following describes the steps required for the grantees and U.S. Forest Service (USFS) to complete the Environmental Analysis process required by NEPA for Erosion Control Grants Projects. The purpose is to early on clearly identify the appropriate level of analysis and decision process required for each project for the USFS NEPA decision. This *does not necessarily meet TRPA permit requirements*, which will likely require an additional scale of analysis, separate from the USFS decision.

There are basically two different levels of NEPA that the USFS will apply to these projects. The vast majority of projects will be analyzed under a categorical exclusion (CE) in a decision memo (based on finding of no extraordinary circumstances, see attachment 1). If it appears that extraordinary circumstances exist, the Erosions Control Grants Program Manager (ECPM) will contact the USFS NEPA Advisor for guidance, as there may be ways to avoid, modify or mitigate the project design that avoid potential effects of the project on extraordinary circumstance resource conditions. For projects for which this finding cannot be made the NEPA analysis will need to be documented in an EA or an EIS. The EA process will be followed to determine whether or not a finding of no significant impact (FONSI) can be made, and an EIS will be required if a FONSI cannot be made. The level of NEPA (EA or EIS), and supporting analysis and documentation needed, for the USFS decision will be made on a case by case basis.

In most cases, the environmental analysis for the NEPA decision will be prepared by the USFS using information provided by the grantee and its contractors. If the NEPA decision is ONLY for issuing a special use permit on Forest Service parcels (NFS land) associated with an Erosion Control Project, the analysis required only applies to the Forest Service parcels to be permitted. If the NEPA decision is to allow the use of federal grants funds for construction of a project, analyses must be conducted for the entire project area, including NFS and non-NFS land.

At the initial stage the grantee will only provide the noxious weed survey and associated noxious weed risk assessment report for the entire project area. The grantee will not be asked to conduct aquatic, wildlife, or other botanical species or habitat surveys for the USFS decision on USFS land. USFS staff will prepare the necessary and required biological report(s) (including the Biological Assessment (BA) in order to meet the Endangered Species Act (ESA)) for the USFS decision for NFS land within the project area. If it is determined that there is a significant information gap that needs to be gathered before completing the biological document, the grantee will be contacted and the best course of action will be determined based on the survey needs.

In order to meet the ESA on non-USFS land within the project area, the responsibility lies with the grantee to prepare the BA, for Fish and Wildlife Service (FWS) federally listed species. Currently based on listing by the FWS, the Lahontan cutthroat trout is the only wildlife species, requiring a BA for the USFS decision. There is no plant species listed.

STARTING THE REVIEW PROCESS

To start the review process the following documents will be submitted to the USFS Erosion Control Grants Program Manager (ECPM) by the Grantee/Applicant when 25% project design has been completed:

- Concise project description that describes nature and scope of project, type of improvements, level of disturbance, type of equipment to be used and implementation schedule.
- Project maps that clearly show location of project within the basin, the project boundaries, street names, and location and nature of improvements. These are not detailed design drawings but user-friendly schematics of the project. For NFS lands requiring special use permits we will also require a special use permit (SUP) proposal, and 8.5" by 11" maps of each parcel and the proposed improvements, with identification of APN #, and Township, Range and Section location. Please see a more detailed description of how to obtain special use authorization on the USFS website, and include a SUP proposal with your submittal. <http://www.fs.fed.us/r5/lbmu/ecgp/index.shtml#special>.
- A noxious weeds survey and risk assessment report **for all lands** within the project (including NFS and non-NFS) using guidelines provided on the USFS website <http://www.fs.fed.us/r5/lbmu/ecgp/index.shtml#noxious> . This website will be updated periodically. These specific guidelines must be utilized for the noxious weeds survey and assessment on NFS lands. The guidelines provided are not required but highly recommended for use on the non-NFS lands. For the USFS NEPA decision, the risk assessment should clearly describe the specific risk to NFS lands within the project boundary.
- A Determination of Need Letter for Cultural Resource surveys: A Determination of Need Letter will evaluate the need for Cultural Resource surveys on lands within the project area that have not been previously disturbed. The letter will be reviewed by the USFS Cultural Resource specialist, to finalize agreement on surveys needs. Grantee will then complete and submit necessary Cultural Resource survey and report. If USFS lands are proposed for disturbance, the consultant will also review files at USFS office to determine if Cultural Resource surveys have already been conducted. For more information see attachment 1.

The ECPM will develop a draft decision memo to attach to the front of the environmental review package that clearly describes the scope of the project and the nature of the decision to be made. The findings part of the Decision Memo will be left blank until the USFS specialist(s) have completed their review and provided appropriate language to the ECPM to include in the Decision Memo. A cover memo will also be prepared by the ECPM that will clearly highlight the nature of the project and any special concerns related to this project, including meadow, stream or SEZ restoration components, or species concerns.

This package will then be routed among appropriate USFS staff for review and to provide input into the Decision Memo. Specialists will document their findings in a letter to the file that will include any specific language that should be included in the Decision Memo related to their resource area. If more information is required from the grantee, the specialist will contact the grantee/consultant directly (with Cc: to ECPM) with specific direction on what surveys or information needs to be provided.

COMPLETING THE REVIEW PROCESS

The ECPM will perform the extraordinary circumstances review using the information received from the specialists (see attachment 2). If the USFS ECPM staff determines that it has the information internally to make a finding of no extraordinary circumstances for Biological and Cultural Resources, they will notify the grantee to submit the Public Scoping document (if not already submitted with original submittal) to complete the analysis and documentation required for the NEPA decision under a categorical exclusion using a Decision Memo (DM). Although unlikely, there is still a possibility that information contained in the public scoping document will move the project out of a CE. If that is the case the ECPM will notify the grantee immediately.

The public scoping document must describe who was contacted (agencies, groups, individuals), how, when and where they were contacted (legal notices, public meetings, flyers), identification of issues raised, and response and resolution of those issues. This should all be contained in a 2 to 5 page summary report. We do not need copies of back up documentation (meeting minutes, notices, agendas) however all this material should be kept in the project file maintained by the grantee.

If at any point in the process a finding of no extraordinary circumstance cannot be made, or additional information is needed to complete a decision under a CE, further guidance will be provided to the grantee regarding the additional level of survey, analysis and documentation that will be required to complete the NEPA process. This will be determined on a case by case basis for each project.

If between 25% and 100% design, changes are made to the project that add new areas of disturbance, these new areas will have to be added to the analysis and review process, including all required surveys.

Once a NEPA decision has been signed by the Forest Supervisor, the Grantee will be informed in writing by the ECPM, and a copy of the decision document will be provided to the Grantee. If NFS lands are involved, a copy of the decision document will also be forwarded along with the SUP proposal, to our Special Uses department for processing. Any monitoring and mitigation measures identified for NFS lands in the decision document will be incorporated into the SUP.

Attachment 1 Cultural Resources Guidelines

The process for the Cultural Resources documentation should be as follows:

- The applicant would retain a professional Cultural Resource specialist (consultant).
- That consultant would conduct an archives search to determine if previous inventories have been conducted and whether previously recorded Cultural Resources are present within the vicinity of the proposed erosion control project.
- If USFS lands are proposed for disturbance, the consultant will also review files at USFS office to determine if Cultural Resource surveys have already been conducted.
- The specialist would review the proposed project area in person.
- The specialist would prepare a letter to the Forest Service in which he/she summarizes results of the archives search and provide a professional recommendation on whether a Cultural Resources inventory is warranted.
- The Forest Service would review the recommendation of the specialist and render a decision on whether or not a Cultural Resources inventory would be required in conjunction with a specific proposed erosion control project.
- If an inventory is deemed necessary, the applicant would retain a specialist to conduct and report on that inventory.
- If an inventory is deemed unnecessary, then that would conclude the applicant's need to address Cultural Resource matters on behalf of that particular proposed erosion control project.

When discussing this, some have suggested that this process may be difficult to compress into the limited schedule that sometimes accompanies erosion control projects. They have suggested that, from a schedule prospective, it might be better to just go ahead and do the cultural inventory. Caution might be appropriate in this regard. If an inventory is performed by an applicant without first proceeding through this process, the Forest Service may determine that the inventory was not necessary and as such is not an allowable cost subject to reimbursement.

Attachment 2

EXTRAORDINARY CIRCUMSTANCES REVIEW

Will this project impact any of the following resources?

1. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.
 - A. Yes/No
 - B. Briefly describe how this determination was made and refer to any specific reports, analysis, consultations or correspondence that supports this determination.

2. Flood plains, wetlands, or municipal watersheds.
 - A. Yes/No
 - B. Briefly describe how this determination was made and refer to any specific reports, analysis, consultations or correspondence that supports this determination.

3. Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas.
 - A. Yes/No
 - B. Briefly describe how this determination was made and refer to any specific reports, analysis, consultations or correspondence that supports this determination.

4. Inventoried roadless areas.
 - A. Yes/No
 - B. Briefly describe how this determination was made and refer to any specific reports, analysis, consultations or correspondence that supports this determination.

5. Research natural areas.
 - A. Yes/No
 - B. Briefly describe how this determination was made and refer to any specific reports, analysis, consultations or correspondence that supports this determination.

6. American Indians and Alaska Native religious or cultural sites.
 - A. Yes/No
 - B. Briefly describe how this determination was made and refer to any specific reports, analysis, consultations or correspondence that supports this determination.

7. Archaeological sites, or historic properties or areas.
 - A. Yes/No
 - B. Briefly describe how this determination was made and refer to any specific reports, analysis, consultations or correspondence that supports this determination.