
RECORD OF DECISION
RUBICON TRAIL EASEMENT AND RESOURCE IMPROVEMENT
U.S. FOREST SERVICE
ELDORADO NATIONAL FOREST
EL DORADO COUNTY, CALIFORNIA

DECISION

Based on my review of the Final Environmental Impact Statement (FEIS), I have decided to implement Modified Alternative 3, as described on pages 13 through 22 in Chapter 2 of the FEIS and summarized below:

- Issue a National Forest Roads and Trails Act (FRTA) easement to El Dorado County for the Rubicon Trail, where it crosses National Forest System lands within the Eldorado National Forest, which will allow the County to conduct on-going maintenance within the right of way and ensure County responsibility for actions within the easement. The easement would be generally 25 feet each side of centerline with variant widths at Post Pile and Little Sluice.
- Authorize El Dorado County to construct a prefabricated steel truss bridge approximately 60 feet downstream of the existing Ellis Creek ford. The bridge will be 16 feet wide and 70 feet long.
- Authorize El Dorado County to remove the existing FOTR timber structure bridge and replace it with a three sided bottomless arch.
- Authorize El Dorado County to construct an elevated rock ford at the Little Rubicon River crossing below the Buck Island Lake Outlet.
- Authorize El Dorado County to install and maintain erosion control features along the Rubicon Trail from Wentworth Springs Campground to the county line as described in the Rubicon Trail Saturated Soil Water Quality Protection Plan (SSWQPP) Technical Report and as described in the project plans for implementation.
- Authorize the construction and maintenance of 6 vault toilets along the Rubicon Trail in areas where concentrated use is occurring. Toilets may be constructed by El Dorado County, Eldorado National Forest, or others.
- Move the toilet at Wentworth Springs Campground out of the flood plain.
- Close and rehabilitate approximately 2.23 miles of unauthorized routes (37 routes). Rehabilitation methods include pulling natural barriers across closed routes, installing waterbars, posting signs, and scattering forest debris.
- Add .43 miles of unauthorized routes (15 short spurs) to the National Forest Transportation System (NFTS) as motorized 4WD trails open to high clearance vehicles to allow for access to dispersed recreation.

- Add 12 motor vehicle use areas (outside of the easement) in order to provide locations where vehicles may park off of designated routes.
- Implement Saturated Soil Management for wet season vehicle use of the Rubicon Trail Easement.

My decision is based upon a careful consideration of all the information available in the administrative record including the field data collected by resource specialist and analysis conducted as described in the FEIS, all of the supporting documentation, and the public comments on the Draft Environmental Impact Statement (DEIS). Modified Alternative 3 will provide for County management of the Rubicon Trail under the terms and conditions of a FRTA easement and for Forest Service management of limited trails and areas associated with the Rubicon Trail. Overall, Modified Alternative 3 will clarify management responsibility for the Rubicon Trail and address resource impacts associated with use of this popular trail. This environmental analysis process was conducted in accordance with the National Environmental Policy Act (NEPA). Modified Alternative 3 is consistent with the goals and objectives of the Eldorado National Forest Land and Resource Management Plan (LRMP) as amended by the Sierra Nevada Forest Plan Amendment (SNFPA). The Rubicon Trail Easement and Resource Improvement FEIS documents the analysis and conclusions upon which this decision is based.

My decision includes design criteria (mitigation measures) and monitoring described on pages 19 through 21 in Chapter 2 of the FEIS. Monitoring for the project will help determine the effectiveness of the erosion control features, reduce the spread of invasive species, and prevent effects to cultural resources during installation of erosion control features, construction of the Ellis Creek bridge, construction of the elevated rock ford, and construction of vault toilets.

DECISION RATIONALE

The Notice of Availability of the DEIS was published in the Federal Register on December 16, 2011. Sixteen individuals and groups commented on the DEIS. The following important comments were received and taken into consideration: the assumptions used for the analysis in the DEIS are flawed; mitigation measures are necessary to protect against the spread of invasive plants; vehicle use during saturated soil conditions is not analyzed appropriately in alternatives 1, 3, and 4; monitoring, education, and law enforcement need to be incorporated into the alternatives; the definition of wetlands is confusing; and it is difficult to determine which alternatives include seasonal closures.

Considering the comments received from the public, I reviewed the DEIS further and concluded the preferred alternative in the DEIS (Alternative 3) did not adequately respond to public concerns regarding wet season use, impacts to sensitive plant species, impacts from invasive plant species, impacts to cultural resources, and the

need for education, law enforcement, and monitoring.

In response to these public concerns, Alternative 3 was modified to add a saturated soil management strategy for wet season use; eliminate the designation of a motor vehicle use area at Soup Bowl; change the crossing at the Buck Island Lake Outlet from a rocked/hardened crossing to an elevated rock ford; and include additional mitigation measures.

It is very important to me to issue an easement to El Dorado County that addresses the actions ordered in the Cleanup and Abatement Order (CAO) No. R5-2009-0030 for the Rubicon Trail. It is also important to me to provide access for camping, fishing, hiking, and off-highway vehicle (OHV) use. My goal is to protect resources and provide access where it is important to Forest visitors.

I have selected Modified Alternative 3 because it provides a balanced response to the public comments by providing recreation access while protecting water quality and forest resources. It clearly defines the right-of-way for the Rubicon Trail along with the authority and responsibility for its upkeep and reduces impacts to water quality. While all of the action alternatives improve water quality along the Rubicon Trail, I selected Modified Alternative 3 because it addresses public concerns, provides for protection of the resources and addresses the other elements of the purpose and need for the project. This balancing required many tradeoffs:

- The saturated soil management strategy for wet season use on the Rubicon Trail was added to Modified Alternative 3 to address public concerns about impacts to water quality from use during saturated soil conditions. On January 5, 2012, I received a letter from the California Regional Water Quality Control Board (CRWQCB), Central Valley Region, stating “the complete Saturated Soil Plan appears adequate to address water quality impacts caused by vehicle use during saturated soil conditions and by over-the-snow travel.” In addition, the CRWQCB provided comments on the DEIS stating “It is noted that the winter closure concept may still be necessary if the actions described in the County’s Saturated Soils Water Quality Protection Plan do not protect water quality.” The saturated soil management strategy provides for monitoring of the erosion control features during saturated soil conditions to determine if water quality is in compliance with the CAO. Implementation of the saturated soil management strategy will provide protection to the Rubicon Trail by minimizing sediment delivery to streams during saturated soil conditions. I selected this strategy because it will protect the Rubicon Trail from damage during susceptible conditions yet allows for public access year round unless monitoring shows the erosion control features are not effective and a closure is required.
- Modified Alternative 3 includes authorizing El Dorado County to construct a 16 foot wide bridge at Ellis Creek. The bridge is necessary to reduce sediment delivery to Ellis Creek and fulfill the CAO. Public comments expressed concerns

about riparian disturbance from construction of a 16 foot wide bridge and proposed a narrower bridge. El Dorado County has received funding for the bridge through the Federal Highways Administration (FHWA) (administered through the California Department of Transportation Highway Bridge Project). The federal transportation funding program requires the bridge design must meet the American Association of State Highway and Transportation Officials (AASHTO) standards for Geometric Design of Very Low-Volume Local Roads. The proposed bridge over Ellis Creek was designed with 16 foot spacing between the two structural support trusses, leaving an approximate 15 foot clear passage inside the structural steel-truss and its protective inside railing, as required by the AASHTO standards for public safety. If the bridge is not designed to meet these standards then the FHWA funding for the construction of the bridge will not be available. Construction of the abutments for a 16 foot wide bridge would impact .05 acres of riparian habitat verses a 12 foot bridge which would impact .03 acres of riparian habitat (FEIS Chapter 3, Hydrology Section). I selected Modified Alternative 3 because the impacts to riparian habitat from construction of a 16 foot wide bridge verses a 12 foot wide bridge are relatively small in comparison to the benefit of having a bridge at this location in the near future.

- Modified Alternative 3 includes authorizing the County to construct an elevated rock ford within the easement at the Buck Island Lake Outlet crossing instead of a bridge to address petroleum product delivery into the Little Rubicon River. Public comments on the DEIS expressed concern about petroleum product delivery to the Little Rubicon River when vehicles cross through the stream. Installing an elevated rock ford at the Little Rubicon River crossing designed to raise vehicles out of the water while crossing the river would maintain high quality downstream aquatic habitat. Oil and grease on the undercarriages of vehicles crossing the Little Rubicon would be less likely to wash off the vehicles, ensuring protection of water quality downstream of the crossing for native trout and macroinvertebrates. During higher water levels (April through June), some petroleum based fluids may wash off the vehicles when crossing the Little Rubicon River, but the amount is expected to be minor because vehicle use during high flows is expected to be minimal, maintaining consistency with the SNFPA guidelines (FEIS Chapter 3, Aquatic Resources Section). I selected Modified Alternative 3 because it minimizes impacts to the Little Rubicon River from petroleum products.
- Modified Alternative 3 includes the Long Bypass (ELD-63-D) in the easement to be issued to El Dorado County. The county requested this variant to be included in the easement to provide access around Little Sluice because it isn't passable by unmodified vehicles. The Long Bypass crosses granite slabs, and public comments on the DEIS expressed concern about petroleum products

washing from the granite slabs into the Little Sluice and Winter Camp wetlands. The Long Bypass next to Little Sluice is composed primarily of granite bedrock slabs with drainage pathways between slabs. Oil spots left on the rocks by vehicles could drain oil pollutants into the Winter Camp ponds. The effects on the ponds are expected to be minor because the oil on the rocks dissipates and the remaining oil that may wash off is diluted by the time it reaches the ponds, meeting Sierra Nevada Forest Plan Amendment (SNFPA) guidelines (FEIS Chapter 3, Aquatic Resources Section). I selected Modified Alternative 3 because the variant was requested by El Dorado County and the effects from use of the variant are expected to be minor.

- Modified Alternative 3 includes design criteria (as do all of the action alternatives) for continued education efforts, law enforcement, and monitoring as described in El Dorado County's Saturated Soil Water Quality Protection Plan (SSWQPP). Public comments on the DEIS expressed concern about a lack of a monitoring and enforcement plan. In an Operating Agreement being completed between the County of El Dorado and the ENF, both parties commit to continue education efforts and continue to have a law enforcement presence on the Rubicon. A second agreement is being adopted to include all parties who assist with monitoring, education, and law enforcement along the trail. I am committed to monitoring to determine if the purpose and needs of the project have been met and if additional work is necessary to protect resources. I selected Modified Alternative 3 because it addresses my commitment to continued education, law enforcement presence, and monitoring of the Rubicon Trail.

I recognize my decision will not satisfy everyone, however, my decision and this NEPA process benefited greatly because of public participation. Modified Alternative 3 is consistent with the purpose and need and responsive to public comments and significant issues. My rationale is based on an evaluation of each alternative against the issues, needs, and Travel Management Regulations.

Issues

The following issues were identified from scoping comments and considered when making my decision:

1. Use during the wet season causes damage to resources.
2. Spectator parking resulting in large numbers of people concentrated at Soup Bowl and Little Sluice causes damage to resources.
3. Use on and off the trail, including camping, is impacting riparian areas, riparian species, and adjacent forests.
4. Overly large bridge proposed at Ellis Creek will cause adverse impacts to riparian areas and species and is inconsistent with the historic nature of the trail.

5. Buck Island bridge will degrade the view and setting and there is no environmental basis for building it.
6. One toilet located in the Little Sluice area is inadequate to address dispersed use along the length of the trail.
7. Requiring a bridge at the Buck Island Lake Outlet will be expensive and the funding may not be available, so without construction of the bridge, vehicle use across the creek could be restricted.

Modified Alternative 3 provides a balanced response to public comments received on the DEIS. This alternative responds to significant issues 1, 2, 3, 5, 6, and 7 by including a saturated soil management strategy for wet season use; adding 12 areas for motor vehicle use on NFS lands while not designating others; restricting the width of the easement at the Little Sluice; including construction of an elevated rock ford instead of a bridge at the Little Rubicon River; including installation of 6 vault toilets; including an Operating Agreement that addresses education, monitoring, and law enforcement; and addition of mitigation measures (design criteria). Modified Alternative 3 provides a high level of access and motorized recreational opportunities along the Rubicon Trail while complying with ENF LRMP standards and guidelines.

Purpose and Need

The key elements of the Purpose and Need are (the entire Purpose and Need is described on pages 3 through 10 in Chapter 1 of the FEIS):

- There is a need for a clearly defined right-of-way for the Rubicon Trail along with clearly defined authority and responsibility for its upkeep.
- There is a need to reduce sediment delivery to Ellis Creek.
- There is a need to reduce runoff from the Rubicon Trail that has the potential to discharge sediment and other waste into waters of the state.
- There is a need to address human waste disposal from public users of the Rubicon Trail.
- There is a need for limited additions to the National Forest Transportation System (NFTS)

Alternatives 1, Modified 3, 4, 5 and 6 clearly define the right-of-way for the Rubicon Trail along with clearly defining the authority and responsibility for its upkeep, reduce sediment delivery to Ellis Creek, and reduce runoff from the Rubicon Trail that has the potential to discharge sediment and other waste into waters of the state.

Modified Alternative 3 reduces impacts on water quality along the Rubicon Trail by constructing a bridge at Ellis Creek, replacing the FOTR bridge with a bottomless arch culvert, constructing an elevated rock ford at the Little Rubicon River, installing and maintaining erosion control features along the Rubicon Trail, closing and rehabilitating 2.23 miles of unauthorized routes and including a saturated soil management strategy for wet season use. Modified Alternative 3 reduces impacts from

human waste by installing 6 vault toilets in areas where concentrated use is occurring. Modified Alternative 3 provides limited additions to the NFTS by designating .43 miles of unauthorized routes to the NFTS as motorized 4wd trails open to high clearance vehicles.

Travel Management Regulations

The Travel Management regulations require consideration of certain criteria when designating roads, trails, and areas for motor vehicle use as part of the National Forest Transportation System (36 CFR 212.55(a) through (e)). These criteria were considered throughout all stages of this process for those routes and areas under consideration for addition to the NFTS, beginning with the purpose and need (FEIS Chapter 1), the alternatives (FEIS Chapter 2), the analysis of effects (FEIS Chapter 3) and ultimately my decision to implement Modified Alternative 3. The following details underscore the importance I gave to these criteria in my decision to add .43 miles of unauthorized routes to the NFTS as motorized 4wd trails and 12 areas as motor vehicle use areas:

Cultural Resources: My decision minimizes effects to cultural resources by mitigating all identified and potential adverse effects to one cultural site associated with use of trails and areas added to the transportation system, as described in Chapter 3, Cultural Resources Section. Further, this decision fully complies with Programmatic Agreements with the State of California Office of Historic Preservation (FEIS Chapter 3, Cultural Resources Section).

Public Safety: Modified Alternative 3 authorizes the use of .43 miles as motorized 4wd trails that have been determined to be generally safe.

Access to public and private lands: When identifying trails to add to the NFTS, I focused on selecting short routes that were in good condition, with no resource concerns, and on meeting the needs of the public by providing access to the most desired trails and areas along the Rubicon Trail. In addition, my decision will not impact access to private lands, as this project does not designate trails through private lands.

Availability of resources for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated: The addition of .43 miles of motorized 4WD trails would result in an annual maintenance cost of approximately \$600.00. Various opportunities to complete needed work would be pursued including grants and volunteer help should deficiencies in appropriated funding arise.

Minimize damage to soils, watershed, vegetation and other forest resources: Trails with the potential to affect water quality and quantity or botanical resources were not proposed for addition to the NFTS. Trails added to the NFTS as part of my decision are expected to maintain and improve water quality and satisfy all federal and state water quality requirements. My decision minimizes impacts to both soil and water resources, including riparian and aquatic habitats, by only adding trails where

adverse impacts either do not exist or can be minimized through implementation of appropriate mitigation measures. The mitigation measures are described for each proposed route addition in Chapter 2. The full analysis displaying effects can be found in Chapter 3 of the FEIS. My decision minimizes impacts to known sensitive plant populations and considers the effects of invasive species spread by proposing design criteria (mitigation measures). With respect to botanical resources, the analysis determined that Modified Alternative 3 is not likely to result in a trend toward federal listing or loss of viability for any sensitive or watch list plant species.

Minimize harassment of wildlife and significant disruption of wildlife habitat:

The trails and areas that will be added to the NFTS as part of this decision are not expected to cause harassment of wildlife or significant disruption of wildlife habitat. Chapter 3 of the FEIS discloses few or no adverse impacts to wildlife and habitat associated with trail and area additions.

Minimizing conflicts among different classes of motor vehicles and existing or proposed recreational uses of NFS lands: Modified Alternative 3 was developed in an interdisciplinary setting, with the objective of avoiding potential conflicts between motor vehicle use and non-motorized recreational use. My decision will minimize the potential for conflicts, in part by ensuring the compatibility of trail and area additions with recreation direction contained in the LRMP (FEIS Chapter 3, pages 278 through 282).

Minimizing conflicts among different classes of motor vehicle uses of NFS lands or neighboring federal lands: I have considered the vehicle class and use of trails on adjacent lands to ensure compatible designations for the adjoining trail segments on NFS lands. Conflicts would be minimized because the trails are designated as 4WD and the primary users of the trails would be 4WD vehicles.

Compatibility of motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, etc.: Modified Alternative 3 would have no effect on populated areas because all of the trails added to the NFTS are located far from populated areas.

PUBLIC INVOLVEMENT

A Notice of Intent (NOI) to prepare an Environmental Impact Statement for the Rubicon Trail Easement and Resource Improvement Project was published in the Federal Register on September 2, 2011. The notice asked that comments on the proposed action be received by October 3, 2011. In addition, as part of the public involvement process, the Forest Service mailed a scoping letter on September 2, 2011 to approximately 137 adjacent property owners; potentially affected federal, state, and local agencies; special interest groups; and other interested parties. The scoping letter was posted on the Eldorado National Forest web site. An Open House was held on September 28, 2011 to provide an opportunity for the public to ask questions about

the proposal and provide feedback concerning the project. Approximately 27 comment letters and verbal comments on the proposed action were received.

A full description of issues significant to the proposed action appears in Chapter 1 of the FEIS on pages 11 through 12.

A draft environmental impact statement (DEIS) was published for review and comment on December 16, 2011.

ALTERNATIVES CONSIDERED

In addition to the selected alternative, I considered 4 other alternatives, which are discussed below. Alternative 5 is the environmentally preferred alternative because effects on riparian conservation areas, aquatic habitat, wildlife, and botanical resources would be reduced further than the other alternatives considered in this FEIS. A more detailed comparison of these alternatives can be found in Chapter 2 of the FEIS on pages 13 through 32.

Alternative 1 – Alternative 1 included issuance of a FRTA easement to El Dorado County for the Rubicon Trail, where it crosses NFS lands within the ENF, which will allow the County to conduct ongoing maintenance within the right-of-way and ensure County responsibility for actions within the easement. Alternative 1 also included the following actions: the construction of a new bridge at Ellis Creek, replacement of the FOTR bridge, construction and installation of a vault toilet, installation of erosion control features as described in the Rubicon Trail Saturated Soil Water Quality Protection Plan (El Dorado County Department of Transportation, December 14, 2010), and rehabilitate and close specified unauthorized routes. For alternative 1, the FEIS also analyzes the construction of a new bridge at Buck Island Lake Outlet, the designation of areas for motor vehicle use and the addition of some unauthorized routes to the NFTS to provide permanent access to important dispersed recreation areas for camping and other purposes. I did not select Alternative 1 because it did not address vehicle use during saturated soil conditions and human waste disposal would not be addressed.

Alternative 2 – Alternative 2 is the no action alternative. With no action, responsibility for management of the Trail would continue to be unclear, with the County asserting an RS 2477 right to the Trail. No easement would be issued to El Dorado County; the Rubicon Trail would stay in the current alignment across Ellis Creek and no bridge built; the FOTR bridge would not be replaced with a culvert and vehicles would continue to cross the bridge and downstream ford; Buck Island bridge would not be built; additional erosion control features would not be constructed from Wentworth Springs Campground to the county line; no additional toilet would be installed, and no additional routes would be added to the NFTS to accomplish the

purpose and need. I did not select Alternative 2 because taking no action would not address the purpose and need for the project or address the CAO.

Alternative 4 – Alternative 4 responds to the concerns about visual degradation from construction of the Buck Island Lake Outlet bridge, inadequate human waste disposal methods, and access to dispersed recreation near Ellis Creek, Spider Lake, and Buck Island by: installing an elevated rock ford at the crossing at Buck Island Lake Outlet, constructing four additional toilets, moving the toilet at Wentworth Springs Campground out of the Gerle Creek floodplain, and including three additional routes into the NFTS located near Ellis Creek (14N34B), Spider Lake (NSRELD-63-V), and Buck Island (NSRELD-63-U). I did not select Alternative 4 because it did not address vehicle use during saturated soil conditions and because of the potential effects on aquatic habitat from addition of NSRELD-63-V, NSRELD-63-U and a portion of 14N34B.

Alternative 5 – Alternative 5 responds to concerns about impacts from wet season use, resource impacts from spectator parking and trail use, and construction of an overly large bridge at Ellis Creek by: including a seasonal operating period from July 1 to November 1; issuing an easement for a single route; reducing the width of the Ellis Creek bridge to 12 feet; and eliminating access areas, unauthorized routes, and construction of new toilets. I did not select Alternative 5 because human waste disposal would not be addressed, parking for dispersed recreation would not be provided, the season for public use on the Rubicon Trail would be limited and there is doubt that the Ellis Creek bridge would be built if funding isn't available.

Alternative 6 – Alternative 6 was submitted for consideration during the comment period. Alternative 6 is the same as Alternative 1 except the Rubicon Trail would be defined by rocks and logs, the easement width would be reduced to 25 feet of centerline at Post Pile, the bridge at Ellis Creek would be constructed to a width of 12 feet, the dispersed area at Soup Bowl would not be designated, dispersed camping would be eliminated at Winter Camp and within the RCA at the Little Rubicon by a forest order, routes NSRELD-63-H and NSRELD-63-HA would not be added, four vault toilets would be constructed, and a seasonal operating period from July 1 to November 1 would be included. I did not select Alternative 6 because the season for public use on the Rubicon Trail would be limited and there is doubt that the Ellis Creek bridge would be built if funding isn't available.

Alternatives Considered but Eliminated from Detail Study

Federal agencies are required by NEPA to rigorously explore and objectively evaluate all feasible alternatives and to briefly discuss the reasons for eliminating any alternatives that were not developed in detail (40 CFR 1502.14). Public comments received in response to the Proposed Action provided suggestions for alternative methods for achieving the purpose and need. Some of these alternatives may have

been outside the scope of the purpose and need, duplicative of the alternatives considered in detail, or determined to be components that would cause unnecessary environmental harm. Therefore, a number of alternatives were considered, but dismissed from detailed consideration for reasons summarized on pages 29 through 32 in Chapter 2 of the FEIS.

Many comments and suggestions were received during the scoping process and the comment period on the DEIS. All suggestions were considered and discussed during the development of alternatives to the agency proposed action.

1. The Forest Service would manage the trail and an easement would not be issued.
2. The Rubicon Trail would have a wet season closure consistent with all other native surface roads on the Eldorado National Forest.
3. Eliminate replacement of the FOTR bridge.
4. Issue an easement with variable widths not narrower than 50 feet from centerline of the trail and variants.
5. Designate camping areas.
6. Limit the number of trail users on weekends and holidays.
7. Require WAG bags for all motorized camping associated with the trail.
8. Initiate a “Quiet Time” requirement.
9. Limit use of the trail to street legal vehicles only.
10. Develop a monitoring and enforcement plan.
11. Limit spectator viewing.
12. Adjust the Fawn Lake IRA to exclude the Rubicon Trail corridor.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

This decision is consistent with the Eldorado National Forest Land Management Plan. The project was designed in conformance with Semi-Primitive Motorized Management Area (MA) 7 and Special Areas (Rubicon Springs ORV Candidate National Recreation Trail) MA 4.

National Environmental Policy Act of 1969

The NEPA requires that Federal agencies complete detailed statements on proposed actions that significantly affect the quality of the human environment. The Act’s requirement to prepare an environmental impact statement is designed to provide decision makers with a detailed accounting of the likely environmental effects of a proposed action prior to adoption and to inform the public of, and allow it to comment on, such effects. The FEIS does a comprehensive job of analyzing the alternatives and displaying the environmental effects. The procedural requirements of the NEPA have been followed.

This FEIS has been prepared in accordance with the following regulations:

National Historic Preservation Act (NHPA) of 1966

Section 106 of the NHPA of 1966 requires federal agencies to consider the potential effects of a Preferred Alternative on historic, architectural, or archaeological resources that are eligible for inclusion on the National Register of Historic Places and to afford the President's Advisory Council on Historic Preservation an opportunity to comment. Section 110 of the Act requires federal agencies to identify, evaluate, inventory, and protect National Register of Historic Places resources on properties they control. Potential impacts to archaeological and historic resources have been evaluated in compliance with Section 106 of the NHPA.

Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing procedures 36 CFR 800 has concluded. Per 36 CFR 800.14, compliance for this project was effected by two programmatic agreements; *“Programmatic Agreement among the United States Forest Service, Pacific Southwest Region, the United States Army Corps of Engineers Sacramento District, the California State Historic Preservation Officer and Advisory Council on Historic Preservation Regarding Undertakings Affecting the Rubicon Trail, El Dorado County, California (11/9/11)”* and the *“Programmatic Agreement among the U.S.D.A. Forest Service, Pacific Southwest Region, California State Historic Preservation Officer, and Advisory Council on Historic Preservation regarding the Identification, Evaluation and Treatment of Historic Properties Managed by the National Forests of the Sierra Nevada, California (1996)”*.

Clean Water Act

Federal agencies are required by the Clean Water Act to cooperate with State agencies in preventing, reducing, and eliminating pollution in concert with programs for managing water resources. This project meets this through the incorporation of Best Management practices listed in the project file. This is consistent with the Clean Water Act.

Clean Air Act of 1970

The Clean Air Act of 1970 and its amendments provide for the protection and enhancement of the nation's air resources. No exceeding of the federal and state ambient air quality standards is expected to result from the proposed action. This project is consistent with the Clean Air Act.

Endangered Species Act (ESA) of 1973

The Endangered Species Act of 1973 (16 USC 1531 et seq.) requires that any action authorized by a federal agency not be likely to jeopardize the continued existence of a threatened or endangered species, or result in the destruction or adverse modification of the critical habitat of such species. Section 7 of the ESA, as amended, requires the

responsible federal agency to consult with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) concerning endangered and threatened species under their jurisdiction. The Biological Assessment prepared for the Rubicon Trail Easement and Resource Improvement FEIS finds that the Modified Alternative 3 will have “no effect” or “is not likely to adversely affect” the Layne’s butterweed, the California red-legged frog or the Valley elderberry longhorn beetle. Based upon this finding, no consultation is required with the Fish and Wildlife Service for these species (USFWS memo dated Dec. 27, 2006).

National Forest Management Act (NFMA) of 1976

The National Forest Management Act of 1976 amends the Forest and Rangeland Renewable Resources Planning Act of 1974 and sets forth the requirements for Land and Resource Management Plans (Forest Plans) for the National Forest System. Modified Alternative 3 is consistent with the NFMA and the Forest Plan for the ENF.

ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES

This decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215. The appeal must be filed (regular mail, fax, email, and hand-delivery) with the Appeal Deciding Officer: Randy Moore, Regional Forester at USDA Forest Service, Pacific Southwest Region, R5 Regional Office, 1323 Club Drive, Vallejo, CA 94592. Fax appeals to 707-562-9229.

The office business hours for those submitting hand-delivered appeals are: 7:30am to 4:00pm, Monday through Friday, excluding holidays. Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), (.pdf), or Word (.doc) to appeals-pacificsouthwest-regional-office@fs.fed.us. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Appeals, including attachments, must be filed within 45 days from the publication date of this notice in the Mountain Democrat, the newspaper of record. Attachments received after the 45 day appeal period will not be considered. The publication date in the Mountain Democrat newspaper of record, is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

Individuals or organizations who submitted comments during the comment period specified at 215.6 may appeal this decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14.

IMPLEMENTATION DATE

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

CONTACT

For additional information concerning this decision, contact: Laura Hierholzer, 100 Forni Road, Placerville, CA 95667, 530-642-5187.

\s\ Kathryn D. Hardy

4/19/2012

KATHRYN D. HARDY

Date

Forest Supervisor

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