

## Appendix C-1

### ESA Review Form for Projects Under FEMA's PBA with USFWS in California in the Sacramento FWO Jurisdiction (to be submitted to USFWS)

**INSTRUCTIONS:** This Endangered Species Act (ESA) Review Form is for proposed projects that may be funded under various FEMA grants programs in California and that would be covered under FEMA's Programmatic Biological Assessment (PBA) and the corresponding U.S. Fish and Wildlife Service (USFWS) Programmatic Biological Opinion (PBO) from the Sacramento Fish and Wildlife Office (FWO). This form must be filled out by a qualified Biologist<sup>1</sup> who is knowledgeable on the ESA, federally listed species<sup>2</sup> and their habitats, and Critical Habitat<sup>3</sup>. This form provides the information necessary for FEMA to make a determination of effects from the Subapplicant's proposed project for compliance with the ESA regarding federally listed species and their Critical Habitats. For subapplicant's proposed projects that meet the criteria for coverage under the PBA-PBO, FEMA would submit this completed form to the USFWS and request coverage under the PBA-PBO from the Sacramento FWO. There are six sections in this form (check the sections being submitted):

- Section A:** Information on the proposed project,
- Section B:** Determination of effects to federally listed species and/or Critical Habitat protected under the ESA,
- Section C:** ESA Review for Not Likely to Adversely Affect (NLAA) determinations for proposed projects under the applicable FEMA PBA-PBO, and
- Section D:** ESA Review for Likely to Adversely Affect (LAA) determinations for proposed projects under the applicable FEMA PBA-PBO.
- Section E:** For Sacramento FWO to complete and sign.
- Section F:** For Subapplicant to complete and sign.

Please complete **Sections A and B**, and complete either **Section C or D** of the form, as needed. Use the highest level of the ESA determination to select whether to complete Section C or D of this form. If there is an LAA determination for at least one federally listed species and/or Critical Habitat, please complete Section D only and address the other species in that section as well. Attach photographs, relevant maps, preliminary engineering designs, and any additional

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<sup>1</sup> A qualified Biologist consists of an environmental professional with at least a Bachelor's degree in Biology, Ecology, Natural Resources, Environmental Sciences, or similar, and has significant experience over multiple years working with federally listed species, their habitats, and Endangered Species Act implementation in the State of California.

<sup>2</sup> In this form, the term "federally listed species" includes species listed or proposed to be listed as threatened or endangered under Endangered Species Act.

<sup>3</sup> In this form, the term "Critical Habitat" refers to designated Critical Habitat and proposed Critical Habitat for federally listed species protected under the Endangered Species Act.

information on the Subapplicant’s proposed project. After completing the applicable sections of this form, please fill out the Summary Table below:

<b>Summary Table</b>			
Summary of ESA Effects Determination on Federally Listed Species and Critical Habitat			
<b>FEMA Grant # or Disaster # and Project Worksheet # and Site/LOP #</b>	<b>Species Name</b>	<b>ESA Effects Determination</b>	<b>Critical Habitat</b>
FEMA DR-4407, State Hazard Tree Removal Program - Supplemental Log Deck Information	California red- legged frog ( <i>Rana draytonii</i> )	<ul style="list-style-type: none"> <li>• May affect, but is <b><u>not</u></b> likely to adversely affect</li> </ul>	<ul style="list-style-type: none"> <li>• May affect, but is <b><u>not</u></b> likely to adversely affect critical habitat</li> </ul>
	Valley elderberry longhorn beetle ( <i>Desmocerus californicus dimorphus</i> )	<ul style="list-style-type: none"> <li>• May affect, and is likely to adversely affect</li> </ul>	<ul style="list-style-type: none"> <li>• No effect</li> </ul>

Note 1: If the Subapplicant’s proposed project is under another Federal agency’s jurisdiction (e.g., U.S. Forest Service, National Park Service, Bureau of Land Management, Bureau of Reclamation, etc.) or another Federal agency is functioning as the Lead Federal Agency (e.g., U.S. Army Corps of Engineers), then there no need to prepare this FEMA form.

Note 2: FEMA is not requesting concurrence from the USFWS for sites with a No effect determination. Instead, FEMA is simply documenting its No Effect determinations for specific sites for internal record-keeping.

**Name of Qualified Biologist and Date of Preparation:**

Joe Broberg, Tierra Goff, Lorena Solórzano-Vincent, and Justin Whitfield

June 26, 2020

**Biologist’s Qualifications:**

**Professional Degree:**

Joe Broberg’s Professional Degree: BA, Environmental Studies;  
Tierra Goff’s Professional Degree: BS, Wildlife, Fish, and Conservation Biology, MS, Ecology and Conservation;  
Lorena Solórzano-Vincent’s Professional Degree: BS Biology and MS in Conservation Biology; and  
Justin Whitfield’s Professional Degree: BS, Biological Sciences

**Years of experience working with federally listed species, their habitats, and Endangered Species Act implementation in the State of California:**

Joe Broberg’s Professional Experience: 7 years;  
Tierra Goff’s Professional Experience: 6 years;  
Lorena Solórzano-Vincent’s Professional Experience: 20 years; and  
Justin Whitfield’s Professional Experience: 16 years.

**SECTION A. INFORMATION ON PROPOSED PROJECT (press F11 to advance to the next field)**

**A.1. Project Name:**

State Hazard Tree Removal Program-Supplemental Log Deck Information

**A.2. FEMA Grant # or Disaster and Project Worksheet #s:**

FEMA-DR-4407-CA, State Hazard Tree Removal Program

**A.3. Name of Subapplicant (Agency Name)<sup>4</sup>:**

California Office of Emergency Services (CalOES; Recipient) and California Department of Resource Recycling and Recovery (CalRecycle; Subrecipient)

**A.4. Project Location (street address, latitude/longitude, or UTM and Datum/Zone):**

Several Cities including Concow, Magalia, Oroville, and Paradise.  
Unincorporated areas of Butte County.  
Along many private and public (county) roads within the Camp Fire burn area (**Figure 1**)  
(37.75°, -121.60°)

**A.5. State/County/Municipality:**

CA/Butte/Paradise, Magalia, Oroville, and Concow and unincorporated Butte County

**A.6. Description of the Action Area<sup>5</sup>:**

**Please attach a map(s), aerial image, photographs, GIS data layers, and other information on the Action Area. Please include a description of the vegetation communities, aquatic habitats, slope, ambient noise levels, and any sensitive biological resources in the Action Area.**

*Revised Information:* The Action Area for the supplemental log deck consultation is primarily as described within the original consultation (08ESMF00-2018-3331-20); the Action Area is composed of potential work areas along public and private roads within the burn area where hazard trees may be removed, and potential log deck facilities. The majority of the Action Area is along roads within the Town of Paradise, but also includes

<sup>4</sup> In the case of a Tribe, the term to be used is “Applicant”.

<sup>5</sup> Action Area is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR §402.02).

rural roads that extend downslope to Highway 99, into the Feather River Canyon, and onto portions of the Plumas National Forest.

The Action Area for hazard tree removal activities has not changed since the original consultation. At three potential log deck sites there has been no change to the boundary, or the revised usable space is wholly contained within the boundary of the Action Area provided in the original consultation. However, the Action Area associated with the several of the potential log decks sites has changed:

- some potential log deck sites have been removed from consideration.
- the boundaries of some potential log deck sites have been revised (**Figure 2**).
- new log deck sites have been identified (**Figure 3**).

The Proposed Project now includes 11 potential log deck sites that are included in the Action Area (**Figure 1, Figure 2, and Figure 3**). Several of the new potential log decks sites are in the City of Oroville.

Site photographs taken during a reconnaissance site visit of select log deck sites on June 11 and 12, 2020 are provided in **Attachment A**.

**Briefly describe the project footprint<sup>6</sup> in a few sentences below:**

*Revised Information:* The project footprint for the supplemental log deck consultation is primarily as described within the original consultation (08ESMF00-2018-3331-20); the project footprint includes the potential log decks locations, and public and private roads, portions of the adjacent rights-of-way, and areas that contain hazard trees that would be removed.

**Are any water bodies including rivers, streams, seasonal wetlands (i.e., vernal pools, ponds, wet meadows, etc.), estuaries, or coastal water bodies located within the Action Area?**

YES  NO

**If Yes, will in-water work be needed for completion of the Subapplicant's proposed project?**

YES  NO

**If No, how far is the water body from the limits of ground disturbance and/or vegetation removal?**

Varies depending on the waterbody. See the Environmental Protection Plan and Environmental Compliance Plan (Attachment B.3 and B.4) of the original consultation (08ESMF00-2018-3331-20) which includes buffers around various types of waterbodies.

**What is the name of the river, stream, estuary, or coastal water body? If the river/stream is a tributary, provide the name of the receiving water body. For seasonal/annual bodies of water, describe the time of year and the duration of time that water is typically present. Describe the flow of water (i.e., still, slow moving, swift, etc.) anticipated during the scheduled activities for the proposed project.**

The Action Area contains numerous waterways, including ephemeral, intermittent, and perennial streams. Of these, the major waterways are Little Chico Creek, Butte Creek, Clear Creek, Dry Creek, and the Feather River (West Branch and North Fork). These streams are part of the Butte Creek and North Fork Feather HUC-8 watersheds, which drain into the Sacramento River. Larger streams within the Action Area are anticipated to have slow moving to swift flows during the scheduled activities for the Proposed Project.

**A.7. Proposed Project Schedule and Duration:**

**Please provide start and end dates (including month and year) of project implementation, number of workdays, and number of work hours per day (e.g., 5 days of work for 10 hours per day).**

*Revised Information:*

<sup>6</sup> Project footprint corresponds to all the areas with structures affected by implementation of the Subapplicant's proposed project, including construction staging areas, spoils disposal sites, gravel or rock pits, access routes, any areas of ground disturbance, etc.

**Start Date** July 2020      **End Date** April 2021

**Number of workdays:** Approximately 240 days

**Number of work hours per day:** 8 to 12 hours per day

**Will any work activities occur during nighttime? If so, please describe them.** No

**A.8. Description of Subapplicant’s Proposed Project:**

**Describe the project activities in detail, including construction methods (i.e., equipment to be used, access routes, construction work areas, construction staging areas, spoils disposal sites, gravel or rock pits, etc). Include the Subapplicant’s best management practices<sup>7</sup> to be implemented, and post-construction activities, if applicable. (The details described here are as provided by the Subapplicant in their project description.) Attach project plans and layouts and post-project monitoring and reporting plans, if available.**

*Revised Information (in part):* A project description was provided in Attachment B.1 of the original consultation (08ESMF00-2018-3331-20). This supplemental information provides updates to *Section 1.2.3 Log Processing and Final Disposition*, as follows.

**Log Processing and Final Disposition**

Once the trees are cut, Licensed Timber Operator would transport whole logs or process (chip) trees by truck on established roads to temporary log storage and processing facilities, also known as log decks. Eleven potential log deck, timber sorting, and processing sites have been identified (**Table 1**). These locations vary in terms of prior uses and previous ground disturbance. For those locations in undeveloped agricultural lands, ground disturbing work would be required, including grading and road establishment. For those locations that have previously been used for log processing or other industrial uses, less ground disturbance would be required.

Other ground-disturbing activities at the log processing locations may include the installation of scaffolding towers that would be temporarily attached to the ground using narrow wire tie-downs. These locations would not be paved, and the towers would be temporary. Vehicular traffic may cause ground compaction or rutting.

The log deck locations have not yet been finalized and therefore the habitat types, and the size of disturbance areas associated with the log decks is unknown. However, only log deck locations included in this supplemental consultation with potential to affect the California red-legged frog (NLAA) and valley elderberry longhorn beetle (LAA) are covered under this consultation. Prior to ground disturbance at all log deck sites, the contractor will be required to create and share a site development plan with FEMA, and FEMA will evaluate whether the log deck is within suitable habitat for federally listed species and has the potential to affect USFWS resources. If a log deck location is chosen that has the potential to impact a USFWS resource not covered by this consultation, then additional coordination with USFWS would be required.

**Table 1  
Potential Log Deck, Timber Sorting, and Processing Sites**

<b>Log Deck Number</b>	<b>Parcel Size / Usable area (acres)</b>	<b>Location</b>	<b>Uses</b>	<b>Current Setting</b>	<b>June 2020 Update/Status</b>
1	>120/>40	Tuscan Ridge 3100 Skyway Road, Paradise, CA 95969 APN: 040-520-100, 040-520-103	Decking, chipping, loading, materials storage	Developed; accessible	Revised site dimensions (Figure 2)

<sup>7</sup> In this form, BMPs refer to standard measures proposed by the subapplicant as part of their proposed project. BMPs should not be confused with the Conservation Measures included in FEMA’s PBA and the corresponding USFWS PBO.

2	>53/50	Odin Recycling Facility 3000 South 7th Street, Oroville, CA 95965 APN: 035-370-002	Decking, chipping, loading, materials storage	Developed; accessible	No change.
3	20/20	Lakeridge Road Properties 14096 Lakeridge Circle, Magalia, CA (Werner, Inc. Tree Processing Site) APN: 066-320-001, 066-320- 002, 066-320-003, 066-320- 004, 066-320-005, 066-340- 001, 066-340-002, 066-340- 003	Decking, chipping, loading, materials storage	Developed; accessible	Revised site dimensions (Figure 2)
4 <sup>‡</sup>	4/4	<del>13665 Skyway, Magalia, CA 95954</del>	<del>Material storage</del>	<del>Developed; accessible</del>	<del>Removed</del>
5 <sup>‡</sup>	>10/10	<del>West side of Lower Pentz Road across from Miocene Circle and Pentz Road; Paradise, CA 95965</del>	<del>TBD</del>	<del>Undeveloped; riparian habitat; lacks access</del>	<del>Removed</del>
6	50/20	Former PG&E Timber Processing Site 13186 Concow Road, Concow, CA 95965 APN: 058-360-099	Decking, chipping, loading, materials storage	Partially developed; accessible	No change; revised usable space wholly contained within original Action Area boundary
7 <sup>‡</sup>	>49/5	<del>3825 Pentz Road Paradise, CA 95969</del>	<del>TBD</del>	<del>Undeveloped; riparian habitat; lacks access</del>	<del>Removed</del>
8	59/35	Skyway Crossroad Property; Intersection of Skyway & Skyway Crossing, Paradise, CA 95969 APN: 017-090-097	Decking, chipping, loading, materials storage	Undeveloped	No change.
14*	~30/44	Daimler Rock Quarry, Wheelock Road, Oroville, CA APN 041-120-115	Decking, chipping, loading, materials storage	Developed rock quarry	Revised site dimensions (Figure 2)
15	~74/5	Kunkel Reservoir; 5054 Kunkle Reservoir Road, Paradise, CA APN:041-470-003	TBD	Partially developed; several waterways present	New Site (Figure 3)
16	~110/25	Table Mountain Trap and Skeet Club Ophir Road and Baggett Palermo Road, 461 Ophir Road, Oroville, CA; APN:035-470-012-000, 078- 090-014-000, 078-100-015- 000, 078-100-047-000, 078- 100-046-000	TBD	Partially developed; Eucalyptus grove	New Site (Figure 3)
18	-1,060/10	Chico - Skyway and Humbug Chico, CA APN: 017-210-005-000, 017- 260-119-000, 017-210-006- 000, 017-240-023-000	TBD	Undeveloped	New Site (Figure 3)
19	~3/3	Oroville – Cal Oak and 5 <sup>th</sup> , Cal Oak and 5 <sup>th</sup> Avenue, Oroville, CA: APN: 035-380-011-000	TBD	Site is developed	New Site (Figure 3)

20	~11/3	RCI-Feather River; Highway 70 and Ophir Road, 5015 Feather River Blvd., Oroville, CA 95965 APN: 078-010-004-000	TBD	Site is partially developed	New Site (Figure 3)
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Notes:

TBD: to be determined

\* log decks 4, 5, 7, 9-13, and 17 have been eliminated;

log decks show in ~~strikeout~~ have been removed from consideration by FEMA and the subapplicant since the original consultation was completed.

Processed logs would be transported via truck on established roads to end-use facilities in Butte, Lassen, Placer, Shasta, and Sierra counties. Seventy-five percent of the trees would be used for biomass, and the remaining 25 percent would be transported to alternative forest product manufacturing facilities (e.g., sawmills, landscape industry, wood products).

**Select the applicable project type(s):**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Non-Emergency Debris Removal   | <input type="checkbox"/> Airport Runway Construction             |
| <input checked="" type="checkbox"/> Road and Trail Construction  | <input type="checkbox"/> Facility Disaster Mitigation Activities |
| <input type="checkbox"/> Utility Construction  | <input type="checkbox"/> Building and Facility Construction      |
| <input type="checkbox"/> Rail Line Construction  | <input type="checkbox"/> Channelization                          |
| <input type="checkbox"/> Flood Control Activities  | <input type="checkbox"/> Stormwater Management                   |
| <input type="checkbox"/> Culvert Construction  | <input type="checkbox"/> Dam Construction                        |
| <input type="checkbox"/> Bridge Construction   |  |
| <input type="checkbox"/> Bank Protection, Stabilization, and Erosion Control Activities                    |  |
| <input type="checkbox"/> Detention/Retention, or Basin Water Storage Facility Construction                 |  |
| <input type="checkbox"/> Linear Water Conveyance Facility Construction                                     |  |
| <input type="checkbox"/> Shoreline Facilities - Recreational or Maritime Use                               |  |
| <input type="checkbox"/> Shoreline Facilities - Protection   |  |
| <input type="checkbox"/> Wildfire Risk reduction - Defensible Space Creation and Hazardous Fuels Reduction |  |

**Describe the access routes:** Access would occur primarily along existing public and private roadways. In some instances, an overland access may need to be constructed. In these isolated instances, the overland access would be less than 600 feet long. See Project Description in Attachment B.1 and the TROP in Attachment B.2 in the original consultation (08ESMF00-2018-3331-20).

**Describe the construction staging and work areas:** *Revised Information:* The Proposed Project includes several potential log decks where hazard trees could be processed. During hazard tree removal, construction equipment would be temporarily staged within existing roadways, and adjacent road ROW. Construction staging areas would also occur within the various log deck sites. See **Figure 2 and 3**, and the description provided in **Box A.6**.

**If the Subapplicant’s proposed project includes vegetation removal and/or trimming, describe the vegetation type and the extent that would be removed and/or trimmed. Describe the planned revegetation efforts, which should be consistent with the measures described in the applicable PBA-PBO.**

*Revised Information* (in part): The Proposed Project primarily consists of removal of hazard trees adjacent to public and private roads located in the 2018 Camp Fire burn area. This effort would include removal of up to 300,000 dead and dying trees along public and some private roads. Removal of other vegetation, such as shrubs, small trees, and herbaceous vegetation may be necessary to access and remove hazard trees, and to clear log deck sites. Disturbance or removal of other vegetation will be kept to the minimum necessary to complete project activities. For log decks, usable space has been identified and where possible overlaps those areas within larger parcels that are disturbed or developed.

See information provided in the original consultation (08ESMF00-2018-3331-20) including the information provided by the applicants: Environmental Protection Plan (EPP, Attachment B.3) and the Environmental Compliance Plan (ECP, Attachment B.4) which state that “If required, as a result of agency consultation, disturbed areas will be revegetated with local native species suitable to the restoration”. Planting and seeding of appropriate native plants are also included as erosion control methods for disturbed areas. Based on Programmatic Biological Assessment prepared for the National Marine Fisheries Service (NMFS), riparian revegetation will be required where living or hazard trees are removed from within 50 feet of the edge of channel of waterways supporting anadromous fish. Additional revegetation may be required through implementation of the identified specific-specific Conservation Measures.

**SECTION B. DETERMINATION OF EFFECTS TO FEDERALLY LISTED SPECIES AND/OR CRITICAL HABITAT PROTECTED UNDER ESA**

**B.1. Does the Action Area for the Subapplicant's proposed project have the potential to support federally listed species and/or does it contain Critical Habitat including physical or biological features essential for the conservation of the species? Also, describe the methods and results of any listed species surveys and/or habitat assessments conducted.**

**Surveys/Habitat Assessment:**

A description of the habitat assessment was provided in Section B.1 of the original consultation (08ESMF00-2018-3331-20), which included a summary of the desktop review conducted to assess the potential for the Proposed Project to support federally listed species and Critical Habitat. In total, this background data review identified 10 wildlife species and 5 plant species that are federally listed as threatened or endangered, proposed to be listed as threatened or endangered, and/or had the potential to occur based on historic range and suitable habitat in the vicinity of the Action Areas. Additionally, the background data review identified the presence of critical habitat for the several listed species in the Camp Fire burn area.

Species were eliminated from further consideration if the species’ range did not overlap the Action Area, or if the suitable habitats for the species were determined to be absent from the Action Area. For some species with potential to occur, an additional focused evaluation was conducted to determine if the species habitat and range would overlap the proposed activities. In some instances, species were eliminated from future consideration where the range of the species was limited, and the habitats present did not contain vegetation that would be removed by the Proposed Project (see original consultation).

*Revised Information* (in part): The same desktop review conducted for the original consultation was also conducted for the revised and new supplemental potential log decks. The desktop review updated the results of the CNDDDB records search (**Figure 4a and 4b**), and assessment of the potential log decks to occur in the designated critical habitat (**Figure 5a and 5b**). The desktop review identified the same federally listed species that were identified in the original consultation, plus one additional species: slender Orcutt grass (*Orcuttia tenuis*), a vernal pool species.

The assessment also focused on the more detailed information provided by CalOES and CalRecycle, and instead of focusing on the parcel, focused on the “usable space” (see **Table 1**). The assessment included an evaluation of whether the Action Area in the original consultation included the usable space in its entirety, included a portion of the identified usable space, or was a new site. Using the information obtained in the background research and the assessment, FEMA identified those potential log decks sites for which a field survey would provide additional information and would assist with understanding the potential for the federally listed species to occur.

AECOM biologists, working as FEMA’s consultants, conducted a reconnaissance survey of eight log deck sites on June 11<sup>th</sup> and June 12<sup>th</sup>, 2020. Of these eight sites, permission to enter was received and pedestrian surveys were conducted at six of these sites, while the other two potential sites were surveyed from the roadside where permission to enter had not been granted. These eight sites were selected for reconnaissance surveys due to the potential to provide suitable habitat for federally listed species.

The results of the reconnaissance surveys of the potential log decks are summarized in **Table 2** in Section D.1 below.

NO



It has been determined that the Action Area occurs either:

- a) Outside the range of any federally listed species,
- b) Within the range of a federally listed species but outside of occupied or suitable habitat and outside Critical Habitat, or
- c) Within Critical Habitat designation but lacks the physical or biological features essential for the conservation of the species.

Go to B.2.

**YES. List the federally listed species and Critical Habitat that is present or potentially present in the Action Area of the Subapplicant's proposed project (go to B.2)**

Same as the original consultation:

Valley elderberry longhorn beetle

California red legged frog, and its designated critical habitat.

**B.2. Could the Subapplicant's proposed project directly or indirectly affect federally listed species and/or Critical Habitat (i.e., the physical or biological features essential for the conservation of the species) in the Action Area?**

NO

No Effect. FEMA has determined that implementation of the proposed project would not affect federally listed species and/or Critical Habitat. If a No Effect determination has been made for the proposed project, do not complete Section C (for NLAA determinations only), nor Section D (for LAA determinations only). No notification to FEMA is required.

No consultation with the USFWS is required under the ESA.

**YES (go to B.3)**

**B.3. Can the Subapplicant incorporate the general *Avoidance and Minimization Measures* and the species-specific *Conservation Measures* listed in the applicable FEMA PBA-PBO into the proposed project to avoid or minimize effects on federally listed species (including avoiding take<sup>8</sup> as defined under ESA) and/or their Critical Habitat to levels that are insignificant, discountable, or wholly beneficial?**

YES

FEMA has determined that the proposed project May Affect, but is Not Likely to Adversely Affect (NLAA) federally listed species and/or their Critical Habitat. Direct and indirect effects would be insignificant, discountable or wholly beneficial. There are no adverse effects to species or their Critical Habitat. As such, take of individual(s) or destruction/adverse modification to Critical Habitat will not occur. Complete Section C of this form for NLAA determinations. FEMA will notify the USFWS by submitting the completed ESA Review Form for the proposed project and request that the proposed project be covered under the applicable FEMA PBA-PBO as an NLAA project.

NO

FEMA has determined that the proposed project is Likely to Adversely Affect (LAA) at least one federally listed species and/or their Critical Habitat. Adverse effects to at least one federally listed species or at least one physical or biological feature of Critical Habitat may occur to reach an LAA determination. Complete the relevant portions of Section D of this form for LAA determinations. FEMA will notify the USFWS by submitting the completed ESA Review Form for the proposed project which may request coverage under the Incidental Take Statement (ITS) already included in the USFWS PBO issued to FEMA, if applicable.

**SECTION C. ESA REVIEW FOR NLAA DETERMINATIONS FOR PROPOSED PROJECTS UNDER THE APPLICABLE FEMA PBA-PBO**

<sup>8</sup> Take: Under the ESA "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct [ESA §3(19)].

**Section C is only required for NLAA determinations; Section C has been deleted as it does not apply to the Proposed Project.**

**SECTION D. ESA REVIEW FOR LAA DETERMINATIONS FOR PROPOSED PROJECTS UNDER THE APPLICABLE FEMA PBA-PBO**

**D.1. Briefly describe the species potential to occur onsite (including closest CNDDDB occurrences, suitable habitat, etc.) and the potential direct and indirect effects from implementation of the Subapplicant’s proposed project in the Action Area. Refer to the applicable FEMA PBA-PBO for a description of potential effects, and describe additional effects as applicable.**

Section D.1 of the original consultation describes the assessment conducted to analyze the potential for VELB and the CRLF. Using the revised information for the potential log decks, the assessments for VELB and CRLF were updated.

Based on the *Framework for Assessing Impacts to the Valley Elderberry Longhorn Beetle* (USFWS 2017), and conversation with the USFWS on March 4, 2020, VELB are only expected to occur in areas with elevations below 500 feet. The revised and new log deck areas were evaluated to determine which sites maybe located within the species range (**Figure 6a and 6b**). For CRLF, the revised and new potential log decks locations were identified relative to areas that may provide suitable habitat, the species designated critical habitat, and the recovery plan areas (**Figure 7a and 7b**).

In addition to the evaluation provided as part of the original consultation, FEMA’s additional background review and field assessments provide additional information relevant to the potential for listed species to occur in the Action Area. As part of the June 2020 field reconnaissance survey, FEMA biologists completed an assessment of the log deck sites that had potential to support federally listed species. The purpose of these surveys was to document field conditions and habitats for federally listed species. A summary of the desktop and field results at each site is provided in **Table 2**.

The potential for federally listed species to occur in the Action Area remains the same as described in the original consultation. For some species, the potential to occur and the potential to affect those species is further supported based on the field evaluation and results of the desktop and field survey results (**Attachment B**).

**Table 2  
June 2020 Desktop and Field Reconnaissance Survey Results and ESA Effect Determination**

<b>Log Deck Number</b>	<b>Log Deck Name</b>	<b>Desktop Results</b>	<b>Field Results</b>	<b>ESA Effect Determination</b>
1	Tuscan Ridge	<ul style="list-style-type: none"> <li>• previously disturbed area;</li> <li>• usable space smaller than parcel</li> <li>• no aquatic habitat present,</li> <li>• no vernal pools,</li> <li>• outside the range of VELB.</li> <li>• not located in Critical Habitat.</li> </ul>	<ul style="list-style-type: none"> <li>• N/A; field survey not conducted.</li> </ul>	<ul style="list-style-type: none"> <li>• No effect for CRLF and VELB</li> </ul>

2	Odin Recycling Facility	<ul style="list-style-type: none"> <li>• developed gravel lot; accessible.</li> <li>• in VELB range.</li> <li>• not located in Critical Habitat.</li> </ul>	<ul style="list-style-type: none"> <li>• surveyed from roadside.</li> <li>• parcel and useable space mostly developed and heavily disturbed.</li> <li>• no vernal pools present.</li> <li>• no aquatic features suitable for CRLF in or near the parcel; site located in Central Valley where CRLF is believed extirpated</li> <li>• one elderberry shrub observed at northern end of parcel.</li> </ul>	<ul style="list-style-type: none"> <li>• No effect for CRLF</li> <li>• <b>LAA for VELB</b></li> </ul>
3	Lakeridge Road Properties	<ul style="list-style-type: none"> <li>• developed; accessible.</li> <li>• outside of the range for VELB.</li> <li>• no aquatic habitats present.</li> <li>• not located in Critical Habitat.</li> </ul>	<ul style="list-style-type: none"> <li>• N/A; field survey not conducted.</li> </ul>	<ul style="list-style-type: none"> <li>• No effect for CRLF and VELB</li> </ul>
6	Former PG&E Timber Processing Site	<ul style="list-style-type: none"> <li>• partially developed; accessible</li> <li>• usable space avoids sensitive habitats on property.</li> <li>• outside of range for VELB</li> </ul>	<ul style="list-style-type: none"> <li>• N/A; field survey not conducted.</li> </ul>	<ul style="list-style-type: none"> <li>• No effect for VELB.</li> <li>• <b>NLAA for CRLF.</b></li> </ul>
8	Skyway Crossroad Property	<ul style="list-style-type: none"> <li>• undeveloped.</li> <li>• outside the range of VELB.</li> <li>• not located in Critical Habitat.</li> </ul>	<ul style="list-style-type: none"> <li>• surveyed from roadside.</li> <li>• no vernal pools or aquatic features suitable for CRLF in or near the parcel or useable space.</li> <li>• no elderberries observed.</li> </ul>	<ul style="list-style-type: none"> <li>• No effect for CRLF and VELB</li> </ul>

14*	Daimler Rock Quarry	<ul style="list-style-type: none"> <li>usable space associated with developed rock quarry.</li> <li>in range for VELB.</li> <li>aquatic resources in proximity to the usable space.</li> <li>located in Critical Habitat for vernal pool tadpole shrimp.</li> </ul>	<ul style="list-style-type: none"> <li>creek to the north and outside of the useable space is intermittent and provides suitable aquatic habitat for CRLF.</li> <li>no elderberries observed.</li> <li>a pond present at the western edge of the usable space is an artificial depression created from quarry activities in 2007 and does not support listed species.</li> </ul>	<ul style="list-style-type: none"> <li>no effect for VELB.</li> <li><b>NLAA for CRLF.</b></li> </ul>
15	Kunkel Reservoir	<ul style="list-style-type: none"> <li>partially developed or disturbed.</li> <li>usable space smaller than parcel</li> <li>several waterways present.</li> <li>outside the range of VELB.</li> <li>not located in Critical Habitat.</li> </ul>	<ul style="list-style-type: none"> <li>aquatic habitats that are potentially suitable for CRLF are present in usable space and in the parcel.</li> <li>no vernal pools observed.</li> </ul>	<ul style="list-style-type: none"> <li>No effect for VELB.</li> <li><b>NLAA for CRLF.</b></li> </ul>
16	Table Mountain Trap and Skeet Club	<ul style="list-style-type: none"> <li>usable space is mostly in woodland/forested area.</li> <li>in range for VELB.</li> <li>aquatic habitats appear to be absent.</li> <li>not located in Critical Habitat.</li> </ul>	<ul style="list-style-type: none"> <li>useable space is mostly composed of dense eucalyptus forest.</li> <li>no wetlands, vernal pools or other aquatic features observed.</li> <li>no elderberries shrubs observed.</li> </ul>	<ul style="list-style-type: none"> <li>No effect for CRLF and VELB.</li> </ul>
18	Chico - Skyway and Humbug (Valley's Edge Specific Plan Area)	<ul style="list-style-type: none"> <li>undeveloped; large parcel with two smaller usable space areas.</li> <li>within mapped vernal pool complexes; mima mound topography, and stream present.</li> <li>in VELB range but usable space appears to be all grasslands and not likely to support elderberries.</li> <li>not located in Critical Habitat.</li> </ul>	<ul style="list-style-type: none"> <li>usable space contains vernal pools, open waters and a stream.</li> <li>suitable aquatic habitat for CRLF not present.</li> <li>no elderberry shrubs observed.</li> <li>see biological resource evaluation conducted (<b>Attachment B</b>).</li> </ul>	<ul style="list-style-type: none"> <li>No effect for CRLF and VELB.</li> </ul>

19	Oroville – Cal Oak and 5 <sup>th</sup> ,	<ul style="list-style-type: none"> <li>• parcel and usable space may be developed or disturbed.</li> <li>• in range for VELB.</li> <li>• does not likely contain aquatic habitats.</li> <li>• not located in Critical Habitat.</li> </ul>	<ul style="list-style-type: none"> <li>• parcel and usable space are disturbed.</li> <li>• no aquatic resources observed.</li> <li>• no elderberry shrubs observed.</li> </ul>	<ul style="list-style-type: none"> <li>• No effect for CRLF and VELB.</li> </ul>
20	RCI-Feather River	<ul style="list-style-type: none"> <li>• Usable space appears to be developed.</li> <li>• Areas immediately south and east contain aquatic habitat</li> <li>• in range for VELB.</li> <li>• not located in Critical Habitat.</li> </ul>	<ul style="list-style-type: none"> <li>• parcel and useable space are mostly composed of a gravel lot with trailers, vehicles, and active construction.</li> <li>• drainage channel system with several large ponds along the eastern and southern margins of the useable space.</li> <li>• site located in Central Valley where CRLF is believed extirpated</li> <li>• a steep bank separates aquatic areas from the useable space.</li> <li>• no vernal pools observed.</li> <li>• no elderberry shrubs observed.</li> </ul>	<ul style="list-style-type: none"> <li>• No effect for CRLF and VELB.</li> </ul>

Notes:

\*Log Decks 4, 5, 7, 9-13, and 17 have been eliminated

The evaluation included an assessment of the potential for other federally listed species to occur in potential log deck locations that were not covered under the original consultation (08ESMF00-2018-3331-20). Based on background review, the usable space in two sites appeared to provide suitable habitat for listed species not covered in the original consultation: Site 14: Daimler Rock Quarry, and Site 18, Chico - Skyway and Humbug. Therefore, additional review and research was conducted, which provided sufficient information to dismiss those additional listed species, as described below for these two sites.

Site 14, Daimler Rock Quarry, is located north of a vernal pool complex and is within designated Critical Habitat for vernal pool tadpole shrimp (*Lepidurus packardii*). The useable space of this site contains a seasonally ponded artificial depression on its western edge. Aerial imagery shows that this depression did not exist prior to 2007. Since that time sand and gravel mining activities resulted in a change to the hydrology and created the artificial depression. This feature is disturbed and does not provide the physical and biological features for the long-term conservation of the vernal pool tadpole shrimp. The usable space does not provide the topographic and hydrologic requirements of the PBFs. and the depression is composed of bare ground that does not provide the PBFs for food sources and structure. Therefore, the necessary PBFs are not present and this artificially ponded depression does not provide habitat for vernal pool tadpole shrimp. FEMA has determined that use of the usable space identified at Site 14 would have no effect on the vernal pool tadpole shrimp and its designated critical habitat.

Site 18, Chico - Skyway and Humbug is in a mima mound landscape that could potentially contain vernal pools and may support listed vernal pool species. During a coordination call with the USFWS on June 11, 2020, FEMA was notified that this site was associated with the Valley’s Edge Specific Plan. FEMA biologists completed

additional background information and identified several biological evaluations and survey reports associated with Valley's Edge Specific Plan that are relevant to federally listed species (see **Attachment C**). To summarize, wet and dry season protocol level surveys for the vernal pool branchiopods were conducted. All surveys results were negative for the listed vernal pool brachiopod species across the site. In addition, protocol level floristic surveys were conducted within the Specific Plan Area. These surveys resulted in the identified of one federally listed plant species: Butte County meadowfoam (*Limnanthes floccosa* ssp. *californica*), however, the mapped observation is not located inside the potential usable space areas. Thus, FEMA has determined that despite the presence of vernal pools, there is no potential for listed branchiopods and listed vernal pool plants to occur and use of either usable space associated with Site 18, Chico - Skyway and Humbug would result in no effect on listed vernal pool branchiopods or listed plant species.

All other potential log deck sites either contained no suitable habitat for federally listed species, or where found to potentially support the California red-legged frog and/or the valley elderberry longhorn beetle – the two species covered under the original consultation. The revised potential log deck sites do not have potential to affect listed species not covered by the original consultation. Therefore, the direct and indirect effects on CRLF and VELB would be the same as described in the original consultation, and the same general Avoidance and Minimization Measures and species-specific Conservation Measures would continue to be implemented where appropriate within the revised Action Area.

- a. **Direct and Indirect Effects on Federally Listed Species (including the potential for take to occur)**  
*Same as original consultation (08ESMF00-2018-3331-20).*
- b. **Direct and Indirect Effects on Critical Habitat (including effects on specific Physical and Biological Features<sup>9</sup>). If there are adverse effects, quantify the area (in acres, square feet, etc.) of Critical Habitat affected.**  
*Same as original consultation (08ESMF00-2018-3331-20).*

**D.2. Please list all the general *Avoidance and Minimization Measures* and the species-specific *Conservation Measures* that are applicable from the FEMA PBA-PBO , and indicate which will be implemented and why implementation of others is not necessary for the Subapplicant's proposed project to avoid and minimize direct and indirect effects, and briefly note how they would reduce those effects within the Action Area on the following:**

- a. **Federally Listed Species**  
*Same as original consultation (08ESMF00-2018-3331-20).*
- b. **Critical Habitat**  
*Same as original consultation (08ESMF00-2018-3331-20).*

**Note:** Please note that take (as defined under the ESA) of federally listed species and/or destruction/adverse modification to Critical Habitat may occur under an LAA determination.

**D.3. Based on the information provided in Sections D.1 and D.2, is there potential for the Subapplicant's proposed project to result in take of a federally listed species?**

**YES**

**FEMA has determined that the proposed project may result in take of at least one federally listed species, and FEMA is requesting coverage under the ITS previously issued from the USFWS to FEMA under the programmatic consultation for ESA Section 7 compliance to be complete. Complete Sections D.4 through D.10 of this form to make an LAA determination and request**

<sup>9</sup> Per 81 FR 7414, the physical or biological features refer to the features that are present that are essential to the conservation of the species and may require special management considerations or protection, which were formerly referred to as "Primary Constituent Elements."

<p><b>coverage under the existing ITS. FEMA will notify the USFWS by submitting the completed ESA Review Form for the proposed project.</b></p> <p><input type="checkbox"/> NO</p> <p>Complete Sections D.7 through D.10 (skip Sections D.4 through D.6) of this form for LAA determinations. FEMA will notify the USFWS by submitting the completed ESA Review Form for the proposed project.</p>
<p><b>D.4. Briefly describe the mechanism(s) of take as it may occur from implementation of the Subapplicant's proposed project in the Action Area.</b></p> <p><b>Mechanism(s) of Take</b></p> <p><i>Same as original consultation (08ESMF00-2018-3331-20).</i></p>
<p><b>D.5. Describe any additional –project-specific measures that would be implemented to reduce the magnitude of take.</b></p> <p><i>Same as original consultation (08ESMF00-2018-3331-20).</i></p>
<p><b>D.6. Provide an estimate of the magnitude of take for each federally listed species that may result from the Subapplicant's proposed project, including:</b></p> <ul style="list-style-type: none"> <li>• <b>Take estimate based on existing population status, if available, otherwise use the area of suitable habitat affected as a surrogate for the take estimate;</b></li> <li>• <b>References for any materials utilized to develop these estimates.</b></li> </ul> <p><i>Same as original consultation (08ESMF00-2018-3331-20).</i>  <i>Take of the CRLF is not anticipated.</i></p> <p><b>a. VELB – Estimated Take</b></p> <p><i>Same as original consultation (08ESMF00-2018-3331-20).</i></p> <p><b>b. References</b></p> <p>n/a</p>
<p><b>D.7. Are there any cumulative effects<sup>10</sup> anticipated from implementation of the Subapplicant's proposed project, including construction activities? If so, please describe them.</b></p> <p><i>Same as original consultation (08ESMF00-2018-3331-20).</i></p>
<p><b>D.8. Are there any interrelated<sup>11</sup> and/or interdependent<sup>12</sup> actions associated with the Subapplicant's proposed project? If so, please describe them.</b></p> <p><i>Same as original consultation (08ESMF00-2018-3331-20).</i></p>
<p><b>D.9. Are there any other FEMA funded projects occurring within 1 mile of the Subapplicant's proposed project? If so, please list the disaster number (DR), Project Worksheet (PW), project name, and distance to this proposed project.</b></p> <p><i>Same as original consultation (08ESMF00-2018-3331-20).</i></p>

<sup>10</sup> Cumulative effects are those effects of future State or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation (50 CFR §402.02).

<sup>11</sup> Interrelated actions are actions that are part of a larger action and depend on the larger action for their justification (50 CFR §402.02).

<sup>12</sup> Interdependent actions are actions having no independent utility apart from the proposed action (50 CFR §402.02).

**D.10. Provide a summary of FEMA’s LAA Determination for Federally Listed Species and Critical Habitat from implementation of the Subapplicant’s proposed project. List all the federally listed species and/or Critical Habitat that could be directly or indirectly affected, and summarize those effects as they are presented in this Section. An ESA determination for each federally listed species and/or Critical Habitat is required.**

*Same as original consultation (08ESMF00-2018-3331-20).*

**Species:** valley elderberry longhorn beetle (VELB)

**Determination Rationale for Species:** This project *may affect, and is likely to adversely affect* the VELB because there this species has potential to occur in portions of the Action Area below 500 feet. Project related activities including hazard tree access, felling, and removal operations may affect elderberry shrubs and VELB. These effects may be direct or indirect, and could lead to injury, harm, harassment, or mortality of the species. The Proposed Project could result in elderberry shrubs being damaged or destroyed, and individuals being trampled, crushed or trapped if present in the project footprint. The presence of personnel and operation of equipment may also result in indirect effects such as noise, visual disturbance, dust, as well as potential spills of hazardous materials and introduction of invasive species. The project BMPs, general Avoidance and Minimization Measures, and species-specific Conservation Measures will be implemented that would reduce adverse effects on VELB. The implementation of these measures would reduce the potential adverse effects; however, adverse effects, including take, of the VELB may occur.

**Determination Rationale for Critical Habitat:** The Proposed Project does not occur in designated Critical Habitat. The Proposed Project would have *no effect* on the Critical Habitat for the valley longhorn elderberry beetle.

**Species:** California red-legged frog (CRLF)

**Determination Rationale for Species:** This project *may affect, but is not likely to adversely affect* the CRLF because direct effects are not anticipated as a result of project implementation. Indirect effects on the CRLF habitat may occur as a result of the presence of hazard tree removal equipment and personnel, potential for erosion and sedimentation that could result in changes in habitat quality, or through the exposure to hazardous materials, or spread of invasive species or pathogens. Given the low potential for the species to occur in the Action Area, and implementation of project BMPs, general *Avoidance and Minimization Measures* and species-specific *Conservation Measures*, these potential effects would be reduced to insignificant and discountable levels.

**Determination Rationale for Critical Habitat:** This project *may affect, but is not likely to adversely affect* the Physical and Biological Features of the California red-legged frog Critical Habitat. The Proposed Project would have limited overlap with the Critical Habitat, and would not result in development (hardscaping) or conversion of the Physical or Biological Features. In addition, project BMPs, general Avoidance and Minimization Measures, and species-species Conservation Measures will be implemented and would further reduce potential effects on the Physical and Biological Features. For these reasons, the effects of the Proposed Project on the Physical and Biological Features are expected to be insignificant and discountable.

**SECTION E. FOR THE SACRAMENTO FWO TO COMPLETE AND SIGN**

I concur with FEMA’s determination on federally listed species and critical habitat as described in this ESA Review Form, pursuant to Section 7 of the Endangered Species Act. The proposed projects are covered activities, and the effects to the listed species presented in this ESA Review Form have been analyzed in FEMA’s March 27, 2019, *Programmatic Formal Section 7 Consultation of Federal Emergency Management Agency’s Disaster, Mitigation, and Preparedness Program within the Sacramento Fish and Wildlife Office Jurisdiction in California (08ESMF00-2018-F-3331-1)* (programmatic biological opinion).

Take for listed species presented in Section D of this ESA Review Form are exempt under the March 27, 2019, programmatic biological opinion.



The proposed projects are appended to the March 27, 2019, programmatic biological opinion under Service File Number 08ESMF00-2018-F-3331- 23. Therefore, no further action pursuant to the Act is necessary for the proposed projects unless new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered; or a new species is listed or critical habitat designated that may be affected by the identified action.

I do not concur with FEMA's determination for the following reason(s):

Signature is listed below:

July 9, 2020

\_\_\_\_\_  
Damian Higgins  
Acting Sacramento Valley Division Chief  
U.S. Fish and Wildlife Service

\_\_\_\_\_  
Date

**SECTION F. FOR SUBAPPLICANT TO COMPLETE AND SIGN**

On behalf of

\_\_\_\_\_]

(Subapplicant agency name), I have read the requirements from FEMA's Programmatic Biological Opinion with the USFWS that are specific to the subject project and plan to implement them accordingly. I understand that failure to implement the required General Avoidance and Minimization Measures and Species-Specific Conservation Measures may jeopardize funding for the subject project. The

\_\_\_\_\_] (Subapplicant agency name) accepts implementation of the required measures described in this ESA Review Form as a stipulation of funding for

\_\_\_\_\_]  
\_] (project name, FEMA Grant # or Disaster and Project Worksheet #s).

Signature is listed below:

\_\_\_\_\_  
Print and sign name

\_\_\_\_\_]

(Subapplicant agency name)

\_\_\_\_\_  
Date