



Intertribal Stewardship Workforce Initiative (ISWI)

Empowering California's Native Communities

ISWI Participating Tribes

Mooretown
Rancheria



Mechoopda Indian
Tribe of Chico
Rancheria



Enterprise Rancheria



Greenville Rancheria



Hung A Lel Ti
Washoe Tribe



Berry Creek
Rancheria



TO: David G. Samaniego, *Federal Coordinating Officer, FEMA*
Sandra Tripp, *Tribal Liaison, FEMA Region IX*
Amanda Heikkinen, *Legal Advisor, U.S. Department of Homeland Security*
Ryan Buras, *Deputy Director of Recovery, CalOES*
Denise Shemanski, *Office of Tribal Coordination, CalOES*
Alex Pal, *Chief Counsel, CalOES*

RE: DR4407-CA Camp Fire State Hazardous Tree Removal and Formal Demand for Nation-to-Nation Meeting on Thursday, January 30th, 2020

This letter serves as official notification that Butte County Tribes participating in the Intertribal Stewardship Workforce Initiative demand a formal meeting in Chico on Thursday, January 30th, 2020, at 1:00 PM at the Mechoopda Office, 125 Mission Ranch Blvd, Chico, CA. We expect state and federal representatives residing within California to attend in person and all out-of-state representatives to attend via video conference call (please request video conference information ahead of time).

There are a variety of statutes, policies, and precedents that outline the obligations of federal (including FEMA) and state agencies to recognize Butte County tribes' rights and access to public assistance and inclusion in the disaster recovery process. Please see Appendices A and B describing these obligations that are also addressed in the SRIA amendments to the Stafford Act.

These statutes, policies, and precedents require your agencies to engage recognized Tribal entities in Nation-to-Nation negotiations for sole source awards in order to ensure local benefits. This letter is written to demand a Nation-to-Nation and formal consultation meeting to address legal obligations to Butte County Tribes.

Native crews from Butte County have been doing fuels reduction and forest restoration projects on private and USFS lands in Butte County for decades. We have been good stewards of this land, our ancestral homelands, for far longer. Most of this work has been accomplished by individual Tribal entities. What is different today is that we are unified and organized as the **Intertribal Stewardship Workforce Initiative (ISWI)**. Our group includes: Mooretown Rancheria, Inter-Tribal Council of California, Greenville Rancheria, Mechoopda Indian Tribe of Chico Rancheria, Konkow Valley Band of Maidu Indians, and Enterprise Rancheria. In addition, the Sierra Institute for Community and Environment, Bureau of Indian Affairs, Butte County Fire Safe Council, and Calaveras Healthy Impact Products Solutions (CHIPS), and the Hung-A-Lel-Ti Washoe Tribe, have all lent support to our effort to employ Native American and local workers in post-Camp Fire restoration activities.



On December 13, 2019, we met with representatives of the State Hazardous Tree Removal Operation. At that time, we were asked for detailed accounts of our workforce capacity, certifications, equipment, and relevant state and federal statutes, policies, and precedents, which we submitted. We never received a response to our extensive submittals. It is clear that both state and federal agencies have ignored legal process and our early discussions on this topic. This apparent indifference echoes historical injustices and ignores ongoing collaborations between tribes and the U.S. Forest Service, Bureau of Land Management, and local governments.

It is also striking that FEMA should ignore the tribes in Butte County in this instance when \$28 million dollars of FEMA funds are being directed to CalTrans in accordance with its Forest Management Plan. CalTrans has indicated a high interest in securing the Tribal work force for roadside forest management in Butte and neighboring counties. This stands in stark contrast to the non-response and lack of follow up following the December 13th meeting.

ISWI has come together to successfully complete restoration work in the Camp Fire burn scar, including hazard tree removal. We have exhaustively described this capacity in previous communications, and do so again here (see Appendix C). That FEMA and other federal and state agencies have ignored their obligations to Native American tribes by refusing to directly respond to ISWI's proposal and honor statutory Tribal rights of self-determination is obtuse and discriminatory.

Engaging Tribal crews in hazardous tree removal work will facilitate completion of hazard mitigation and initiate critical landscape restoration. Tribal involvement in this work will facilitate Native knowledge inclusion and practice on ancestral landscape restoration that will, in turn, expand Tribal capacity and build forest resilience. Hazard mitigation and restoration work involves short-term safety and other priorities, but must also be viewed as an opportunity to (re-) build a long-term Tribal workforce and strengthen Tribal communities.

In addition, participating Tribes have graciously decided to involve other Tribal and non-Native local community members in the hazardous tree removal work, facilitating economic recovery by all communities impacted by the Camp Fire. Addressing short term landscape priorities *and* restoring and building long-term community capacity is a unique dimension of Tribal involvement in disaster recovery, offering lessons for how this work should be done elsewhere. Butte County tribes are part of the local communities that have been affected by the Camp Fire, and are prepared to take their rightful role in helping the entire region recover from the collective trauma caused by the disaster.

We demand that you participate in a Nation-to-Nation meeting on Thursday, January 30th at 1:00 PM, or at another time not later than the close of business January 30th, and prior to public release of the request for bids for hazardous tree removal.



Please contact our representatives to make arrangements:

Greg Osborn, Mooretown Rancheria Forestry Contract Services
office 530-533-3625
cell 530-990-8864
email: gosborn@mooretown.org

Rile Webster, Executive Director of the Intertribal Council of California
office 916-9739581 (ext. 238)
cell 530-240-8004
email: rilew@itccinc.org

APPENDIX A: Statutes, Policies, and Precedents

Statutory Framework

The Department of Interior shall provide for increased economic returns, enhanced Indian self-determination, promote employment opportunities, and improve the social & economic well-being of Indians and surrounding communities (25 USC § 47, 5109, and Chapters 33, 49 and 46). All federal and state agencies (25 USC § 5301, EO B-10-11) promote Tribal economic self-sufficiency and Tribal natural resource stewardship across jurisdictional boundaries (CA FGC 16000 and CA GC 11019.8).

Following the Camp Fire, the President and Secretary of Interior issued orders in support of Tribal stewardship across jurisdictional boundaries (EO 13855 and SO 3372). The Stafford Act (6 USC § 313 and 314) and the Economy in Government Act (as modified by *U.S. v Mitchell* - 31 USC § 1535), when combined with the unique authorities provided for Tribal forestry workforces, are powerful tools that allow for intergovernmental partnership (Treasury Department Letter 669).

National Disaster Recovery Framework (NDRF)

Whole Community Engagement Principle / Local Primacy

The National Disaster Recovery Framework “recognizes that local, regional/metropolitan, state, **tribal...** governments have **primary responsibility for the recovery of their communities and play the lead role** in planning for and managing all aspects of community recovery. **This is a basic, underlying principle that should not be overlooked** by...Federal and other recovery and emergency managers.” (*NDRF, page 6*)

The NDRF is quite explicit in its commitment to whole-community inclusion, including Tribal governments, and compliance with anti-discrimination laws, stating that community members and intergovernmental partners “**must have equal opportunity to participate in community recovery efforts in a meaningful way.**” (*NDRF, page 6*)

FEMA must review its own policies and statutory obligations, as well as the core principles of the NDRF, which direct agencies to ensure that “care must be taken to **assure that actions, both intentional and unintentional, do not exclude groups of people based on race, color, ethnicity, national origin**” and that “care must be taken to **identify and remove social and institutional barriers that hinder or preclude...others in the community historically subjected to unequal treatment from full and equal enjoyment** of the programs, goods, services, activities, facilities, privileges, advantages, and accommodations provided.” (*NDRF, page 10*)

In regards to such “programs, goods, services, activities, facilities, privileges, advantages, and accommodations provided,” FEMA has particular obligations and responsibilities to honor Tribal self-determination and access to disaster recovery PA and HMGP assistance. Per the NDRF, “The Federal Government **is required to engage in meaningful consultation with tribal governments prior to the finalization of policy or program implementation**” (*NDRF, page 19*)

In addition, FEMA’s own policies in regards to emergency declarations outline specific Tribal rights and options connected to the exercise of self-determination and government-to-government relations:

FEMA Tribal Declarations Pilot Guidance (January 2017)

FEMA officially acknowledges the sovereignty and self-determination of Tribal governments to seek their own means of assistance and participation in disaster recovery under the Stafford Act per its own policy guidance, as reflected in the following sections:

Introduction, Section D, Part 1. Impacts of the Amendment to the Stafford Act (page 5)

Pursuant to Sandy Recovery Improvement Act (SRIA), all references in the Stafford Act to “State and/or local” also now include “Indian tribal government,”⁴ as appropriate.⁵ Previously, the Stafford Act defined tribal governments as “local governments.” **The Stafford Act now reflects that tribal governments are sovereign and acknowledges the government-to-government relationship between the United States and tribal governments.**

Introduction, Section D, Part 2. Promotes Tribal Self-Determination (page 6)

The amendment **authorizes tribal governments to determine for themselves how they want to seek Stafford Act assistance.** The Chief Executive of a tribal government may request a declaration specifically for the tribal government or elect to be considered as part of a state’s declaration request... **If a state receives a declaration which includes tribal lands, then the tribal government may freely choose to be either a sub-recipient or recipient for PA and/or HMGP funding.**

In addition, the Mitigation Plan requirements specified for Recipient status through the FEMA Tribal Declarations Pilot Guidance does not apply to PA Category A activities, including debris removal. Please refer to the following screenshot from page 20:

Mitigation Plan Requirements for FEMA Grants:

FEMA Assistance Program	Is a Mitigation Plan Required?	
	Tribal Recipient through FEMA	Tribal Subrecipient through State
Individual Assistance (IA)	No	No
Public Assistance (PA) Categories A and B (e.g., debris removal, emergency protective measures)	No	No

Tribal pre-and post- disaster mitigation planning activities are coordinated with the State of California per the California Master Wildland Fire Agreement, or CFMA.

FEMA Public Assistance Program and Policy Guide (FP 104-009-2, April 2018)

Under the current emergency declaration (CA Executive Order B-57-18), Tribal governments **may freely elect** to be a Recipient for Federal PA funding, either awarded directly (2 CFR § 200.38), or indirectly as a Subrecipient to carry out part of the Federal award, with the State of California as a pass-through entity (2 CFR § 200.92).

Tribal participation in Camp Fire debris removal efforts, as well as disaster recovery generally, will also help to ensure that FEMA’s obligations to comply with environmental and historic preservation requirements will be adequately ensured (*PAPPG, page 8*):

C. Environmental and Historic Preservation Requirements

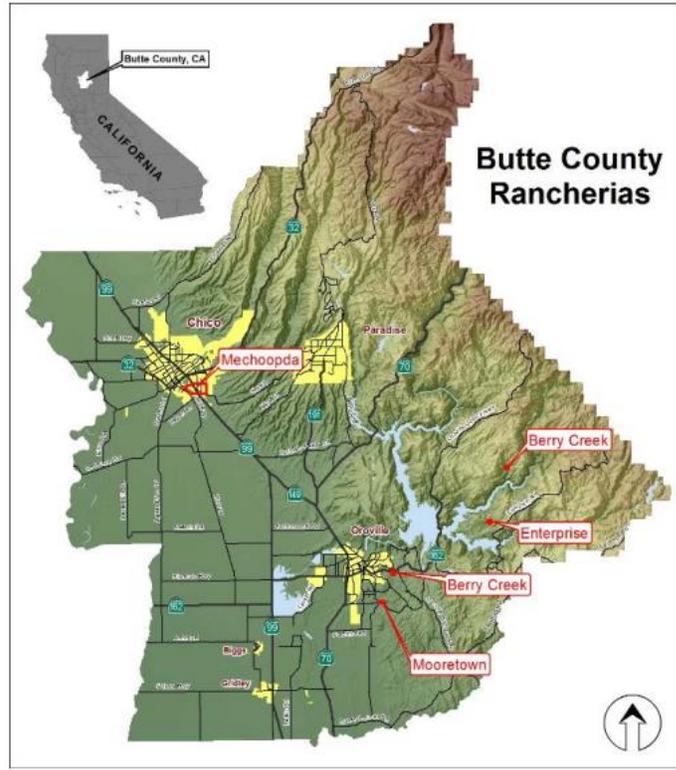
Several statutes, EOs, and regulations establish requirements to protect the environment and preserve the Nation's historic and prehistoric resources. FEMA must review each PA project to ensure the work complies with applicable Federal environmental and historic preservation (EHP) laws and their implementing regulations, and applicable EOs.⁵² The Applicant is responsible for complying with applicable Federal, State, Territorial, or Tribal EHP laws even if FEMA is not providing PA funding for all of the work. See [Appendix A: Environmental and Historic Preservation Compliance](#) for a description of applicable EHP statutes, EOs, and regulations.

While debris removal work “is excluded from National Environmental Policy Act (NEPA) review through a statutory exclusion (STATEX),” FEMA is nonetheless obligated to “ensure compliance with other Federal EHP laws, regulations, and EOs” (*PAPPG, page 43*). Specifically, FEMA EHP Instruction 108-1-1 “ensures consideration of environmental justice pursuant to Executive Order 12898: Federal Actions to Address Environmental Justice in Minority and Low-Income Populations” (*FEMA Instruction 108-1-1, page 4*). Page 4 of EO 12898 stipulates the following in regards to Native American tribes:

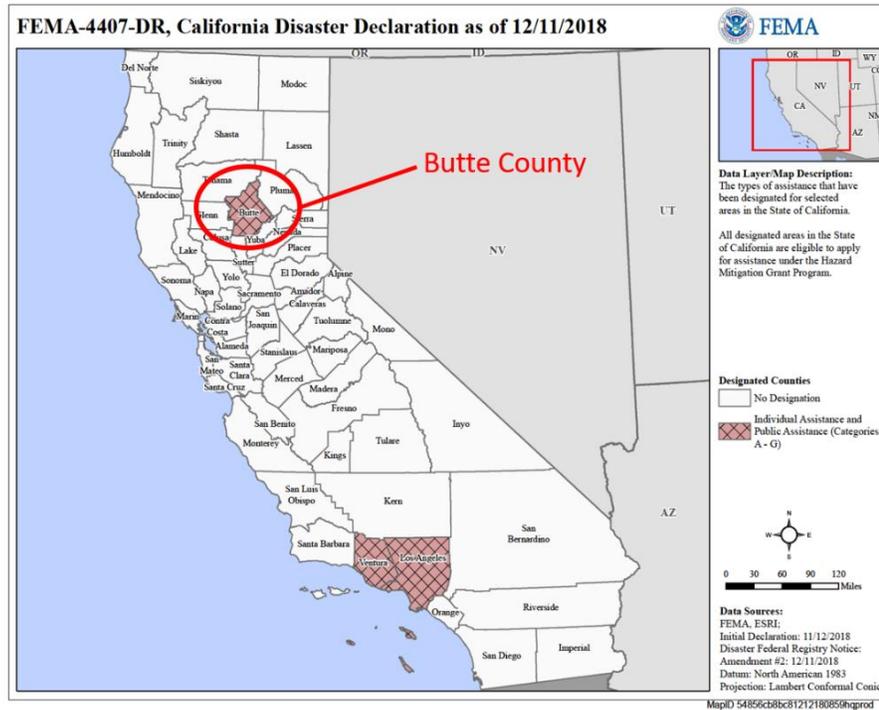
6-606. Native American Programs. Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

The inclusion of the Camp Fire burn scar's MLD (Most Likely Descendant) Tribal governments and members directly employed in this phase of recovery, and Tribal members' proprietary Traditional Ecological Knowledge (TEK) in post-fire restoration of ancestral lands, are unique factors and assets held by the Tribal entities involved. This not only fulfills FEMA's EHP obligations to address environmental justice concerns for Tribal communities, but also ensures the best possible environmental quality, culturally appropriate land management practices, and historic preservation during the disaster recovery process, and helps the community at large take the best possible first steps toward risk mitigation against future wildfire events.

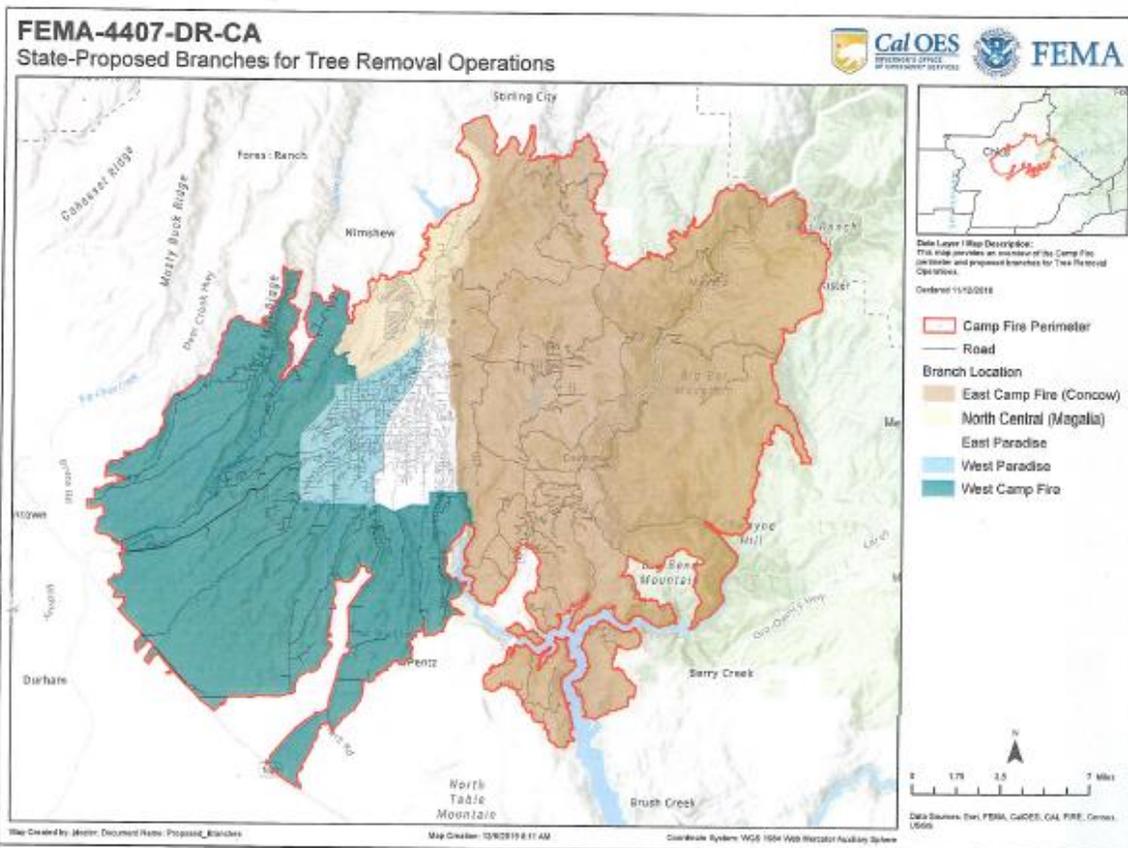
APPENDIX B: Maps of Tribal Territories and Relationship to Camp Fire



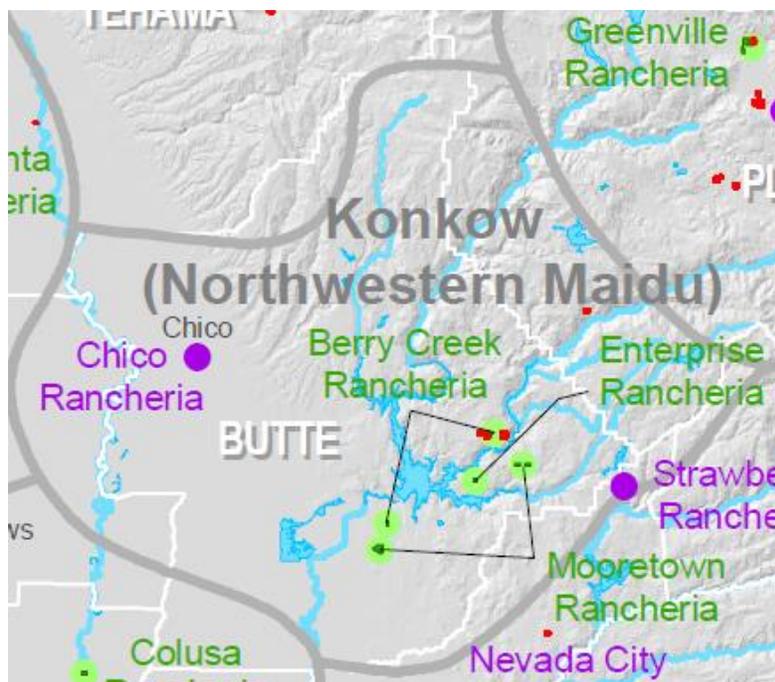
CALIFORNIA DISASTER DECLARATION AREA



CAMP FIRE BURN SCAR MAP



HISTORICAL TRIBAL TERRITORIES & CURRENT TRIBAL TRUST LANDS



Legend

- California Tribal/Cultural Areas (Grey outline)
- Indian land currently held in Trust by the United States Government (Green square)
- Historical location of Indian land which was once held in Trust for a Terminated Tribe and/ or the location of a landless Federally Recognized Tribe (Purple square)
- Indian land currently held in Trust by the United States Government but resides in the Nevada or Arizona Jurisdiction (Yellow hatched square)
- Indian land currently held in Trust by the United States Government and known as a Public Domain Allotment (Red square)
- Highlights smaller Reservation and Rancheria areas (Green circle)

APPENDIX C: Participating Tribes and Capacities

Participating Tribes

Mooretown Rancheria Forestry has the experience and capacity to accomplish the workload in the Camp Fire burn scar. Mooretown has engaged in agreements with the Forest Service doing fuels reduction work for the last 8 years. Mooretown's work force has over 60 years combined experience in the logging industry. Project Coordinator Greg Osborn has 27 years owning his own logging company in Butte County. Crew member Joe Jackson has 25 years experience as a logger and has an LTO license. Kelly Holt runs a feller-buncher crew with 20 years experience in his field, and also has an LTO license. Mooretown has 10 experienced hazardous tree fallers on our crew with 15 years or more experience falling timber per man, as well as eight men running the heavy equipment, bringing the logs to the landing, and providing cleanup. Our equipment is newer and in good working condition. A list of equipment is provided in this Appendix. Also provided is a list of work completed over the last two years. Mooretown Rancheria Forestry works on five different forests in Northern California: the Lassen National Forest, the Plumas National Forest, the Tahoe National Forest, and Humboldt-Toiyabe National Forest in Nevada and California, and the Eldorado National Forest.

CHIPS – Washoe Crew has a crew of thirty (30) individuals that are S212, Hazard Tree, First Aid, and CPR certified, along with a 15-year history of working on private property, the Lake Tahoe Basin Management Unit, and the Eldorado and Stanislaus National Forests with an unblemished safety record.

Mechoopda Indian Tribe of Chico Rancheria is currently holding TEK (Traditional Ecological Knowledge) workshops in Mechoopda Territory in Butte County. Up to one hundred (100) local Tribal members and non-Native community members have begun training to obtain Mechoopda TEK Certifications specifically for the ecosystems in and around the Camp Fire burn scar. TEK Certifications provide training in Native plants, seed gathering, ecosystem identification, restoration practices, and invasive plant removal. The Mechoopda Tribe has developed curricula for certification programs to train a large-scale workforce for ongoing land management and wildfire risk mitigation in Butte County.

The Intertribal Council of California (ITCC) is a Native American Consortium made up to help support all Native American Tribes in the State of California. ITCC is currently working with 26 federally recognized tribes. ITCC is a neutral party in the Camp Fire burn area, but works with some of the Tribes that are affected by the Camp Fire. ITCC can help with administrative oversight of the project and awarded funding. ITCC has the experience and knowledge to work with federal assistance and contracting/intergovernmental procedures.

Training & Certification

The Sierra Nevada Alliance, CHIPS, and the Sierra Institute for Community and Environment have raised money and are committed to training and S212 certifying an additional fifty (50) Native workers from Butte County tribes by the end of February 2020. Upon completion of training, these workers will be qualified to work as limbers and swampers in support of existing journey-level Native field crews.

Tribes are committed to helping wildfire survivors gain employment in the recovery effort. To that end, further trainings will be made available to non-Native local personnel who live or lived in areas directly affected by the Camp Fire.

Equipment List

John Deere 895M Feller Buncher

John Deere 2150 Log Loader

John Deere 2150 Log Processor

John Deere 7708 Road Grader Timber Jack 635 Log Delimber

Cat 527 Track Dozer

Cat D7G Track Dozer

Cat 5250 Wheel Skidder

2 Cat 5258 Wheel Skidders

1 Kenworth 4,000 Gal. Water Truck Kenworth Log/Lowbed Truck

4 Timber Pro 725 Track Masticators/Full Swing Grapples/Feller Buncher Head attachments

12" Moorebark Chipper 12 362 Sthil Chain Saws Fire wagon

Misc. hand tools

Work Experience: Jobs completed in 2019

PLUMAS NATIONAL FOREST

1. Storrie, Butterfly, Twain, F9rest Enhancement Project. PNF Mt. Hough

240 acres hand cut / pile 240 acres of raking around trees 30" and bigger (dbh) to prepare for an understory burn. Completed

2. Moonlight Road Decommissioning PNF Mt. Hough

Completed 42 miles of road decommissioning on the Moonlight Fire Footprint. Was a 3 yr. project completed it in 1 year.

3. Butterfly Empire Project PNF Mt. Hough

81.5 acres of mastication completed. 64 acres hand cut grapple pile completed. Project is still moving forward with 645.5 acres to go of mastication.

4. Moonlight Spotted owl, Goshawk, Forest Enhancement Project PNF Mt. Hough

413 acres hand cut hand pile. 319 acres completed. Project is still moving forward with 95.7 acres remaining. Snowed out for the winter be back in the Spring.

5. Serpentine, Lady Slipper Project PNF Mt. Hough

112 acres completed 603 acres to go, snowed out for the winter be back in the Spring

Completed 47 acres of hand cut /pile left from previous year

7. Storrie Roads Project PNF Mt. Hough

Completed 5 miles of road reconstruction graded, graveled, compacted road, installed culvert pipes, one 5' culvert pipe 35 feet long. Rebuilt 400' feet of mud bog that was 4' deep.

TAHOE NATIONAL FOREST

8. Garden Valley Project TNF Yuba River Ranger District

123 acres hand cut/pile completed. 65 acres completed hand cut /chip Sierra City Transfer Station and Wild Plum Campground.

9. Satley Cal-Pine WUI Project TNF Sierraville Ranger District

135 acres of mastication on both sides of HWY 89 to create a fuel break in case of catastrophic fire. Completed

10. Transition Project TNF Sierraville Ranger District

475 acre project, 375 acres of mastication and 100 acres of hand cut/grapple pile 75 acres of grapple pile remaining snowed out.

HUMBOLDT-TOIYABE NATIONAL FOREST

11. Dog Valley Fuels Ecosystem Enhancement Project H-TNF Carson District, Nevada

Reconstructed 5 miles of road in Dog Valley, put in ditches, graded, compacted. Project Completed

Hand cut/hand pile 96 acres on 4 different units in Dog Valley. Project Completed. Masticated 120 acres on 1 unit in Dog Valley. Project Completed

12. Yuba River Watershed Institute Eldorado Hills, Ca.

55 acres of road side chip in North San Juan, Ca. out of Nevada City project is still working 13. Joint Water Districts Gridley, Durham, Biggs, Sutter

Masticate water canals on all 4 districts all winter long

14. Yuba County Water District Lake Francis Resort

Masticate 75 acres around the lake, 1500 acres next year. Project is still working

Projects Under Contract For Next Year

1. Butterfly Empire Project, PNF Mt. Hough: 654.2 Acres of mastication

2. Moonlight Spotted Owl, Goshawk, PAC Treatment Project, PNF Mt. Hough

3. Serpentine Habitat and Clustered Lady Slipper Project, PNF Mt. Hough
603 Acres remaining of hand cut/pile

4. Satley- Cal Pine WUI Project, TNF Sierraville Ranger District
179 acres of mastication, 75 acres remaining on the Transition project to complete, 254 acres total

5. Sierraville WUI Mastication TNF Sierraville Ranger District
320 acres of mastication

6. Lake Francis Resort, Yuba Water Agency
Project is still on going 1500 acres of mastication



January 29, 2020

Intertribal Stewardship Workforce Initiative
3425 Arden Way
Sacramento, CA 95825

RE: FEMA Response to DR4407-CA Camp Fire State Hazardous Tree Removal and Formal Demand for Nation-to-Nation Meeting on Thursday, January 30th, 2020

Dear Intertribal Stewardship Workforce Initiative,

On January 27, 2020, I received and reviewed a letter from the Intertribal Stewardship Workforce Initiative (ISWI) requesting a Nation-to-Nation formal consultation meeting with representatives of the Federal Emergency Management Agency (FEMA) and State of California Office of Emergency Services (CalOES) on Thursday January 30, 2020, in order to address the topic of the legal obligation to award hazardous tree removal contracts to Butte County Tribes.

The ISWI letter notes certain “statutes, policies, and precedents,” which require FEMA to “engage recognized Tribal entities in Nation-to-Nation negotiations for sole source awards in order to ensure local benefits.” However, the request at issue here – awarding federal grant money for a Public Assistance (PA) mission to remove hazardous trees in Butte County burnt by the Camp Fire – is a responsibility that in this case, lies only with the State of California (State), not FEMA.

As you may know, the Sandy Recovery Improvement Act of 2013 (SRIA), amended the Stafford Act to allow federally recognized Indian tribal governments to directly request emergency or major disaster declarations from the President of the United States. Therefore, Indian tribal governments may exercise one of two options to obtain Public Assistance grant money: 1) submit their own request for a Presidential emergency or major disaster declaration within 30 days of an incident and (if granted) become a “recipient” of Public Assistance directly from FEMA, or 2) opt to apply for assistance through a state declaration as a sub-recipient.

In this case, the State submitted, and the President approved, a major disaster declaration requesting federal assistance in response to the Camp Fire. FEMA never received or approved declaration or extension requests from any affected tribal governments during the required 30-day timeframe. Therefore only the State is a “recipient,” eligible to receive federal awards directly from FEMA to carry out activity under the Public Assistance Program.

Consequently, FEMA does not have the authority here to furnish PA grant money directly to tribal governments as requested by the ISWI letter. Tribal governments may still receive PA grant

funding, but as sub-recipients contracting with the State. As the State is responsible for its own contracting, FEMA lacks the authority to award PA grant money directly to tribal governments. FEMA also lacks the authority to direct the State to award a sole source contract to any party. In other words, the State alone is responsible for the solicitation and award of hazardous tree removal contracts, and for compliance with state and federal contracting rules and regulations.

In light of the forgoing, I must decline your invitation to attend this meeting on Thursday, January 30, 2020, at 1:00 PM.

Sincerely,



David G. Sañanięgo
Federal Coordinating Officer
DR-4407-CA



January 29, 2020

Intertribal Stewardship Workforce Initiative
c/o Greg Osborn, Mooretown Rancheria Forestry Contract Services
c/o Rile Webster, Intertribal Council of California
3425 Arden Way
Sacramento, CA 95825

Subject: DR4407-CA Camp Fire State Hazardous Tree Removal and Formal
Demand for Nation-to-Nation Meeting on Thursday,
January 30, 2020.

Dear Intertribal Stewardship Workforce Initiative,

The California Governor's Office of Emergency Services (Cal OES) received your letter on January 27, 2020, regarding the Intertribal Stewardship Workforce Initiative's request for a formal Nation to Nation meeting with Federal Emergency Management Agency (FEMA) and state representatives within California, including Cal OES, to discuss the Intertribal Stewardship Workforce Initiative (ISWI).

Cal OES respectfully declines Intertribal Stewardship Workforce Initiative's request for a meeting on January 30, 2020. The CalRecycle tree removal operations in Butte County as related to the Camp Fire is still in its formative stages. The contractors hired for the operation will be through the competitive contracting process and the Invitation for Bid has yet to be released. All qualified contractors are invited to submit a bid. At a mutually agreeable time, date, and place, Cal OES is available to discuss the competitive contracting process in more detail.

Sincerely,

Tina Walker
Senior State Official





Intertribal Stewardship Workforce Initiative (ISWI)

Empowering California's Native Communities

ISWI Participating Tribes

February 12, 2020

Mooretown
Rancheria



Mechoopda Indian
Tribe of Chico
Rancheria



Berry Creek
Rancheria



Hung A Lel Ti
Washoe Tribe



TO: Denise Shemenski, *Office of Tribal Coordination, CalOES*
Christina Snider, *Governor's Tribal Liaison*
Adria Jenkins-Jones, *Chief Deputy Director, CalHR*

RE: Response to Cal OES communication and Request for Formal Tribal Consultation regarding Camp Fire Phase II Hazard Tree Removal

The Intertribal Stewardship Workforce Initiative (ISWI), consisting of a variety of local Tribes, respectfully request a formal government-to-government consultation with Tribal governments and Cal OES per the agency's Tribal Consultation Policy. We are requesting this consultation in order to clarify current State policies and practices regarding Tribal government participation in post-disaster recovery, and to bring them into alignment with the principles and directives consistent with federal disaster management policy, the National Disaster Recovery Framework, the California Disaster Recovery Framework, and California Executive Order B-10-11.

ISWI sent a letter to FEMA and Cal OES on January 27, 2020 regarding a meeting to discuss Tribal rights and participation in Camp Fire Phase II hazard tree removal. In Cal OES' last communication to ISWI, the agency declined to attend the meeting we held on January 30, 2020. In response to our request to honor Tribal obligations and dedicate contracts to local Tribes, CAL OES indicated that Tribes should apply for Camp Fire Phase II hazard tree removal contracts through the competitive bid process.

We believe this is a misinterpretation of Tribal roles and responsibilities in the post-disaster recovery process as outlined in the National Disaster Recovery Framework, the California Disaster Recovery Framework, and EO B-10-11.

Both the National and California Disaster Recovery Frameworks list Whole Community Engagement and Local Primacy as two of their core operating principles, and refer to Tribal governments as critical community stakeholders and intergovernmental partners, *not* as private sector contractors, throughout each of these respective documents. This is also reflected in the California State Emergency Plan, which identifies Tribal governments as "public agency stakeholders" (CSEP, Page 31, Section 7.2). In particular, the California Disaster



Recovery Framework states explicitly that “Local and Tribal governments have primary responsibility for recovery of their communities, including planning for and managing community recovery” (CDRF, Page 8, Section 5.2). A key element of the CDRF is “the operating assumption that impacted communities will assume leadership in developing realistic recovery priorities for each of the recovery phases,” and “Upon their request, State government will support local *and* tribal government in these efforts” (CDRF, Page 33, Section 10).

It is our understanding that Cal OES has released a single, large contract for fire and community restoration. By putting a single large contract out to bid with no mechanism to reserve some portion of the funding for local or Tribal contractors, Cal OES is favoring national or international corporate contractors. Such contractors provide no local benefit to the affected communities, and may indeed leave significant damages in their wake, as has happened in previous disaster clean-up efforts like the Butte Fire in the central Sierra several years ago.

Cal OES’ Tribal Consultation Policy explicitly “sets forth a commitment to become informed about the cultural setting of California Federally Recognized Tribes, their emergency management/homeland security issues, and Tribal histories for the purpose of developing strong meaningful partnerships with all Tribes” (Tribal Consultation Policy, Page 1). At the time of the Camp Fire, Tribal governments were informed that federal Public Assistance was not available, as the fire did not affect Tribal trust lands (although in fact, the Camp Fire did encroach on a portion of Mechoopda Tribal trust land). The unique position and history of Tribal communities in Butte County, specifically the non-ratification of 1851 California Indian Treaties that resulted in the loss of Tribal land rights, has resulted in a situation where Tribal members are integrated into non-Native communities, and live and work alongside non-Native community members in non-Native municipal districts. The Camp Fire has thus impacted Tribal members and communities’ housing, employment and public services throughout Butte County, despite what Tribes were told about limited jurisdiction. This fact has so far been ignored by both FEMA and Cal OES, directly contradicting Cal OES’ Tribal Consultation Policy.

Per FEMA’s response to ISWI on January 29, 2020, FEMA indicated that public assistance was no longer available directly from the federal government, as no Tribal disaster declaration had been requested. However, this does not absolve the State of California from its duties to “make every effort to support Tribal communities in response and recovery efforts” (CSEP, Page 35, Section 7.3.8). Per the Sandy Recovery Improvement Act of 2013, the corresponding amendment to the Stafford Act “provides that tribes may continue to elect to receive assistance under a state’s declaration, provided the President does not make a



declaration for the tribe for the same incident” (CSEP, Page 83, Section 11). In regards to debris management specifically, the California State Emergency Plan states that “federal, state, local, and *tribal* governments coordinate as a team to identify, evaluate, and provide the most appropriate technical assistance available” (CSEP, Page 85, Section 11).

In our previous communications to Cal OES, ISWI has demonstrated the technical and workforce capacity of Butte County’s Tribal communities to carry out at least 20% of the Camp Fire Phase II hazard tree removal project. We are asking, in our role as an intergovernmental partner and public agency stakeholder, that mobilization of this Tribal capacity be considered in the context of post-disaster recovery for Tribal communities, as well as in the interests of the local communities in which we are an integral part. As indicated in our previous letter, Tribal governments represented in ISWI are committed to guaranteeing local employment and benefits for the whole community through this contract.

Camp Fire recovery efforts so far have been frustrating for local communities, as we have seen out-of-state contractors awarded substantial contracts, and out-of-state workforce housing being quickly provided while tens of thousands of displaced Camp Fire survivors, including Tribal community members, have struggled to find adequate employment and affordable housing opportunities. We see Tribal participation in this next phase of disaster recovery as crucial for local community recovery from this tragedy, as well as building capacity and resilience towards future disaster mitigation and response.

We have identified the above failings as gaps in Cal OES’ responsibility to prioritize local agencies, including Tribal governments, in community disaster recovery and hazard mitigation. This can be addressed through consultation and Tribal input to State disaster management agencies through Cal OES’ Tribal Consultation Policy. Per that policy, we are formally requesting to initiate a Tribal consultation process on this matter, and we expect Cal OES to respond accordingly.

Sincerely,

Intertribal Stewardship Workforce Initiative (ISWI)
Tribal Chairs & Signatories (see next page)



Formal Request for Tribal Consultation with Cal OES on Camp Fire Phase II
Hazard Tree Removal – Tribal Signatories:

Chairman Ben Clark
Mooretown Rancheria

Chairman Dennis Ramirez
Mechoopda Indian Tribe of Chico Rancheria

Chairman Francis Steele
Berry Creek Rancheria

Chairman Irym Jim
Hung-A-Lel-Ti Washoe Tribe
Board President, Intertribal Council of California