

May 10, 2022

# El Dorado County

*District V Supervisor, Sue Novasel Special Notice*

*Hello!*

*We received some exciting news for those who have lost cabins on USFS lands. Below is a letter we just received from FEMA approving removal of structural debris. It is our understanding that those involved will be contacted by someone in the next several weeks.*

## **Removal of Structural Debris from National Forest System Lands**

This letter responds to correspondence dated February 28, 2022, regarding your formal request that FEMA authorize Public Assistance (PA) funding for the removal of structural debris on United States Forest Service (USFS) lands from the 2021 Caldor Fire (FEMA-4619-DR-CA). Although FEMA has declined to provide assistance for removal of structural debris on USFS lands in the past, we have reviewed the new information presented in your letter regarding state and local government authorities, and FEMA agrees with the State's position that there is sufficient legal authority to remove structural debris. Therefore, removal of debris associated with structures owned by permit holders on USFS lands is eligible for PA funding subject to the limitations noted below.

FEMA cannot reimburse the State for cleanup of structural debris located on lands upon which the State has no legal authority to perform work. 1 Similarly, FEMA is also prohibited from reimbursing for work which falls under the authority of another federal agency. FEMA most recently reiterated this position in a September 28, 2021 letter from to USFS Regional Forester Jennifer Eberlien, Pacific Southwest Region 5. FEMA maintains both propositions continue to hold; however, the State presented new information in a February 28, 2022 letter indicating that the State and its political subdivisions have broad police powers to protect public health, safety, and welfare, which in certain circumstances may be interpreted to extend jurisdiction to federal lands if an imminent threat to the State's public health exists. Furthermore, additional discussions between our staff have clarified the scope of public health authorities under state law, which is the primary basis for establishing the public health and safety threat under the Private Property Debris Removal mission.

FEMA may provide PA funds for the removal of structural debris located on USFS land subject to the following limitations:

First, PA funding will be limited to debris associated with structures owned and maintained by private individuals holding Recreational Resident Permits or similar use permits obtained from USFS. Trees located on permit holder parcels are the property of the USFS, and their removal is not eligible for reimbursement (except those that are removed to address an imminent threat to

the health and safety of debris removal crews). PA funding is also unavailable for removal of debris associated with structures owned directly by USFS.

Second, **PA funding will only be available for removal of structural debris belonging to permit holders who have signed a Right of Entry (ROE)** to participate in the State's Consolidated Debris Removal Program or where the State and/or county is authorized to abate the debris through its own legal authorities. PA funding is not available where debris removal activities are directed by USFS or dependent on USFS enforcement of permit holder responsibilities.

Third, permit holders who have already removed structural debris from USFS land are not eligible to recover their costs as PA funding is limited to eligible applicants such as public entities and certain private non-profits. Unfortunately, there is no mechanism to reimburse costs for debris removal performed by private individuals.

We understand and share the State's concerns regarding the need to quickly eliminate the threat to public health and safety posed by the structural debris on USFS land. We appreciate your continued partnership in addressing the matter.