



October 1, 2019

Senator Tom Udall
531 Hart Senate Office Building
Washington D.C. 20510

Senator Martin Heinrich
303 Hart Senate Office Building
Washington D.C. 20510

Dear Senators Udall and Heinrich,

I write to provide additional insight and information concerning Judge Collins' order halting timber management activities on national forests in New Mexico and Arizona and to request your heightened engagement in resolving this matter. We recognize that the injunction is very broad and we have a strong interest in narrowing its scope to enjoin only those activities where there is consensus that they would result in adverse impacts to the Mexican spotted owl and/or its invaluable and increasingly rare late successional forest habitat.

To this end, on Thursday, September 26, we filed an emergency motion with the Court to modify the order to except personal firewood cutting and gathering from its application. Thankfully the court granted our request today and personal firewood cutting can now resume. We had hoped to do this jointly with the Forest Service, and we repeatedly contacted the Department of Justice attorney for this case asking to meet to resolve the scope of the injunction. However, the agency refused our requests to meet, stating that they will not meet to discuss the injunction or its impacts until some undisclosed point in the future.

There are additional forest activities that the Forest Service has chosen to prohibit that could be excepted from the injunction if the Forest Service would only collaborate with us to define more appropriately scoped injunctive relief. For example the Forest Service has prohibited trail crews from doing trail maintenance work. In e-mails and phone calls to organizations doing trail maintenance, the agency's staff claims that the judge's order means trail crews must "stop/cease any live tree brushing, limbing and removal." These restrictions came just days before these organizations were to host volunteer trail maintenance events in conjunction with National Public Lands Day on September 28. In addition we have heard that the Forest Service has told tribes, pueblos and indigenous peoples, that they are prohibited from traditional gathering of plants as well as the use of juniper and cedar plumes. All of these activities – and other such activities with no potential for adverse effects to the owl and/or its habitat – could be released from the injunction upon a court-approved stipulation of the parties if the Forest Service accepted our urgent and continuing entreaties for a dialog.

In a recent press release, the Forest Service claimed that it is “exhaustively exploring every possible option to come to a quick resolution.” Unfortunately, that exhaustive exploration does not include discussions with WildEarth Guardians. The reality is that the Forest Service appears to have no interest in working to come to a quick solution. The agency’s approach to the disruption caused by the injunction is to play politics with peoples’ lives and turn the public against us. Issuing a press release halting firewood cutting while also directing citizens to call WildEarth Guardians to ask where to secure firewood, rather than meeting with us to hash out a reasonable solution is irresponsible, inflammatory and merely fans the flames of controversy. Clearly, this is the Forest Service’s principal objective.

This situation did not happen overnight. As Judge Collins recognized, the Forest Service has had over 20 years to fulfill its obligations to ensure adequate range-wide population monitoring to ensure that we are recovering the Mexican spotted owl. We filed this case in 2013, after providing notice of the issues, and, rather than re-initiating consultation or, even better, starting to monitor the range-wide population trend of the species in order to track its status, the agencies put their energies into litigation. In 2017, we proposed a settlement that would not have stopped timber management activities, but would have ensured proper and timely monitoring. The Forest Service rejected our settlement proposal.

I am asking you both to play an elevated role in resolving this situation. First, urge the Forest Service to sit down with us to start resolving the appropriate scope of the injunction. Second, provide the necessary federal funding in a systematic and sustained way for the Forest Service to adequately monitor Mexican spotted owl populations range-wide and to gather empirical data about the effect of “forest health” treatments (logging, thinning and prescribed burning) on the owl. Third, demand that the agency immediately take reasonable measures to permit organizations to conduct approved trail maintenance projects and allow pueblos and tribes to engage in traditional plant gathering. Finally, we ask that you publicly chastise the agency for manufacturing a crisis and inciting fear in the rural people of New Mexico and Arizona. This kind of behavior from public officials should not be condoned.

We look forward to moving forward and doing what is best for our forests, the Mexican spotted owl and the people of New Mexico.

Sincerely,



John C. Horning
Executive Director
WildEarth Guardians
Sincerely,

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