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Testimony on

*“The Impact of Catastrophic Forest Fires and Litigation on People and Endangered Species:  
Time for Rational Management of our Nation’s Forests”*

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Chairman Hastings, ranking member Markey and members of the Committee, thank you for allowing me to come before you today. My name is José J. Varela López and I am from the historic village of La Cieneguilla, near Santa Fe, New Mexico where my family settled nearly 400 years ago and began cattle ranching. I appear before you as President-Elect of the New Mexico Cattle Growers' Association (NMCGA) with members in all of the state's 33 counties and 14 other states. Our association, almost as old as the state, has been dedicated since its inception to maintain a favorable economic climate by working towards solutions that advance and protect our industry and our investments within the free enterprise system that is one of the hallmarks of our great nation. Over the last 15 years we have been forced to defend our rights by entering into the arena of litigation.

In addition to my work with the NMCGA, I am active in several other natural resource based entities in New Mexico. On the governmental level, I am an elected official with my local Soil and Water Conservation District and serve as Chairman of the New Mexico Soil and Water Conservation Commission. I am the Executive Director of the New Mexico Forest Industry Association and hold a bachelor's degree in business administration from the University of New Mexico.

During my lifetime and those of my forefathers, we in the West have learned to live and work with Mother Nature, which includes managing our lands, forests and animals through the cyclical droughts that have been a part of the Earth's evolution since the beginning of time.

The most recent drought appears to have hastened the mega-fires that continue to alter the landscape with increasing frequency across the western United States, and thus the need to confront the reality that each year of tepid, court driven forest management that passes, is another year that we destroy millions of acres of forests, grasslands, homes, livelihoods, animals, both domestic and wild, as well as the invaluable watersheds that communities, urban and rural alike, depend upon.

In the fires aftermath we have highly eroding watersheds, streams that run black, lakes choked with soil, rocks, downed trees and other debris, and decimated wildlife habitat that will take many decades of effort and uncalculated millions of dollars just to stabilize. It could take a century or more to restore.

We all know, or should know, that the expense incurred to mitigate the immediate damage caused by the wildfires that decimate our fuel laden forests is many times more expensive than prudent, diligent forest management ever could be. Additionally, proper and proactive forest management also provides jobs to rural communities, produces timber for homes and business, biomass for renewable energy, protects homes and other infrastructure, improves habitat for endangered species and other wildlife, increases forage production for livestock, and most importantly maintains or improves intact watersheds to deliver much needed water to our irrigated fields, municipalities and waterways.

It may be easy to place blame on the U.S. Forest Service (USFS) for the devastation that New Mexico and other states in the West are facing even as we speak, but the agency is not the culprit. There are many valiant men and women, from those fighting the fires to the top levels of management, who are doing their best to save our resources in the face of litigation driven management, or lack thereof.

In New Mexico, all of the negative impacts related to catastrophic wildfires are coming to pass, and all in the last two years. The culmination of a century of inappropriate fire suppression, decreasing timber harvests and decades of environmental litigation have rendered forest management to be both costly and complex, exacerbating the unhealthy conditions of our forests. The fact of the matter is that you can't preserve a forest, you have to manage it. To do otherwise, is to risk the loss of the multiple benefits that it provides.

To be clear, fire is a tool that must be used in the management of forests, however, to let a fire burn in Wilderness or anywhere else, in the spring and summer, when temperatures and winds are high and humidity is low is not just irresponsible, but is nearly criminal. On May 9, a NMCGA member called in the Baldy Fire when he saw one tree burning as a result of lightning. On that day it would have taken one man on horseback to put the fire out.

Instead, the fire was allowed to burn, eventually merging with the Whitewater Fire that started on May 16 in the same manner. Combined, these fires are now the largest fire ever in New Mexico, at 300,000 acres. The fire grew by 70,000 acres in just one day due to sustained winds, according to the USFS.

Not only were structures lost, but now agencies at all levels are scrambling to save communities from the runoff due to annual summer rains. Couple the Whitewater/Baldy Fire with last year's 500,000 plus acre Wallow Fire in Arizona and New Mexico, and much of the Mexican wolf, Mexican Spotted Owl, Spikedace and Loach Minnow habitat has been destroyed. It is impossible to ever know how much wildlife was lost.

The Little Bear Fire near Ruidoso in May and June had a similar start. It was first seen on a Tuesday, again in Wilderness, and let burn. On Friday night it blew out of control, eventually destroying over 250 homes and businesses and charring over 30,000 acres. Little Bear has been dubbed the most destructive fire in New Mexico history.

In reality, we cannot yet know the total magnitude of the destruction. The aftermath of last year's Las Conchas Fire, then the largest in the state's history, and in excess of 150,000 acres, continues

to ravage the landscape and decimate the Santa Clara Pueblo northwest of Santa Fe. Runoff from this year's summer rains have taken out all of the erosion protection that was put in immediately after the fire as well as heavy equipment and work currently being done.

At the inception of the United States Forest Service, and outlined in the 1897 Organic Act as passed by Congress, three management goals were listed for the newly created forest reserves:

- To improve and protect the public forests
- Secure favorable water flows, and
- Provide a continuous supply of timber, under regulation.

I think it would be fair to say that instead of reaching those goals, we are moving ever further away from achieving any of the three, mainly due to court and self-imposed constraints.

We can learn much from the management of tribal lands in New Mexico and Arizona. The Wallow Fire did little damage on the White River Apache Reservation due to the ongoing management by the tribe of their forested lands. The same holds true for fires that have burned near the Mescalero Reservation in south central New Mexico.

We continually hear in the media that these mega-fires are in part due to overgrazing. A century ago that may have been true. Today, however, the lack of grazing as part of a comprehensive management plan contributes to the volume of these fires.

With over 25,000 fire starts occurring this year alone in the West, destroying millions of acres, thousands of animals, including threatened and endangered species, hundreds of homes and businesses, and even human lives, it is imperative that we remove the shackles of often conflicting policies, rules and regulations borne of incessant litigation over time and resolve to streamline the required National Environmental Policy Act analyses that prevent the proactive management of our forests. We need to:

- Improve access for the removal of the fuels that are choking our forests and depleting our water supplies.
- Increase the number of landscape scale projects of a million acres or more, to accelerate treatments, creating efficiencies of scale and decreased costs.
- Allow land management flexibility in Wildland/Urban Interface communities to quickly reduce the threat of catastrophic fire.
- Provide incentives to create the economic engine that will utilize the small diameter fuels we need to remove from the forests for renewable energy purposes and other large-scale utilization.
- Manage the fine fuels load in the forests through proper grazing management.
- Sustain a steady and increasing flow of timber from our forests to maintain the viability of our remaining wood utilization infrastructure and their employees.

To accomplish these goals, we need to train the workforce that will be required to make our unhealthy forests resilient again.

Instead, our government is funding the destruction of our landscape, our economies and our families through litigation. There is no doubt that the Endangered Species Act (ESA) and its citizen lawsuit provision were well intended. However, I doubt that the framers of the Act, 40 years ago, could have contemplated what was to come.

So, instead of saving and rebuilding populations of dwindling species, because of litigation, the exact opposite is occurring. One of the key components of the ESA is the designation of “critical habitat” in which species are supposed to be protected and allow for an increase in their populations. Yet critical habitat designation provides a fertile feeding ground for the lucrative litigation of radical environmental groups, and prevents proactive forest management.

Comparing the 990 returns for two groups from 2000 to 2010, the WildEarth Guardians net worth increased by 1,019.90 percent just as the Center for Biological Diversity’s net worth increased by 466.98 percent during that period. The WildEarth Guardians recently topped \$1 million in revenue derived from their litigation in New Mexico alone, according to research by Wyoming attorney Karen Budd-Falen. Add to that the more than \$1 billion the USFS alone is spending annually on fire suppression and the American taxpayer is really being harmed.

While funding will always be an issue in adequately addressing the enormous amount of deferred maintenance in our forests, utilizing the full funding of the Land and Water Conservation Fund to proactively manage our nation’s forests, as opposed to using the fund to purchase more lands that will add to the management backlog, would certainly be a step in the proper direction. And obviously, reducing environmental litigation by requiring the litigant to prove that the risks associated with no management is a better long-term method for protecting endangered species than proper forest management would be.

In closing, I wanted to reiterate that we cannot “preserve” our forests. They must be managed. The trees and grasses produced in our forests are renewable resources, if they are managed. Otherwise, they just burn.

Thank you for your time.