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FOREST SERVICE MANAGEMENT OF THE NATIONAL FORESTS IN NORTHERN NEW MEXICO

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON FOREST AND FOREST HEALTH

OF THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

AUGUST 15, 1998, ESPAÑOLA, NEW MEXICO

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HEARING ON FOREST SERVICE MANAGEMENT OF THE NATIONAL FORESTS IN NORTHERN NEW MEXICO

AUGUST 15, 1998

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FORESTS AND FOREST HEALTH,
COMMITTEE ON RESOURCES,
Española, New Mexico

The Subcommittee met, pursuant to notice, at 3 p.m. in the Mission de San Gabriel, Number One Calle de los Españolas, Española, New Mexico, Hon. Helen Chenoweth (chairman of the Subcommittee) presiding.

STATEMENT OF RICHARD LUCERO, MAYOR, ESPAÑOLA, NEW MEXICO

Mr. LUCERO. Good afternoon. I think this is too loud. I will try not to use it.

In northern New Mexico, bienvenidos. Mi casa es tu casa. Welcome to our northern New Mexico. Our home is your home.

This is an official hearing before the Subcommittee of Congress for Forest and Forest Health before Chairwoman Helen Chenoweth and Congressman Redmond of New Mexico.

I am the mayor of the city of Española, and I want to welcome all of you to our city, welcome you to this building, and I want to tell you a little bit about it. This building was built to commemorate 200 years of two cultures meeting 400 years ago at the junction of the Rio Grande and the Chama River here in the Española Valley, a continuance of 400 years of these two cultures and other cultures living and working together in these valleys of Northern New Mexico.

If we study history, and we should, for whoever doesn't know his past never has a future, and that is what we are here to talk about, that past and that future, 400 years ago settlers, colonizers, came to these valleys of northern New Mexico because of what they had been told by many other explorers that had come prior to them about the very beautiful valleys of northern New Mexico; about the beautiful small and large rivers of these northern New Mexico valleys; of the beautiful people that lived here; and of the beautiful forests that they had here to make their living.

So a group of colonizers come up the Rio Grande from Zacatecas, Mexico, in what is now known as the Camino Real, the Royal Highway, from that point to here, to San Juan Pueblo. If we would have been here to greet them, we would have seen them bringing up cat-

tle and sheep and goats and oxen. They brought them to share with the pueblo people of these valleys and to make their living from these domestic animals. If we would have been here a little longer, we would have seen them sharing with the pueblo people the many things that we have shared together for these 400 years.

And we would have gone with them to the forest, and we would have cut wood to bring it down here to keep warm in the winter and to make our living. And we would have surely learned the many herbs, the many plants in those forests that we still bring down today as remedies for us. As a matter of fact, I took some this morning.

So, therefore, today we have a lot to talk about and so little time to say it. But we thank Mrs. Chenoweth for her stand on the importance of the Forest Service continuing to serve the people and not to lock them up.

[Applause.]

Mr. LUCERO. For if the Congress of the United States was to lock up the forests and the many grazing lands of New Mexico, then you don't just take away from us a way in which to make our living today, but you would take away from us history, culture, a way of life of two great cultures that have lived together here for over 400 years. And we will not tolerate nor give up those rights that we have to our natural forests, to our land that has been ours for these 400 years.

[Applause.]

Mr. LUCERO. And the territory of New Mexico, which composed in those years a little bit of Texas, a little of Colorado, a little of Utah, all of Arizona, all of New Mexico, part of Nevada, part of California, made the territory of New Mexico, and from this territory of 400 years we have survived many, many parts of this Nation's history.

And the people of this territory of New Mexico have served in all of the wars of the United States of America beginning with the Revolutionary War, and we are proud of that. And why does anybody have the right, after we have fought for it so long, to take it away from us now? It is not right. It is not proper.

[Applause.]

Mr. LUCERO. My grandfather took me to the forest many times with the sheep, and there we shared not just the fact that we took sheep to the forest, but we shared a camaraderie that has lived and will live with me forever. Who has the right to take that away from their sons? Who has the right to take that away from the grandfather that wants to give it to his grandsons and grandchildren? That is not right, it can never happen.

So, therefore, we have for 400 years made our life from these lands that were ours originally and the pueblo people of New Mexico. We must always demand that they be ours so that we can go to the forest. We can go for many reasons to make our livelihood in logging, to bring our wood for the winter, pick pinon as we have for many centuries, and—I will tell you a good one now—and go pick Chimaha. And if anybody wants to know what Chimaha is, let me know, and I will tell you after the meeting.

But this is what we share, and this monument is to that history, and it will stand solid demanding that this history will never be

taken away from us, and that this history will continue for many centuries to come.

[Applause.]

Mr. LUCERO. So with those opening remarks, could we stand and pledge allegiance to the flag.

[Pledge of Allegiance.]

Mr. LUCERO. Last night on his way back from Albuquerque, one of our great judges of New Mexico was killed in an auto accident, Steve Herrera, and I would like to ask you for a moment of silence in his memory.

[Moment of silence.]

Mr. LUCERO. And so we come to the moment that many of us have been looking forward to for a long time, to be able to present to a lady, a very, very beautiful and important lady in the Congress of the United States, who chairs this Subcommittee, that I have a great honor to introduce her to you and present her to you, Congresswoman, the Chairperson of the Subcommittee on Forest and Forest Health. It is an honor to introduce to you Helen Chenoweth.

[Applause.]

STATEMENT OF HON. HELEN CHENOWETH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Mrs. CHENOWETH. Thank you. Believe me, it is my honor to be with you today in this reproduction of this very historic building. I have a sense of spirit of Americanism here that I rarely sense, and it is indeed a special honor for me to be able to join you today.

So with that, we will just start the business right now. The Subcommittee on Forests and Forest Health will now come to order.

The Subcommittee is meeting today to hear testimony on Forest Service management of national forests in northern New Mexico. Under rule 4(G) of the Committee rules, any oral opening statements at hearings are usually limited to the Chairman and Ranking Minority Member, and this will allow us to get to you sooner.

I do want to depart from the usual custom, though, and I yield to Congressman Redmond. I don't think there will be any objection.

I am Congresswoman Helen Chenoweth from Idaho, and today's hearing will focus on Forest Service Management of the National Forests here in northern New Mexico. The Subcommittee is here today at the request of Congressman Bill Redmond. He is aware of my commitment to see that the Forest Service manages the National Forest properly and of my deep interest in listening to constituents who are affected by Forest Service policies.

We are here today to learn firsthand from ranchers, loggers and other Forest Service land users about the challenges they face on a daily basis. The "one size fits all" approach to legislating does not take into account the unique cultural and natural characteristics of this area, those characteristics that we just heard about in such poignant terms. Today's testimony will help respond to these unique challenges facing this area as we deal with forestry, grazing and endangered species legislation in the future.

In reading about northern New Mexico and talking to Bill Redmond, I am fascinated that many people in this area ranch on land which originated with land grants that are 400 years old. For my own curiosity, I would like a show of hands of those in the audi-

ence who are heirs to Mexican or Spanish land grants. Would you please hold up your hands?

[Audience members raise hands.]

Mrs. CHENOWETH. My goodness. Very interesting. It seems very obvious to me that people who have been good stewards of property for over 400 years have a great deal to teach the Federal Government about land management.

I also understand that many citizens in this area do not have access to natural gas and heat and cook in their homes with firewood. I would like a show of hands of everyone in the audience that heats their homes or cooks with firewood.

[Audience members raise hands.]

Mrs. CHENOWETH. My goodness. Very interesting.

At today's hearing I am particularly interested in learning more about how the endangered species status listing of the Mexican spotted owl has affected residents of this area. Also, I hope to learn more about the process by which the Forest Service settled lawsuits by radical environmentalists outside the courtroom. And it is of particular interest to me, were ranchers and loggers involved in the negotiations? What impact have these settlements had on public land users and on local communities?

Today's hearings will consist of two panels. Each witness will be given 5 minutes to give your testimony, and Congressman Redmond will explain the way we work the mikes here. Questioning will begin after everyone on the panel has completed their testimony.

After our two panels have finished, the Subcommittee will begin an open microphone session. Everyone who is interested in speaking at these sessions should sign in on the sheet located in the back of the room. Speakers will be allotted 2 minutes during this session.

[The prepared statement of Mrs. Chenoweth follos:]

STATEMENT OF HON. HELEN CHENOWETH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Good Afternoon. I am Congressman Helen Chenoweth from Idaho. Today's hearing will focus on Forest Service management of the National Forests here in Northern New Mexico. The Subcommittee on Forests and Forest Health is here today at the request of Congressman Bill Redmond. He is aware of my commitment to see that the Forest Service manages the national forests properly and of my deep interest in listening to constituents who are affected by Forest Service policies. We are here today to learn, first-hand, from ranchers, loggers and other Forest Service land-users about the challenges they face on a daily basis. The "one size fits all" approach to legislating does not take into account the unique cultural and natural characteristics of this area. Today's testimony will help respond to the unique challenges facing this area as we deal with forestry, grazing and endangered species legislation in the future.

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It seems so obvious to me that people who have been good stewards of property for 400 years have a great deal to teach the Federal Government about land management.

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Mrs. CHENOWETH. I now yield to your Congressman Bill Redmond for his opening statement.

[Applause.]

STATEMENT OF HON. BILL REDMOND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Mr. REDMOND. Thank you, Congresswoman Chenoweth, for coming to New Mexico today, northern New Mexico, and I want to thank you, Mayor Richard Lucero, for being such a gracious host. I don't think there is another person in all of northern New Mexico who is as gracious as Mayor Lucero. Let's give him a round of applause.

[Applause.]

Mr. REDMOND. Two years ago we lost about 30,000 acres in the Jemez Mountains with the Dome fire, and most recently, just a couple of months ago, just weeks ago, we lost thousands of acres again in the Jemez Forest, a fire endangering the watershed for Santa Clara Pueblo, which is right up the road, and it is very obvious to everyone, and it is evidence to all, that it is time that we come to the table to discuss the futures of our forests as they relate to the community.

I believe the quality of life in the forest is directly linked to the quality of life in the community, and I believe we should look at our past to see how we have been stewards of the forests in northern New Mexico and leave the management of the forest to the continuation of our culture in northern New Mexico.

I believe that we should be very supportive of la tierra, and so the purpose of this is to hear from as many people as possible as to what suggested direction we take for the health of our forest, and without further ado I want to explain to you the light system.

Here on the table in front of me right at Max Cordova's left hand—this is a demon that was invented in Washington, DC. It looks like a traffic light, and that is exactly what it is. Since this is an official hearing, we have to abide by the Rules of the House of Representatives. We can't bend the rules out here in the field. So instead of flying you all to Washington, I believe Washington should come to you, and this is what we have done.

[Applause.]

Mr. REDMOND. So the protocol is as each of you are giving your testimony, while the light is green, you can keep talking and feel very comfortable that you have ample time left. As soon as the light turns yellow, you have 60 seconds to complete your testimony, and then when the light turns red, Erik from my office will come

and yank you out of the chair and kick you out the front door. So since some of you know Erik, you don't want that to happen. But the red light means that officially you cannot continue to speak.

And then afterwards we will have an open microphone, but for the official testimony part, we do have to go according to the rules of the green, yellow and red lights. OK, thank you.

[The information referred to may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Congressman.

I would now like to introduce our first panel: Ike de Vargas from La Madera, New Mexico; Max Cordova, president of Truchas Land Grant Association, from Chimayo, New Mexico; Gerald Chacon, district director and permittee, Cooperative Extension Service, from Santa Fe, New Mexico; Rob Luce, general counsel, Rio Grande Forest Products, from Española, New Mexico; and Bruce Klinekole, Mescalero Apache Cattle Growers Association, from Mescalero, New Mexico. Welcome, everyone.

As explained in our first hearing, it is the intention of the Chair to put all outside witnesses under oath. This is a formality of the Committee that is meant to ensure open and honest discussion and should not affect the testimony given by the witnesses. I believe that all of the witnesses were informed of this procedure before the hearing today, and they have each been provided a copy of the Committee rules.

And so if you will all stand with me and raise your right hand.

[Witnesses sworn.]

Mrs. CHENOWETH. Now we will begin with Mr. De Vargas.

STATEMENT OF IKE DE VARGAS, LA MADERA, NEW MEXICO

Mr. DE VARGAS. Thank you, Chairwoman Chenoweth. Thank you, Congressman Redmond. I am very happy to be here and be able to testify before this Committee. I am particularly thankful to Congressman Redmond's position that Washington should come out to the people. I guess it doesn't surprise me a bit, because during the period of time when we were litigating over the amount of timber sale and the units, Congressman Redmond went over there to some of our property, and he looked at the forest and saw what we were talking about. So thank you very much for that Congressman.

I am a member of a small logging and milling outfit out of Villacito. The Villacito is a tract of land that was created by Congress under the state yield forest land grant back in 1944. The unit itself was created by the Secretary of the Interior in 1947.

Ostensibly it was to benefit the local people by providing the continuous and steady flow of timber products. We in 1994 formed our co-ops and decided to start working in other areas and try to help our local economy. We had a lot of problems with the Forest Service from the outset. There was a great deal of resistance to a small company getting a toll booth in our area, and so we did it anyway. It was difficult.

The way we got our financing was that the Forest Service promised us in a written letter that we would have 50 years at least of timber. That was marketable and bankable for banks. So shortly thereafter we got shut down, and we were unable to work for a considerable amount of time. Needless to say we had already been loaned the money. We already had a debt load we had to deliver.

It was extremely difficult given that us rural people were not wealthy and just working out of guts basically.

The way the Endangered Species Act—specifically the spotted owl, the Mexican spotted owl thing was especially wrangling to us because we knew there were no animals of that nature here. They hadn't been here historically. In fact, a study was made in the 1830's that lasted 7 years in which in the northern part of New Mexico only five spotted owls were sighted. They were not even sighted, there were three sighted. One of them was killed to study by biologists, and none have been seen since.

So we were very perplexed that the entire region, entire area, would be designated as critical habitat for the spotted owl. It didn't seem appropriate because, if we are going to set aside habitat for nonexistent owls, then we can set aside land for anything, elephants maybe or tigers. Any endangered species could probably be introduced in here, and if it doesn't get designation of critical habitat, it is going to be done arbitrarily and capriciously.

We have situations where the courts have ruled that the Forest Service cannot proceed to enforce agreements with the environment groups. They do it anyway. The Forest Service has not been a good neighbor to northern New Mexico for a long time. It is just recently that they have been starting to think about working with us as a result of the controversy regarding the land management years. The people are extremely resentful.

I would like to make one comment. There was a newspaper article in which some Congressman wrote requesting to find out from the Forest Service who was involved in environmental groups being referred to as a McCarthy Act. The environmental groups have ostracized other environmentalists that have had the temerity to stand up for the community, and there are quite a few of them.

It is amazing how bad a rap the entire environmental community has gotten because of a few fringe groups that insist on imposing their agenda on a people that have lived on the land for so long and for so long to be proven to be good stewards of that land.

[Applause.]

Mr. DE VARGAS. Having said that, I would just like to say one more thing to Congressman Redmond. Thank you very much for taking a serious look at the land grant question. That land grant question is a question of justice for the people of northern New Mexico. Thank you very much.

Mrs. CHENOWETH. Thank you, Mr. De Vargas. The time goes so fast. We'll be back to you asking questions though.

[The prepared statement of Mr. De Vargas may be found at end of hearing.]

Mrs. CHENOWETH. Max Cordova.

STATEMENT OF MAX CORDOVA, PRESIDENT, TRUCHAS LAND GRANT ASSOCIATION, CHIMAYO, NEW MEXICO

Mr. CORDOVA. Madam Chairwoman, Congressman Bill Redmond, thank you very much for the opportunity to come and speak to you as a public witness here. I am Max Cordova of the Truchas Land Grant in Truchas, New Mexico. Our land grant was given to us by the Government of Spain in 1754, the Government of New Mexico

in 1829, and most recently the Government of the United States in 1892.

This land grant and others were guaranteed under the Treaty of Guadalupe de Hidalgo. Problems we are facing today is that most of our successful land is now under Forest Service management. Our right to this land is—I have documented in a paper that is documented in archive paper 771 that goes back to March of 1754. That paper speaks of us having access to public land and to the forests and to the water.

In 1998, we are still very forest-dependent. Some of the problems that we are facing today are unemployment; diminished access to Forest Service land for fishing, for grazing for hunting, personal use, building materials and firewood.

One of the biggest problems we are facing is poverty in the area. Because of the poverty that we have in the area, it is my belief that the Forest Service must walk hand in hand with us in any policy they undertake.

The uniqueness of our land and our people is clearly captured in the Region III policy for managing lands in northern New Mexico. Sadly to say, this policy has yet to be implemented in northern New Mexico.

The Mexican spotted owl, the Forest Service management policies are having a serious affect on the health and welfare of our communities.

In 1995, an 18-month injunction was—we went through an 18-month injunction as a result of a lawsuit against the Forest Service for firewood that we needed to cook our food and to heat our homes. To add insult to injury, an agreement was reached by these two entities, an agreement that left us out completely of the agreement.

It is our belief that any plan that the Forest Service brings should consider traditional and historical uses, because the people have many ties to the land.

The unwillingness of the Forest Service to implement these grants are happening because of the fear of lawsuits by environmental groups. This is seriously hurting forest restoration of our communities.

The Endangered Species Act, it is our opinion, also needs to be revisited, not with the idea to weaken the Act, but to strengthen the Act. Too often land-based communities are victims of well-intentioned policies that fail to use them as part of the ecosystem.

Second, science. Science needs to be applied to the Forest Service. Right now the biggest thing that is recommended is lighting a match to it. Is this really the best that we can come up with as we restore the Forest Service lands?

In closing I would like to say that I would like to bring the land grant issue into focus, because we are being blamed for many wrongs in New Mexico by the Forest Service. Recently a Forest Service supervisor from Santa Fe National Forest pointed out in a national syndicated column that three forest service ranger stations and many Forest Service signs have been burned or bombed. In the same breath, he seemed to infer that land grant people were responsible for these cowardly acts.

Although I admit to you that the actions of the Forest Service to take away Forest Service resources from the people has caused much dissent in northern New Mexico, but I believe that we all want the same thing: Healthy forests, clean and abundant water, and viable rural economies, and the fuel to heat our homes and to continue to service.

Thank you, Madam Chairwoman.

[The prepared statement of Mr. Cordova may be found at end of hearing.]

Mrs. CHENOWETH. Gerald Chacon.

STATEMENT OF GERALD CHACON, DISTRICT DIRECTOR, PERMITTEE, COOPERATIVE EXTENSION SERVICE, SANTA FE, NEW MEXICO

Mr. CHACON. Thank you, Representative Chenoweth. Welcome to New Mexico.

This year marked the 400th anniversary of livestock production in northern New Mexico. My own family has continuously raised livestock on our private and surrounding lands for at least the last 168 years that we are aware of.

Each of you must clearly understand, and I am sure you are very well aware, that most of the Carson National Forest and the Santa Fe National Forest were all part of Spanish and Mexican land grants. Our people have always been land-based livestock producers with a successful history of livestock production going back to ancestral Spain. Look on any Forest Service map in northern New Mexico, and nearly every mountain, stream, and spring and pasture are Spanish names and places.

Today, as in our past, we have a proud history of serving the community and working with government, even when that same governance took community lands for the establishment of public domain. Still today title to much of the forest land is not clear.

There are currently just over 2,000 families grazing on U.S. forest and BLM land in northern New Mexico. These permittees run on the average of less than 50 head. Eighty-seven percent of these families are Hispanic. There are 327 families using public land for grazing in Rio Arriba County alone.

These public lands sustain 60 percent of these ranchers' livestock forage needs each year. Total gross receipts from all livestock in this county range between $7.8 and $14.7 million. This industry is very significant for a county whose population already has a 10.7 percent unemployment rate and where 23.5 percent of the families live below the national poverty level.

There are 3.5 million total acres in this county, with 1.3 million U.S. Forest Service land, 50,000 acres of BLM land, and 647,000 acres of Indian tribal land, and 108,000 acres of State land.

The majority of resources available for our economic well-being come from the public lands. Access to those resources are key to our communities' and cultures' ability to survive. The processes that would allow continued access are largely threatened by misinterpretation and misuse of laws and policies originally intended to preserve and protect the environment of these lands.

The single most disruptive force in our rural communities today is the misuse of the Endangered Species Act and the scores of pro-

cedures that are required to enact it. The legal interpretation of this once well-supported law have succeeded in driving wedges between environmental organizations, ranchers, loggers, miners, recreation industry and the U.S. Forest Service. More recently, cities, towns and county commissions have been forced to defend themselves and their constituents from the never-ending problems the Endangered Species Act creates for them.

Growing numbers of credible science organizations and institutions seriously criticize its overall effectiveness. Identifiable errors in the determination of what is endangered and threatened have been identified. Wrongful determinations of endangered and threatened status have been exposed, and some of the records of recovery from the Act itself is seriously questioned by the science community.

The immensity of problems and opportunities for legal wrangling are too large to even comprehend or to ever solve. Land-based people are doomed to a life in the courtroom. We desperately need your help to develop law and action plans that recover species with the involvement of land-based people, not in spite of them.

Law and policy interpretations that remove people from the land are sure to fail in the long run. Laws that put people against people cannot heal the environment or the economic status of rural communities. Law and policy of agencies which takes rights, property, punishes, fines and incarcerates are sure to fail in the long run. Rather, incentives for land-based people to participate willfully in conservation efforts have historically proved most effective.

One only has to look at what has been done working cooperatively to recover game. Ducks, geese, wild turkeys, elk, buffalo and many others, some of which were nearly extinct, now thrive.

We have the science, the money and the will of the people to accomplish anything we set our collective minds to do. The government and the people should not expend all of our financial, mental and physical resources to fight each other in the courtroom. I choose to think we are smarter than that, and when given a useful and balanced opportunity to find a way, we will find a win for the national resources and a win for people.

We need your help to balance the scale of opportunity. Rural northern New Mexicans cannot outspend national environmental organizations within the endless streams of financial and legal resources. Poor science, laws without clarity and policy interpreted by the whim of any individual without consideration for people will only worsen our situation.

The more than $2 billion spent by agencies since 1990 for recovery would have gone a long way to diversify forest habitats had we allowed for sustained timber harvest, thinned overcrowded forests, developed watering for livestock and wildlife, used prescribed burns, controlled brushy species and otherwise enhanced wildlife habitat. Currently we lose 1 percent of our forest ecosystem grasslands each year due to encroachment of trees in the Santa Fe and Carson National Forest. Catastrophic fires consume forest resources and budgets of the agencies who fight them.

Paperwork, hearings, budget, documentation, notification are the business of government agencies these days. No longer is range

science, forestry, soil science, wildlife science and recreation the business of the Forest Service.

Thank you.

[Applause.]

Mrs. CHENOWETH. Thank you, Mr. Chacon.

[The prepared statement of Mr. Chacon may be found at end of hearing.]

Mrs. CHENOWETH. The Chair recognizes Rob Luce.

STATEMENT OF ROBERT LUCE, GENERAL COUNSEL, RIO GRANDE FOREST PRODUCTS, INC., ESPAÑOLA, NEW MEXICO

Mr. LUCE. Madam Chairwoman, Congressman Redmond, my name is Robert Luce. I am here today representing Rio Grande Forest Products, which is located here in Española.

On behalf of Rio Grande, we would like to thank you for the opportunity to present testimony today on such a critical issue, but especially for bringing Washington to Española. It is very, very difficult for us to take our message back, and we appreciate all of your efforts and thank you very much for that opportunity.

Rio Grande operates the largest sawmill in the State of New Mexico. The mill has been located here in Española for over 20 years. We employ approximately 100 people and estimate that over 1,000 families are dependent upon Rio Grande in some way, either through logging, delivering logs or whatever.

The logs we process are harvested from public and private lands as well as tribal lands. We do not endorse so-called clear-cutting. We do not strip the land of every manufacturable tree. All of our logging operations are managed by three graduate and professional foresters.

The best way for all of us to evaluate whether our current policy is actually working or not is to actually go out into the forest and look. Unfortunately we can't do that today, so I did the next best thing. I brought some photographs for you. What I would like to do is show you the difference between a well-managed forest that is occurring on private land versus what we are seeing in the Federal arena.

The first photographs that I have for you, photograph No. 1 was taken at White Mountain Apache Reservation. This shows a stand of ponderosa pine with overstory, a vigorous stand of young pine regenerated between the seed trees. Broadcast burning removes the competitive vegetation and allows young trees and native grass to establish and thrive.

If you look in photograph No. 2, this is what we are seeing on unmanaged land: Typical young stands of blackjack ponderosa pine, dense crown closure preventing grass seedlings and growth. The smaller trees in the background would carry wildfire from crown to crown. Notice in the bottom portion of the photograph that there is no grass and no seedlings growing.

Fort Apache has been managing the forest since the 1950's. At that time they estimated 1 billion board feet of timber in the early 1950's. For the past 30 years they have cut 30 to 50 million board feet of timber annually. The BIA estimates today are 100 billion board feet after 30 years of cutting.

The controlled burning and the selected harvesting has reduced the risk of fire there, and when you contrast that situation with the next photos, especially photo No. 4, which is the Hondo Complex fire near Questa, the result is the possibility to have regeneration and growth for years, not lose valuable timber and prevent forest fires like occurred at Hondo.

So the challenge for us today is to decide which way we want to go. Do we want to manage our forest as like has occurred at White River, or do we want to continue on with no thinning, no controlled burning and then suffer the consequences of the situation that occurred at Hondo and some of the other fires we have had recently.

To make matters worse, at Hondo—I want to make sure I get these numbers correct for you—the Forest Service estimates that 7,700 acres of timber was burned in that fire. Carson National Forest estimates approximately 4.1 million feet of timber was lost. After 2 years, there have been six small salvage sales prepared and less than 10 percent of that volume, and only three have been sold and one of the salvages harvested. Our mistakes in letting trees burn and letting national forest burn is by then prohibiting people from salvaging that timber that otherwise is rotting and becoming bug-infested.

I am used to these little clocks here.

In closing what I would like to do is challenge each of to you take these photographs back to Washington and have your colleagues look at the pictures and have them answer these two questions: Does our current land management policy protect the living forest, or does it actually promote the waste of the renewable resource; and second, has the current land management policy reduced the risks of wildfire, or has it actually increased the risks of environmental degradation.

We believe there is a better way. Our view is to follow the example that is being set by the White Mountain Apache Tribe and other privately managed forests if we are truly interested in doing the best possible job of managing several timberlands and Forest Service for everyone. Thank you.

[Applause.]

Mrs. CHENOWETH. Thank you, Mr. Luce.

[The prepared statement of Mr. Luce may be found at end of hearing.]

Mrs. CHENOWETH. The Chair recognizes Bruce Klinekole.

STATEMENT OF BRUCE KLINEKOLE, MESCALERO APACHE CATTLE GROWERS ASSOCIATION, MESCALERO, NEW MEXICO

Mr. KLINEKOLE. Before I want to say to my brothers behind me, I don't want to turn my back on you, but this is the way they set us up.

First of all, I want to welcome you, Congressman and Chairwoman, to New Mexico from all Native Americans here in New Mexico.

Again, touching on Mr. Rob Luce's valid point, this is what we are doing on the Mescalero Reservation in the southern part of New Mexico. We are doing the same thing with the Bureau of Indian Affairs and the Department of Interior.

We do kind of touch on Mr. Luce's comment on clear-cuts. We do that when we have a lot of diseased trees in order to cut back. That is the only time we have that. We have crews that thin out and come right behind it to thin out and put grass seed back on top of that.

On our reservation in Mescalero, which is located in south central New Mexico, we have close to 4,000 head of cattle we run on our reservation. We have big game hunts. We have every kind of animal on our reservation, even the spotted owl. We contend with those, too.

But kind of touching on other things, we do prescribe burn during the wintertime. We don't burn during the summer. We run pipelines, we develop a lot of our springs, and we run pipelines and storage tanks for all of our cattle. When all of these animals are moving around the forest, it breaks up the forest up and moves the ground around, and here comes the grass. We have real lush, grassy vegetation.

That photo number 1, that is the way our forest looks in Mescalero compared to the one to the south of us as well as to the north of us. The forest land is so crowded, there is nothing under it. The squirrels and chipmunks have nothing to run on, they have nothing to play on except the dry dirt. Compared to what we have in the first photo there, that is basically what we have because we have thinning crews. We have two or three crews that go out and thin the trees out.

As far as the tree cutting, we are planning for the future. We cut little trees here and there, but we don't cut them all down. We leave the big trees. We leave different ones in different places, and we also cut our mature trees. Those that are prone to lightning we cut down because they are structurally too big, and we need to cut them down.

Again, mentioning our prescribed burns, you mentioned prescribed burns. Before we burn an area, we let our Tribal Council and tribal people know. We go in there and let the people cut everything that is in there, whatever they want; juniper, oak, whatever they want, they go in there and cut it, and then we come in with another crew, and they pile all the brush up, and then we burn it. But this is to make clear for grazing land for wildlife as well as our cattle.

So again, we sell fence posts. We put the firewood back into our homes. I would say maybe 65 percent of our people in Mescalero burn on the ground and pine. So we use the land.

One of the things I wanted to touch on is every year we have a coming of age ceremony, and almost approximately 500 trees are cut down for personal use. Each one of these trees are prayed for by medicine men as well as me. When my daughter was coming of age, we prayed for these trees. We are saying, Creator, thank you for these trees. And then when we cut them down, we put that back; not give it back to the people, to the Creator. We have to give it back to him to hide from the wind, to hide from the rain. So that is why we say thank you.

Again, the forest, as you know, as everybody knows, it takes a long time to regenerate, but we are planning our situation to where

when my great-great-grandchildren are here, hopefully they will see I have planted many, many trees.

And in summary, I would say, again, our wildlife and cattle live in harmony with each other.

And, Mr. Mayor, I want to comment on one little thing you said. We need to make time. He said we don't have time. We need to make time so we can talk about our problems and let us hear what is going on.

I invite you all to come down to Mescalero. The only thing is you have to have reservations.

[Laughter and applause.]

Mrs. CHENOWETH. Thank you very much, Bruce. That was outstanding testimony.

[The prepared statement of Mr. Klinekole may be found at end of hearing.]

Mrs. CHENOWETH. The way we do things in these congressional hearings, I will yield first to Mr. Redmond for his questions.

Mr. REDMOND. Thank you, Madam Chairwoman.

I am going to go down the line here with some questions we have developed in listening to your testimony.

Mr. Vargas, could you tell us a little more about the Forest Service letter that insured 50 years of use of the forest and how that came about to be denied?

Mr. VARGAS. Well, it was kind of strange because they first would not allow us to become designated operators in order to buy timber. At that time we were logging, subcontracting lumber for Duke City Lumber.

The Forest allowed for the local people to get so many board feet of actual lumber per year for their own operations. They had a pretext that if we didn't have an existing sawmill, we couldn't be designated as saw timber operators. It was simply a pretext to keep us out of the forest. We had to litigate that with the Forest Service.

Mr. REDMOND. Thank you, Ike.

Max, on the Region III policy, managing national forest land in northern New Mexico, how much can the Forest Service improve the policy?

Mr. CORDOVA. We feel it is a good policy and it speaks to the people of northern New Mexico. Right now the policy is, we are told—is philosophical in that is doesn't have any teeth to it. Basically what we would like to see is that the Forest Service use this as the oil for managing the lands we have here in northern New Mexico.

It is a good policy. It has a future, but it hasn't been implemented.

Mr. REDMOND. OK. When Chairwoman Chenoweth and I go back to Washington, what can we recommend to put teeth in the policy?

Mr. CORDOVA. Well, for one thing, we would like to see it be a part of the Region III Forest Service plan. You really have to look at the policy to understand what it is really saying. It speaks of conditions, it speaks of vision, and it speaks also of consequences if it is not implemented, and I think those consequences are what have us at this hearing today.

Mr. REDMOND. Can you identify some of those consequences?

Mr. CORDOVA. One of the things the policy does is it speaks of the people as being a resource, also to be considered a resource in the land.

It also speaks that the Forest Service must direct its efforts into preservation of the Spanish American and Native American cultures. The policy basically is—it is a good policy. It needs to be implemented. The policy was done in 1968, 1972, and here we are 1998, and it is still not being implemented by the Forest Service.

Mr. REDMOND. Thank you.

Mr. Chacon, what would you specifically recommend to improve forest health?

Mr. CHACON. Very simply there are a number of different practices that we know are very useful in terms of correcting the problems we have with forest health, and that is many of the things that were addressed here by all of the individuals on this panel, primarily allowing for a sustained type of timber harvest.

We have to thin many of the smaller stands of timber, in order to relieve the amount of fuel and provide for materials and things that are necessary for people to make a living here.

The other thing that we have here that is a major problem in this particular area, we have some brushy species, and in order to reduce the fire, historically we have to get a brush management plan established specifically for the big sagebrush, gamble oak, primarily the ones that are causing significant problems for us and are part of the—what are causing the reduction of the amount of grasslands we have in our forests. We have to restore a portion of our forest to a grassland as was historically the way it was.

Mr. REDMOND. Do you have anything more you want to say?

Mr. CHACON. Basically the other thing is over the last 20 years or so, people have been removed from me being able to get input to the Forest Service for what needs to happen in their surrounding communities. The Forest Service can't have an advisory committee because of Federal law that prevents those sorts of things, so we have to dance around the issues of having advisory access to the Forest Service that would help us to address some of these things.

So we really need to get the communities involved in the management of public lands as we had a couple of decades ago. We don't have community forests the way we did in the past.

The people know what to do. They have lots of ideas. We do need recurring funds in order to invest back in the land. We only get one-fourth of our grazing fee comes back to the district in order to do range improvements, and it is hardly a pittance of dollars that can't go far enough in terms of what needs to be done; a higher portion of that or other benefits in order to have a working amount of money so that we can do some things on the land and not just let it sit.

Mr. REDMOND. One of the things that you pointed out was not enough access for review and for input. Would you—let me see a show of hands of people who would like to see something like this, an annual review of policy so the people have more access to the policy as it is written in Washington?

[Audience members raise hands.]

Mr. REDMOND. Mr. Klinekole, a couple of questions. Thank you for the invitation. We will make reservations before we come.

Mr. KLINEKOLE. We have an 800 number.

[Laughter.]

Mr. REDMOND. Some would argue that because tribal lands are not regulated to the same degree as public lands, that you are not subjected to such programs as the ESA and Clean Water Act. Do you believe there will be a time when environment leaders will seek to control tribal lands?

Mr. KLINEKOLE. I hope not. We have a trust responsibility with the Government of the United States of America, and it is too sad to say that we were—I hate to say this—but we were here, and then to have the U.S. Government go against trees which were given to us in the 1800's, and then they put us on little allotments on little reservations.

Ulysses S. Grant, who gave us the reservation back in 1855, he didn't know it, but he gave us a little bit of heaven. We have a lot of pastures, a lot of timber, we have a lot of water, we have snow, we have every kind of recreation that you can imagine, even a casino. I hope and pray that this doesn't happen to us Native Americans.

Again, getting back to something, that it is the trust responsibility. Everybody else is having problems with their lands, their private property. I feel for them. But me as a Native American, I feel very sad, especially for my great-grandchildren, if someday they can see that this used to be ours, but now this is not ours no more. This belongs to people who came from across the ocean, you know.

And that is what makes me sad. I hope that this does not happen, but it could. It is around the corner. We can't dodge it, but with your help and, Chairwoman, with your help, I am sure maybe we can resolve this in a good way. Like I say, we have to make time.

Mr. REDMOND. I was just wondering, looking at the photos and hearing your testimony, in your dealings with the Forest Service officials and employees, and they look at how you manage compared to how other lands are managed, do they ever wish they could manage the lands the way that you manage the lands, or do they talk to you about, gee, we wish you would come to Santa Fe and show us how to do that?

Mr. KLINEKOLE. Well, one thing I have to kind of say is I do not directly work with the Forest Service, I mean with the tribal lands. I live on the reservation. We have a good communication on our reservations. We know what is going on. We can see it. When there is a problem, we have that right to talk up. We don't petition. We come together and we talk about things, and we say, this is not right, and we take it to the Tribal Council, and they talk it over, and we go back.

Again, this is not United States Forest Service. We are talking about the Bureau of Indian Affairs, U.S. Department of Interior that we deal with. We are different. But again, we have had really good luck with that particular division or Department of Interior, Babbitt—is that Babbitt? We have been having good luck with him lately.

But again, the people are agency foresters who are on the reservation. They are hired by the council, they are outside people, they are Anglos and they are Spanish. They are not Indian. There are only two or three Native Americans right now on the Forestry who are in that particular field now, who are graduating college.

But in the long run, hopefully we can get enough Native Americans in there where we can run our own reservation the way we want to. Hopefully the U.S. Government will not take that land away from us. That is all we own right now. That is the only territory we have got.

So we have to hold on to what we have got. If there is any discrepancy as to why we can't take care of the land, I don't know how they can say we don't deserve that land when we take care of it. We do the best we can. We develop our springs. We provide fences for our cattle to graze in different sections. We have cut the timber as to what is needed.

Again, getting to back to what my fellow brothers here have said, our fire reduction is way down, because when you have little kindlings, it just keeps getting higher and higher, and when you have grass on the bottom, there is really nothing there to worry about. We take care of that. We have a very, very low fire danger. We don't have that problem of crowning anymore because of the things we have done with the forest. We worked them.

I hope that answered your questions.

Mr. REDMOND. OK, thank you.

That concludes my questions.

Mrs. CHENOWETH. Mr. Klinekole, what do you think the environmentalists with whom you are involved in the reservation lands—do they comment to you; do they make it public?

Mr. KLINEKOLE. No, we have not had any problems. We don't see them very much there. Like I said, you have to have a reservation. In a way that is a joke, but it is true. We don't let anybody on our reservation. You just don't go on the reservation when you feel like it. You have to go through the council and ask permission, and you are escorted in because that is our land.

So, therefore, we do not allow any environmentalists on our land. This is again what we want.

[Applause.]

Mr. KLINEKOLE. This is what Ulysses S. Grant, back in 1855, provided us with this little heaven down there in south central New Mexico.

Again, to answer your question, I sincerely hope and pray that this is kept like it is because that is all we have. We don't have the land that we used to, the Mescalero Apache. Again, we used to go from Arizona all the way up through Las Cruces, all the way down to Texas and all the way down Arkansas. That was our homelands. But now we are just put on a little reservation, which is a beautiful place. No problem. We have enough land try to work with anyway.

Mrs. CHENOWETH. Mr. Klinekole, how have the Mescalero Apaches dealt with the Endangered Species Act? How in the world could you deal with a Mexican spotted owl without the imposition of the Endangered Species Act? How do you do it?

Mr. KLINEKOLE. This book here is—and I am sure it is available—it is called the Mescalero Timber Trust. I was looking at it when I was in my van a while ago, kind of documenting things, because it is made for our future generations. It tells a history of all of our people as well as all the sawmills, as well as all the cutting that we have done from the 1800's to now—well, I take that back, back to 1981 when this book was published. When this book was published in 1981, you look at the index, there is no such things as a Mexican spotted owl.

[Applause.]

Mr. KLINEKOLE. The only thing that is listed in the index is the Mexican pine, and they talk about the Mexican ponderosa pine in this book, and that is the only thing they talk about. So when did this Mexican spotted owl come onto our reservation? I don't know when this came in, you know. We don't know.

Again, this thing is written from the 1800's to 1981, and it does not mention no environmental group, it does not mention nobody, no spotted owl, so I don't know where it came from.

Thank you, Ike, for that.

I got that off Ike because he mentioned it. As far as he knows, he doesn't remember seeing any Mexican spotted owl either.

But anyway, getting back to that, if we do find any spotted owls, our foresters, we have a buffer zone of 100 acres just to contend so we won't be in violation of anything, but we do—that is the only thing we have. We have around the habitat of the spotted owl of 100 acres, that is all.

Mrs. CHENOWETH. Do you know of any books that were published before 1980 that mention the Mexican spotted owl?

Mr. KLINEKOLE. I can't.

Mrs. CHENOWETH. Do any of you know of references published before 1980?

Mr. VARGAS. There was a study done in 1940, I believe, it was a specific study on spotted owls, and they found them in Salinas, New Mexico, and Arizona, and they found two pairs, two of them in the Jemez Mountains. They heard one in Santa Fe, and they saw two in Taos. They killed one of them, and they did some studies. And they went back and they didn't find them, and so the conclusion was they were basically out of their range, they were just passing through. None of them have been found. I have a copy of it. I would be happy to mail it.

Mrs. CHENOWETH. I would be very interested if you would like to do it.

Mr. VARGAS. I would like to mail it.

Mrs. CHENOWETH. Thank you very much.

Bruce, before we leave you, do you have anything else you would like to add?

Mr. KLINEKOLE. There was a poster that my friend—I am sorry, I have forgotten his name, I am real bad with names. That is how come they put this here in front of you. Anyway he had a little poster of Sitting Bull and of something that pertained that you promised us many things, and now you are trying to take it away; is that right?

Mrs. CHENOWETH. That's right. "The government has made us many promises." Sitting Bull said this to a joint session of the U.S.

House and Senate. Sitting Bull said it as he addressed that joint session. "The government has made us many promises and never kept but one. You promised to take our land, and you took it."

Mr. KLINEKOLE. I think that's my last comment, and I thank you for showing me that. I remember seeing, but I forgot all about it. There are some things that I see and hear, and this little guy up here can't comprehend them. And I thank everybody for being patient of what I have said, and hopefully I left with a good feeling with everybody. Thank you.

[Applause.]

Mrs. CHENOWETH. Thank you.

Ike, I have some questions for you, and then I will work my way back to Rob Luce.

You mentioned that there was one spotted owl that was killed, and that is the only one that has been brought forth in this area?

Mr. VARGAS. That has been captured and killed, yes.

Mrs. CHENOWETH. Have there been any sightings, or I guess they hoot from one another, and so there have been hearings and not sightings; is that right?

Mr. VARGAS. That is correct.

Mrs. CHENOWETH. Have there been any sightings at all?

Mr. VARGAS. Not that I am aware of.

One of the things that really bothers me about these endangered species, the hysteria that surrounds it, is that sometime back when we were logging the Villa Grande timber sale, there was a big to-do about the peregrine falcon being an endangered species, and if we see one, we are going to shut down your timber sale and so forth. It was very funny because about a week after that, I read a newspaper where there was a peregrine falcon nesting on the 10th floor in Kansas City, and now we are talking about—I guess maybe they could move out of Kansas City and make room for a habitat for peregrine falcons there, but those are the kinds of things that just don't make sense to us around here.

Mrs. CHENOWETH. It doesn't.

In your written testimony you talk about the assault on the customs and cultures and the traditions of this area by the extreme environmental groups. You made a comment in your oral statement that the extremists are giving environmental groups a bad name.

Mr. VARGAS. Well, I didn't finish that part of my testimony. I was trying to get to something that happened. There have been a number of what I consider to be true environmentalists, people like ourselves that have people in the equation. Some of these people have stepped forward and been very severely attacked by these fringe groups. One of the environmental folks that I wanted to mention, he is Professor Wilkerson from the Colorado School of Law, and he wrote a paper taking a stand demanding that Hispanic people who are forest-dependent have more access, so forests should be made to their benefit. He was immediately attacked nationwide by environmental centers and the National Wildlife Federation, and they tried to get him kicked off of that Board.

So when I read that article about McCarthyism, they were leaking the confidential forest documents to the environmentalists, it was very strange to me because I have seen the attacks they have

launched against their own people simply because they don't agree with them.

There is no democracy in environment, in the extreme environmental community, none at all. You cannot speak up, or you will be maligned. There is a lady in here who is also a nationally known environmentalist, and if she wants to speak, she can do so herself, but they sent e-mail all across the country accusing her of having a financial interest in our logging company here in Villacitos. It is just a whole lot of lies and vicious attacks that are engaged in by these groups.

Mrs. CHENOWETH. Do those environmentalists have a long history of living and working in this area?

Mr. VARGAS. Some do. Some do. As a matter of fact, some of the most rabid environmentalists that are now raised in Santa Fe actually lived in our villages here in northern New Mexico.

Mrs. CHENOWETH. How do they differ from the indigenous people that you have discussed in your oral and written testimony?

Mr. VARGAS. I think that most of them consider themselves to be superior to the locals. I believe that one of the reasons that they don't want to see large trees cut is because they consider them to be giants in the forest, and since they consider themselves to be giants among men, they want to preserve them.

That is kind of what I see coming from these people. They are very elitist. They look down on the locals. They think they are ignorant and dumb, and that is kind of the attitude most of these people have toward the locals.

Mrs. CHENOWETH. Do you sense they are very tolerant with the people?

Mr. VARGAS. I don't sense any tolerance whatsoever. In fact, when one of these environmentalists from the Forest Guardians was asked how he dealt with the Endangered Species Act and in the context of the cultural diversity in northern New Mexico, his response was that biocentrism and ecology have a higher level than any culture or any custom.

Mrs. CHENOWETH. Biocentricity of the ecology, can you define that?

Mr. VARGAS. No, I can't.

Mrs. CHENOWETH. Thank you, Ike. I really appreciate your contribution.

Max Cordova, your testimony pleads for people to be self-reliant. With the national forest and tribal lands producing more timber, what type of economic opportunities would be created to make citizens more self-reliant, and also could you state for the record the average annual income of these citizens in this county?

Mr. CORDOVA. When I look at the Forest Service, I look at the national forest, I look at opportunities to create economic development for our communities through all of the resources that the Forest Service has.

One of the most interesting problems that I see is that in Santa Fe, for example, they use more fuel wood for aesthetic value than we do to heat our homes, especially in Santa Fe where they have natural gas and electricity and a lot of those things.

Mrs. CHENOWETH. Aesthetic values like?

Mr. CORDOVA. Keep a little fireplace to create the atmosphere. Not necessary for——

Mrs. CHENOWETH. Ambiance.

Mr. CORDOVA. Yes. I do people's income taxes, and I am always surprised at how people survive. Our income, the income of most of the people that I do taxes for, is under $12,000.

Mrs. CHENOWETH. $12,000?

Mr. CORDOVA. There are some people living on incomes much lower than that, around $7,000. So as you can see, they can't afford butane, for example. The Federal Government has a program called Energy Assistance, and the people usually get a little bit of help in paying their electric bills or being able to buy a load of wood or stuff like that.

When we were engaged with environmental, one of the things they said was we needed better stoves, more weather ventilation and solar. It is fine and dandy, because where is it going to come from? I feel that we need to engage with the Federal Government and State government and the Forest Service in doing those things like putting more insulation in our homes.

Some of our stoves are pretty old, maybe 20 to 40 years old, but our idea is don't tell us what the problem is, help us find a solution to it. It doesn't take anybody to point out problems. It takes special people to find solutions. That is the only thing we ask. We ask to help us find solutions, Forest Service, environment groups and communities also.

Mrs. CHENOWETH. Solve their own problems rather than the problems created for them.

Mr. CORDOVA. Oh, yes.

Mrs. CHENOWETH. Thank you very much, Mr. Cordova.

Mr. Chacon, besides Mexican spotted owl, what other endangered species are causing conflicts in rural communities?

Mr. CHACON. The major concern we have is the willow flycatcher. There is concern, and it is about to impact several different allotments where willow flycatchers' habitat has been discovered and are listed. And essentially what is liable to happen is the removal of livestock from some of those areas. There has been some allotments in Taos County to the—just to the nearest neighbor here in Rio Arriba County, that will be directly affected by this, so resolution to the problem has not been discovered yet as to what will happen, but certainly if they are restricted from these areas here, certainly that will impact those, and the cattle are going to have to be removed.

Mrs. CHENOWETH. One of you, either Mr. Cordova or you, Gerald, have done some studying on the history of this area and history of law relating to this area where the Congress has dealt very specifically in the past with your rights, the rights that came into being even before New Mexico became a State. Do you have a pencil? I want you to note a Supreme Court decision entitled Sunol v. Hepburn. It was decided by the U.S. Supreme Court in 1850.

If you take that case and then start working up, it is a fascinating history, and there is so much strength that you do have in the law. The only problem is these people are being harassed enormously, and the resources are drying up, and they cannot compete

with the Federal Government, who has a never-ending resource of litigation and Federal lawyers they like to keep employed.

But I understand that. I understand your rights to petition. There are more and more Congressmen like your Congressman, Bill Redmond, who understand that. We are working together, and we are working very, very hard to be able to right the wrongs that have been made not by the law, not even necessarily by the Congress, but by assertion and lack of regard for your private property rights, rights that are antecedent.

So that is why that Supreme Court decision is so very interesting, and so work with that as a linchpin both up and back.

Rob Luce, it is so good to see you. It is so good to see another Idahoan. You know, it always amazes me that—what is absolutely clear and accurate to anyone, the difference between a well-managed forest and a forest that isn't managed at all, and how much better the forest health is in a well-managed forest, how people work better in well-managed forests than that forest that was not cared for.

Why do we keep seeing such a disconnect? In your experience, Rob, in working with the environmental community in this area, why do you think we see such a disconnect in reason and logic, what sight tells us?

Mr. LUCE. Well, for me it is difficult to see, because the contrast is so striking. What I have come up against—and I can use an example in southern Colorado to perhaps at least illustrate what is happening, but may not answer the question. We have a major private logging operation that is occurring near San Luis. Regularly that particular operation gets visited by a number of different environmental groups. Sometimes the encounters are not much more than sign-holding and name-calling, and other times it has escalated.

My feeling is that the people that are protesting and that have difficulty with that particular sale are not informed as to what is going on, and that they are under the impression from somewhere that clear-cutting is occurring, that mudslides and water degradation follow, and that logging needs to be stopped there.

We have attempted to use photographs. We have made offerings to take certain groups up there on the mountain to see what is going on. But it appears to me to be a situation where photographs and the actual physical site doesn't seem to matter. The fringe groups are ignoring science and won't even listen to their own experts that this is good logging and good forest practices. Apparently they are bent on the idea that they would rather see brown dirt after brown dirt and mudslide after mudslide.

Mrs. CHENOWETH. Rob, you mentioned that the Apache Reservation had an annual harvest of 450 to 100 million board feet, estimates of standing timber voluntarily of 100 billion board feet. How can this be in such an arid area as this?

Mr. LUCE. It is being managed well, to essentially log for 30 years and end up with what you started with.

Mrs. CHENOWETH. So they are logging according to what we are supposed to be logging, and the 90 percent of mortality, correct?

Mr. LUCE. Correct.

Mrs. CHENOWETH. And brings the sustained yield to what we see evidenced there, correct?

Mr. LUCE. That is also occurring in Mescalero there.

Mrs. CHENOWETH. Good work.

Well, gentlemen, I have learned a lot from you, and I know I've kept you a long time, but this is important, and we will be able to analyze it.

I would like to turn the mike back over to Congressman Redmond.

Mr. REDMOND. One of the things that I couldn't help but notice sitting in this historic building is that we have representatives from all three racial and ethnic groups working in harmony, and, Mayor, when we unveiled the stamp here 4 or 5 months ago, this is what we prayed for, a stamp of bringing all three cultures to address the issues we all face together. So I want to thank you all.

[Applause.]

Mrs. CHENOWETH. Gentlemen, thank you very much for your contributions.

I want to call to the witness table Jake Vigil, Tres Piedras Carson National Forest District of El Rito, New Mexico; John Horning, Executive Director, Forest Guardians, from Santa Fe, New Mexico; Kieran Suckling, Executive Director for the Southwest Center for Biological Diversity, Arizona; Caren Cowan, Executive Secretary, New Mexico Cattle Growers, Albuquerque, New Mexico; Gabe Estrada, rancher from Las Vegas, New Mexico; Palemon Martinez, Secretary, Northern New Mexico Stockmen's Association, from Valdez, New Mexico.

Is Kieran Suckling here?

So with that, if the witnesses will please stand and raise your right hands to be sworn.

[Witnesses sworn.]

Mrs. CHENOWETH. Mr. Jake Vigil, I understand you are going to give your testimony in Spanish?

Mr. VIGIL. It is not that I don't know English, but I would like to speak in Spanish, if you allow me to give it. It will be interpreted.

STATEMENT OF JAKE M. VIGIL, TRES PIEDRAS CARSON NATIONAL FOREST DISTRICT, EL RITO, NEW MEXICO

[Testimony was given in Spanish; English translation follows.]

Mr. VIGIL. Good afternoon. My name is Jake M. Vigil. I am representing the Tio Gordito Cattle Association. I want to thank the Subcommittee on Forests and Forest Health and Chairperson Chenoweth for allowing me the opportunity to testify to this oversight hearing. I would also like to thank Congressman Bill Redmond for bringing this important hearing to Española, New Mexico. It is my hope some good will come from my testimony.

Make no mistake, I love the forest dearly. I do not want to see it harmed in any way. At the same time, I do not want to see the destruction of our culture and customs.

Please forgive me, I am not an educated man. All of my life has been spent on making a living in the Carson National Forest in the Tres Piedras District raising sheep and cattle with my father.

It is important you understand that I know the forest and I know it very well. My family, the Vigils, settled Medanales in the early 1600's and tamed the tierra cimarrone, or wild lands. As a young boy my father would take me to the high sierras for summer to herd sheep. Those were the happiest days of my life. Sadly, over the years I have noticed a decline in the health of the forest, not because of sheep and cattle—years ago we grazed more livestock than they do today. But because of inappropriate Forest Service policies and the implementation of so-called environmental reforms, my beloved land is suffering.

We have bent over backward to work with the Forest Service. This year we have already given up 23 days of grazing time on our permits due to what was referred to as production decline. We may possibly lose up to another 30 to 60 days at the end of the season due to a policy called 40–60 utilization. This is a policy, derived from a formula dreamed up by the Forest Service and environmentalists behind closed doors, that dictates utilization of 40 percent of the forage, and 60 percent is left behind. Because of this ridiculous policy, 42 families will be affected, and 3,000 head of cattle will be forcibly removed from the Carson National Forest.

What I find interesting is that years ago we ran more livestock, and the forest looked better than it does today. I believe it is due to the fact that Forest Service has invested so much money fighting the environmentalists in court, and so little is left for range improvements. I can hardly blame the Forest Service for making deals with environmentalists. It is obviously cheaper to strike a deal than it is to fight someone in court. Unfortunately, the cheap way out is not good for forest health, and it will ultimately mean the end of the Hispano culture.

With me today are five pictures I want you to see. One will detail a grazed area, and the other is a nongrazed area. All of the pictures are taken from my ranch: Number 1 is a boundary fence between my Forest Service permit and private land. The one on the left side has never been grazed, and the right has had livestock on it since 1958. You will notice the right has many more different plants, while the left is nothing but sagebrush.

Number 2 and 3 are areas adjacent to each other. You will notice the abundant vegetation in photograph 2, while the space represented in photograph 3 could never support any livestock or wildlife or livestock whatsoever.

Picture number 4 demonstrates the vegetation left behind when we left this pasture in July 28, 1998. Number 5 is an area cattle and wildlife never go because of the canopy under which nothing grows.

I am always amazed that never once has an environmentalist consulted me or my neighbors, and certainly never has one asked to see our ranches. I might add, none of us has ever been invited to one of their meetings.

Environmentalists have the financial resources to try and make the forests into some idea of what they think the forests should look like. They do not realize grazing and logging are good for the land. As far as I am concerned, radical environmental groups are racist and are out to rid the forests of these Hispano by destroying our livelihood. The Forest Service, with approval from environ-

mental groups, spends millions of dollars each year to recover artifacts and restore ruins. I guess a culture has to be dead for 1,000 years before we try to save it.

Again, thank you for your invitation. I hope I have done some good.

[Applause.]

Mrs. CHENOWETH. Mr. Vigil, I do want to say please forgive me for not pronouncing your name properly. Being an English person that I am and Welsh, I just speak English and understand it better. But I do understand your heart, and that testimony and those pictures just spoke volumes to me. Thank you very much.

[The prepared statement of Mr. Vigil may be found at end of hearing.]

Mrs. CHENOWETH. Mr. Horning, before you testify, I want to thank the Forest Guardians for participating in this hearing rather than boycotting it. I really do appreciate you and have a great deal of respect for the fact that you would come and give your testimony. It indicates to me that you do have a desire to try to work things out, and so I look forward to your testimony, Mr. Horning.

STATEMENT OF JOHN HORNING, EXECUTIVE DIRECTOR, FOREST GUARDIANS, SANTA FE, NEW MEXICO

Mr. HORNING. Thank you, Chairwoman Chenoweth, Representative Redmond, good afternoon. My name is John Horning. I am a resident of Santa Fe, New Mexico, and I direct Forest Guardians Watershed Protection Program.

I have lived in Santa Fe and worked for Forest Guardians for 4 years. Like many people all over the Western United States, I am not originally from the West, I am not originally from New Mexico. I moved here from somewhere else. But regardless of where I am from, I am a deedholder, just like all of us, to the public land of New Mexico.

Although much of New Mexico is arid, we are still blessed with hundreds of miles of backwood streams and rivers. The Rio Guadalupe, the Rio Chalupas, these are some of the streams of northern New Mexico. I have walked and seen literally hundreds of river miles all over the State.

These streams and the forests that grow along them, riparian habitat, although they represent only about 1 percent of the land, are critical for all of us. The habitat grazing plan severely damaged these lands, degraded watersheds and rivers and clean water, and harmed fish and wildlife in the underlying areas for the willow flycatcher, the yellow cuckoo bird, the Rio Grande cutthroat trout, the lesser prairie chicken, the sage grouse. The list could go on and on. These are the animals that are on the brink of extinction primarily as a result of years and years of livestock grazing.

I don't want to dwell on this fact, but I will share one quote that is significant not because it highlights this long-standing problem, but because it highlights another more serious problem that I will address momentarily. This is from a report in the early 1990's: There are still millions of acres of land and thousands of miles of stream courses that remain in an unsatisfactory condition. Extreme site areas, instead of being lush grasses in the hot, dry desert, hot,

dry climate, are void of vegetation and frequently as dry as the upbrink.

This quote is from a report that never saw the light of day, suppressed because the Forest Service and/or the Livestock Industry conspired to hide the bitter and ugly truth in it.

For those of you who may wonder why Forest Guardians has resorted and continues to resort to litigation to address livestock grazing on public lands, the answer has to do with Federal land management and that they continually ignore their responsibility to manage the land with the interest of all of the American public in mind. The answer to why we resort to litigation is also in part because of Congressman Don Young's well-publicized recent letter to Forest Service officials and because of hearings like today. Both of these events communicate to the ranching community in particular that it can exist outside and above the law.

These events conspire to put the Western wildstock even more out of touch with the boundaries of the American public who want wildlife and clean water to be the highest priority of public lands. Hearings like these do nothing but communicate to the livestock industry the inevitable fact that it must change and accept that it will have a smaller piece and sometimes no piece of the pie on public lands. Instead they will search to reinforce the livestock industry pattern of denial that grazing creates environment and ecological problems.

Although the ranchers all over the West love to blame the environmental community for their financial woes, the bottom line is the moneys have always been small in the ranching business, even with a long list of Federal subsidies.

The real forces of changes are declining beef prices, declining consumer demand for beef and a real estate market that makes it questionable to raise livestock. As a result of these realities primarily, and not because of environmental organizations, many permittees are looking for ways to get out of the business.

I know that you may have many questions about recent litigation and its effects on permittees and how that came about. I will reserve any testimony about those matters and other matters for questions. I am definitely open to any sort of questions that anyone might have. Thank you for the opportunity to appear before you today.

Mrs. CHENOWETH. Thank you, Mr. Horning.

[The prepared statement of Mr. Horning may be found at end of hearing.]

Mrs. CHENOWETH. The Chair recognizes Caren Cowan.

STATEMENT OF CAREN COWAN, EXECUTIVE SECRETARY, NEW MEXICO CATTLE GROWERS, ALBUQUERQUE, NEW MEXICO

Ms. COWAN. Thank you, Chairwoman Chenoweth. We appreciate the opportunity, and we appreciate you taking the time out of your schedule to be here.

My name is Caren Cowan. I am the executive secretary of New Mexico Cattle Growers Association. I was asked here to address the settlement agreement and litigation that Mr. Horning just referred to. I feel I am in a unique position to discuss that because I was

the contact between the permittees and our attorneys, and I was involved intimately in what went on.

The Forest Service has said a lot of things about how the Livestock Growers Association chose not to enter into negotiations. That is a flat lie, and they can't even get their story straight. In this Washington Times article from yesterday, and I would appreciate it if the whole article was inserted into the record, Dave Stewart, the Forest Service's Acting Regional Director for Rangeland Management, said that "as for excluding the ranchers who held the grazing permits, it wasn't necessary to include them because they weren't directly involved in the lawsuit." So he here admitted that we weren't included in what went on. So for them to say we refused to participate, as I say, is an outright lie, and we are amazed that a Federal agency would take this kind of attack.

As far as putting people off the land, which Mr. Horning just referred to, I brought a couple of letters, and I made copies, if anybody's interested, from permittees who are being put off the land. The Forest Service persists in telling the media and public they are not putting people off the land, they are doing it voluntarily. Sure, they are doing it voluntarily, because they have been cut off water, and we are not cruel and inhumane people. If we can't provide for our livestock, if we can't provide the food and water they need, we are going to do something else. So when you take our water away and then say that we voluntarily moved, I think we are talking about another lie.

I had one gentlemen call me late yesterday afternoon and say, I can't come, but would you ask them what I am supposed to do with 250 cattle that I have no place to go with come September 15? We can't warehouse our livestock. We can't stack them up for 30 or 40 days until we can find a place for them.

In addition, the way that the Forest Service is doing a lot of these things, like Mr. Vigil referred to, they are circumventing the people's rights. Instead of giving documents that are appealable toward telling people, directing them to do what the Forest Service deems necessary, they are going out and giving them letters and asking them to voluntarily do things. The permittees are unaware that if they voluntarily do those things, they have given up their rights. They have no right to appeal, and I feel it offensive that our Federal Government is persisting in this kind of behavior.

You asked a while ago where the disconnect was between the realities of the folks that we see and the land that we live on and the radical environmentalists. The disconnect is what their agenda is. The agenda has nothing to do with what is going on. I guess statements that have been in the press lately clearly state that Mr. Charion suggesting that one endangered species was worth a thousand ranchers.

John Talberth from the Forest Guardians said on KAFE Radio about a month ago that cattle are exotic pets and are nothing of value to the State of New Mexico.

This morning I was in a forest health roundtable, and a Sierra Club member said he would rather see forests burn than logging and cattle grazing.

So let's see what the real agenda is, and we can compare it to overall agenda as like the black helicopters in the news this morning.

What is the agenda? I have a document here that states that in mid-1997, the U.S. Forest Service presented to the Wildland Project a conceptual proposal to reduce livestock and land conflicts. What is a government agency doing submitting anything to the Wildland Project? Where has Congress or anyone condoned the Wildland Project agenda between any of these items or regulations that our Congress has never dealt with? This is something else we find offensive.

We look at the funding that is going on here. We have been funding our litigation, and it has cost of tens of thousands of dollars to have the Director of Range tell us that we weren't included to participate in these hearings and litigation. We are raising that money through bake sales, dances, and ropings. The computer doesn't even know what a roping is when you spellcheck through. But we found that the Pew Foundation has dumped $675 million into the Southwest in the last 3 years for litigation. We would like to know how much the Forest Guardians and the Southwest Center will take after the settlement agreement was reached in Tucson in the back room.

In conclusion, we keep hearing that ranchers haven't changed. We had a meeting 2 months ago. Virtually the first words out of her mouth were that you cowboys can't do things the way you did 80 years ago. None of us do things the way we used to 80 years ago. The Forest Service doesn't, and we don't.

I would submit to you that I am living proof that the cowboys have changed. Eighty years ago, 50 years ago, 20 years ago, 5 years ago there wouldn't have been somebody in a skirt telling you about this today. Thank you.

[Applause.]

[The prepared statement of Ms. Cowan may be found at end of hearing.]

Ms. CHENOWETH. The Chair recognizes Gabe Estrada.

STATEMENT OF GABE ESTRADA, RANCHER, LAS VEGAS, NEW MEXICO

Mr. ESTRADA. I don't think she left anything for me to say.

Chairwoman Chenoweth, Congressman Redmond, we deeply thank you for bringing Washington to New Mexico, northern New Mexico specifically. I have been to Washington and have addressed committees trying to tell our story of what happens on the ground. And here we are really blessed today, and I am sure the people behind us are happy to see that Washington came to us, we didn't have to go to Washington. And we thank you both for setting up the meeting and for being here and bearing with us on the problems that face our northern New Mexico culture and heritage, our born people.

[Applause.]

Mr. ESTRADA. One of the subjects that was mentioned was our private property rights. I have to take my hat off to Mr. Redmond. He replaced the person that went to Washington with a perfect record that was a goose egg. Ray felt we didn't need support. Yet

as was mentioned before in the prior panel, most or over 20 some percent of our grant lands are in Carson and Santa Fe National Forests, and our people have rights to those lands, not a privilege. We don't normally have rights to the private land, but we have rights to the public land. We need to have those rights preserved because that is what our people stand for.

The treaty of Guadalupe Hidalgo has been abused. It is probably sitting collecting dust under piles of other documents. We cannot understand why the Clean Water Act, the Endangered Species Act, the Clean Air Act so precede the rights of New Mexico, so precede the rights of Americans on these issues that we have a right to.

These are Johnny-come-lately rights. We have been here for 400 years. Some of us have farmed that land, the same piece of land, for all of these years and are still producing a crop. We used to be forest. Or I guess our responsibility was to support 50 people as farmers because the towns and communities were very small. Today, according to our census people, that figure has two more zeros in back of it.

We are less than 2 percent of the population, and we still have the best supply of food, the cheapest supply of food. The environmentalists have done nothing to let us know that we are producing good quality food on less land and that there is a lot of spirits that are doing a lot of that work. They not only put their working gloves on, but we had to take our chaps off and go to work, and we are still doing a great job. And these people behind me are proven fact and shining examples that all of those bald heads are raising kids and grandkids and great-grandkids, and we want that culture and heritage to stand forever.

[Applause.]

The northern New Mexico policy was made back in 1969, stating that because of the Carson and the Santa Fe National Forest our lands were taken and fenced in, you might say, into the forest land. So they gave supposedly special privileges to the northern New Mexico people. It took 23 years for that document to surface, and I am the one that found it by mistake sitting in a file in the regional office that nobody had ever told us about.

I have been a permittee for over 23 years when I found this document and knew nothing about it. People made this treaty, just like the Guadalupe Hidalgo, and somebody has made a very good effort to keep it hidden and keep our rights. We have a right to this. They aren't privileges.

People in the Forest Service have told us that it has been a privilege for them to work for us, and people, I want you to know that any public employee belongs to us. We don't belong to them. This is our right and they work for us, and I think they need to hear that over and over again so they will work for us.

We are talking about riparian areas. The environmental community has griped, complained, filed lawsuits. Why don't they take care of the whole body. We need to take care of our water first and then take care of our riparian areas.

We have so many trees per acre that we need to do away with. We can utilize them, we can turn them into cash, we can turn them into houses, we can turn them into paper, do what is needed to be done with them, but we need to do it.

The riparian areas that we are talking about that carry the streams and flows are being reduced. This is the truth, and I am glad somebody brought it to our attention, but it isn't the cattle that have brought those riparian areas to a trickle. It is the number of excessive trees because of Smoky the Bear which suppressed so many fires that we cannot—we do not have the moisture to grow 1,000 to 1,500 trees per acre.

There was a study made on pine and juniper down here by Mountainair that our rainfall could only sustain, mind you, Congresswoman, 200 trees per acre. A pinon, which is an evergreen, we have over 500 per acre. We have over 1500 trees per acre and the canopy cover in the forest that is killing everything.

I made a comment to Dan Glickman, which I made is 16 years ago, that the trees were killing our forests. We are just having too many trees, suppressing too many fires. Today it is reality. I think you heard from the gentleman sitting in my chair. You heard from the gentleman from the Mescalero Apache Reservation. We have to think and we have to cultivate the forests. I don't care if it is wilderness outside of wilderness, private or whatever. They cannot take care of themselves because of the disease, decay, overcrowding, lack of moisture. One glass of water wouldn't fill the stomachs of everyone in this room, yet that is all the water we have for trees and we need to take care of it.

The other thing that I think government is the steward of this land. We are the guardians of the land. But we should come first. I don't know of the hundreds of endangered species that have been brought up here today. I don't know how to preserve every bird. Where in the hell do we stop?

[Applause.]

I just wanted to close on this one. We have some great programs, the Maintenance Program that was a long range program to help district water for wildlife, for species, for livestock, for human beings. That was killed by Congress. We also had the SCS Program and that was a separate project program. You could apply to build the preliminary for fencing, you could apply for pinon, juniper. It was a very effective program.

We need those various programs back, and all of this was done to put the world—we still treat the land the same, we still do the practices the same. All we need is around five feet more of paperwork to do. Thank you. We really appreciate you being here.

[The prepared statement of Mr. Estrada may be found at end of hearing.]

Mrs. CHENOWETH. Thank you.

The Chair recognizes Palemon Martinez.

STATEMENT OF PALEMON MARTINEZ, SECRETARY, NORTHERN NEW MEXICO STOCKMEN'S ASSOCIATION

Chairwoman Chenoweth and Congressman Redmond, your Subcommittee on Forests and Forest Health in Española and northern New Mexico is greatly appreciated. We are an area of limited financial resources and this approach gives us an opportunity to present our viewpoints. We also appreciate the sensitivity of Congressman Bill Redmond to arrange this hearing.

I am the Secretary-Treasurer of the Northern New Mexico Stockmen's Association and a grazing permittee on two allotments in north central New Mexico. My family has been involved in farming and ranching since Spanish settlement in this area and have dealt with agricultural and land management since their inception. I have been a part of this all my life.

I would first like to point out an issue along with the research document that can give you an excellent overview of northern New Mexico and its historical and inherent problems. Our Northern New Mexico Stockmen's Association, feeling the various Federal initiatives, policies and regulations along with the entry of the legally inclined and well-funded environmental organizations, was prompted to consider, "Do we have any rights on the use of public land, rights we always felt were inherent to our area and culture?" We had to find out. To do so, we contracted with Dr. Michael C. Meyer, Ph.D, a noted University of Arizona historian in Southwestern and Mexican history.

This year Dr. Meyer has completed his research entitled, "The Contemporary Significance of the Treaty of Guadalupe Hidalgo to Land Use Issues in northern New Mexico." I have copies of which I will make part of the record for you.

This is a revealing legal and historical perspective of the common land uses under Spain and Mexican law and subsequently under United States jurisdiction. We are providing a copy of the research publication for the record.

I would like to make the following observations:

The text is informative, interesting and relevant to discussion of northern New Mexico land use issues.

The Treaty of Guadalupe Hidalgo of 1848 raises some fundamental issues of property protected for Mexican citizens and their successors in interest in New Mexico as well as the other treaty states.

If treaties, as provided by the U.S. Constitution, Article VI, Section 2, are to be honored as if the treaties were the Constitution itself, how then does the Treaty of Guadalupe Hidalgo apply to the protection of property rights concerning our contemporary land use issues? Can more recent Federal laws such as Endangered Species Act, Clean Water Act and others supersede the treaty protections, or are there other avenues? How does Article V apply to property rights and takings issues on either a historical or on current situations? Are these treaty issues similar to those of Native Americans as protected and researched by the U.S. Indian Claims Commission? We were all considered Mexican citizens at the time of the signing of Treaty of Guadalupe Hidalgo. Do we merit the same considerations?

To not belabor the research report, I would last call your attention to the section on "Conclusions and Recommendations," pages 82–90. Although Congressman Redmond's Land Grant bill addresses some of these issues, we recommend Congressional review of the above cited recommendations as relate to all the natural resources, land and water, along with the significance to issues related to today's hearing.

We would like to call the Subcommittee's attention to certain Federal Land Management Agency policies:

The U.S. Forest Service, Southwest Region, adopted a northern New Mexico policy in 1969. This was done because of our situation and uniqueness. We felt this was a positive action and we recently recommended this policy continuation to Southwest Regional Forester Towns, and was seemingly well received. We understand this policy was also recommended by the Carson and Santa Fe National Forests. We also heard that although recommended, the legal reviews by higher level legal staff rejected the policy and that policy could not be different than elsewhere. What if we called it northern New Mexico philosophy? The key is the approach and sensitivity to custom and culture, as the case may be.

Grazing Advisory Committees were part of the operational norm and were abolished. Every other institution operates under similar fashion. We recommend reinstitution of these committees to improve resource management. A worse evil is moving all resource management to the courts. We believe that is the wrong approach to the problems as well as to public land users. The exception may be those direct beneficiaries who are on the litigant payroll.

Range management improvements and conservation supported by Congress and the USFS in the 1950's, 1960's and 1970's. This was a needed effort with excellent results. We need those programs reinstated. We believe there would be greater public support for Federal fund expenditures for these programs than for the legal arena.

Thank you for the opportunity to present this testimony before your Subcommittee.

[The prepared statement of Mr. Martinez may be found at end of hearing.]

Mrs. CHENOWETH. Thank you very much, Mr. Martinez.

The Chair yields to Mr. Redmond for his questions.

Mr. REDMOND. Thank you, Mr. Chairman.

My first question is to Mr. Estrada. You said you found a document that would shed light on what—could you identify that document for us, please?

Mr. ESTRADA. It is a northern New Mexico policy for the Carson and Santa Fe National Forest. It should be on the top handout in every Forest Service office in the country up here in the North, but they kept it pretty well hidden.

Mr. REDMOND. Can you give me the date on that document?

Mr. ESTRADA. 1969.

Mr. REDMOND. I would like to ask Mr. Vigil, how has the 40–60 utilization policy affected your operation and your family?

Mr. VIGIL. It has affected us greatly. We were told we might have to get out the first of September, and my living room is not big enough to put them in there. If the Forest Service would like to see the prices of cows right now. If I get the same amount of cows next year, the replacement would be extra dollars. So I don't have to take a pay loss. Do you get what I am saying?

Mr. REDMOND. What was the rationale for further limiting the number of days?

Mr. VIGIL. Well, the grass, as I showed you on that picture, Picture 3, grass that was on that specific unit when they made us move to our next unit. The next unit had 60 days and now they said they are going to give us 30 days, so that would put us the

first of September. I haven't heard anything in writing yet, but I probably will soon.

Mr. REDMOND. I would like to see a show of hands of people who are in the same situation as Mr. Vigil.

[Audience raises hands.]

Mr. REDMOND. About a dozen or so. Of those of you who raised your hands, would you write and document for us the original agreement and then how many days you have lost, and please forward that to my office? In a moment my staff people will pass a card to you and I would like to submit that in the record.

Mr. VIGIL. This will have to be done soon now because it is coming up here, it is a week or two away from it and what to do? If we go to court, will they kick us out next year? We are between a rock and a hard place.

Mr. REDMOND. The Chairwoman and I will meet following this meeting and we will discuss what the options are.

Mr. VIGIL. Thank you.

Ms. COWAN. That is what they are—they have not been given a formal decision document so they have nothing to appeal, they have no way to protect their rights. So we have got to get the formal decision document and not find them in—wait for that documentation and the process to work, because if these guys do what the Forest Service is telling them to do, they have lost their rights.

Mr. REDMOND. So this would be an example of circumventing the rights of the permittees, as you mentioned earlier?

Ms. COWAN. Absolutely.

Mr. REDMOND. Mr. Horning, could you give an example—I know there are some in regard to the livestock being outside the law in the use of Federal and U.S. Forest Service land?

Mr. HORNING. Yes, trespass, grazing outside the terms and conditions of permits. It happens all the time. Enclosures, areas that were built to protect streams, wetland springs, allowing cows or cows ending up in areas that are intended to be excluded from grazing. In my experience, violations of the terms and conditions of grazing permits are fairly routine.

Mr. REDMOND. Well, one of the things I wanted to clarify, and if you could—if you are unable to, maybe at a future time could you submit documentation from Forest Guardians, but in your tend of public lands, there is approximately a million and a half acres in New Mexico, mostly northern New Mexico, that were Hispanic land grants and honored by the New Mexico government and also by the Treaty of Guadalupe Hidalgo.

In defining community use, the Spanish law was very clear that you could use the term, the deed holders of the land, as being the American public, from sea to shining sea. But in Spanish law, the community land was very clearly defined to be only those original grantee families.

So, for instance, you could be a member and share in the public use of the Soleto land grant, but if you lived in Soleto, you had no rights in the Anton Chico land grant. So in one sense it was community, but it was community only to those original families.

And, of course, this land is now in the hands of the Federal Government. Does the Forest Guardians recognize the distinction be-

tween, as you said, deed holder for the public, that in this case the public is limited only to those original families?

Mr. HORNING. Well, until I see something to the contrary, it is our feeling that the public lands of northern New Mexico, be they in the Carson or Santa Fe National Forests, are no different from any public lands in the rest of the State. I have seen nothing to contradict that. The dots on the map show the land in northern New Mexico is the same color as on other parts of the State. You know, they are national forests, so until I see something that would make me believe that there is a contradiction there, they are public land and that is how we will continue to view them.

Mr. REDMOND. Are you speaking on behalf of Forest Guardians or on behalf of yourself?

Mr. HORNING. We have no formal policy that is at least written up. At that point I am speaking for myself.

Mr. REDMOND. OK, that is all the questions I have.

Mrs. CHENOWETH. The colors on the map? That is the sum total of your understanding of this law? Come on, Mr. Horning.

[Applause.]

The colors on the map? You are a bright man, obviously you are. Don't insult this Committee and this hearing. What is your sum understanding of land grant issues?

Mr. HORNING. What I was trying to convey is that it is a fairly simple understanding. Public lands in northern New Mexico, in my mind, are no different than the public lands of other parts of the Southwest. There is a Federal Land Management Agency that has been given the authority and responsibility to manage other lands with the American public in mind. And I have seen the northern New Mexico policy, I have seen a draft that has changed and updated and was dated 1997, but in my opinion, the lands of southern Colorado, northern New Mexico are no different from the public lands of Idaho.

Mrs. CHENOWETH. Have you ever heard of Kearney's Code (sic) or have you ever read the Treaty of Guadalupe Hidalgo?

Mr. HORNING. No, I have not.

Mrs. CHENOWETH. You ought to read it sometime. I have read it, but I can't speak it. Have you ever studied the Land Treaty Act?

Mr. HORNING. No, I have not.

Mrs. CHENOWETH. Or the Taylor Grazing Act.

Mr. HORNING. I studied the Taylor Grazing Act, yes.

Mrs. CHENOWETH. I would really like it if you would study that whole series of land law, because you see, I would like to believe that you want to do more than create conflict, and I could sense there was an awful lot of conflict from your frame of reference to our ranchers and loggers and the people who have been historically tied to this land. I would like to believe that because I think you are a bright man.

Mr. HORNING. Is that a question?

Mrs. CHENOWETH. Would you study those laws? Would you take time to look into the history of the land law of this area?

Mr. HORNING. You know, I think the real important issue is that I believe the land should be managed with an eye toward protecting all creatures, with an eye toward insuring that there be a clean

and renewable and reliable source of water, and right now that is not the case in northern New Mexico and public lands.

That is what I am most concerned about. Until those issues are resolved, we will continue to play an active role in the management of public lands in northern New Mexico.

Mrs. CHENOWETH. How long have you been here in this area?

Mr. HORNING. As I said in my testimony, 4 years.

Mrs. CHENOWETH. Where did you live before you came here?

Mr. HORNING. Washington DC.

Mrs. CHENOWETH. Who did you work for there?

Mr. HORNING. I worked for the National Wildlife Federation.

Mrs. CHENOWETH. Are you being paid by the Forest Guardians, is that your employer, or the National Wildlife Federation?

Mr. HORNING. No, I am employed by the Forest Guardians currently, yes.

Mrs. CHENOWETH. Have you ever missed a paycheck?

Mr. HORNING. Yes, actually I have. Despite what everyone here might think, we don't make a lot of money.

Mrs. CHENOWETH. I want to ask Mr. Vigil a question, and I want you to hear what I am asking him because he mentioned in his testimony that in the area that you have grazed, Mr. Vigil, you used to have a lot more livestock?

Mr. VIGIL. Yes, we did.

Mrs. CHENOWETH. And you testified under oath that the allotment was in better shape when there was more livestock there. How could that be?

Mr. VIGIL. Well, all of this moneys—last year—let me brief you on this—last year I was told they only had $10,000 for their whole district in Carson. $10,000, mind you, that doesn't even buy the gas for their vehicles that they have, but yet they are doing all of this research or paperwork. These guys have a lot of time. They keep grinding the paperwork out and just take time and money and a lot of paperwork for these guys, and all of these moneys are going for that purpose, to fight these guys.

Mrs. CHENOWETH. So it has actually caused a deterioration?

Mr. VIGIL. Yes.

Mrs. CHENOWETH. Mr. Horning, in the last panel we heard that the White Mountain Apache Reservation has maintained inventory on their land of 30 board feet inventory after 30 years of annual harvest of 50 board feet annually. Would you call this a sustainable forest practice? Isn't that the most desirable practice?

Mr. HORNING. I have never seen the forest, never been in the Mescalero reservation, except riding through it on roads. I do know that the Mexican spotted owl occurs throughout the Sacramento Mountains of southeast and central New Mexico, and biologists who study it and who know the Mexican spotted owl quite well are very concerned about logging practices on the Mescalero Apache Reservation and how they are affecting the viability of the Mexican spotted owl.

But like I said, I have never been to the reservation except for driving through it, so it would really be inappropriate for me to comment on whether or not the practices there are sustainable. Like I said, there are concerns that biologists have expressed about

whether or not the Mexican spotted owl is being adequately protected.

Mrs. CHENOWETH. I would have to venture to guess—I mean that is honest testimony from you—that you don't—that you shouldn't venture a guess, but I would have to guess that you have a Master's or a Doctorate Degree?

Mr. HORNING. No, I have a Bachelor of Arts Degree from a school in Colorado. Bachelor of Arts in history.

Mrs. CHENOWETH. Bachelor of Arts in history. What was your major?

Mr. HORNING. History, American history.

Mrs. CHENOWETH. Interesting. So I think that the reading assignment I gave you will interest you a lot. I am not going to ask you for a term paper or a thesis, but I really hope I can discuss this with you in the future, because it is a very exiting piece of history, the land laws here. And I think what a lot of people feel is that people who come in from the outside come in with a hostility toward the people and the culture who are here, and I think that these people here are very——

[Applause.]

Caren, what is the status of your group's litigation against the Forest Service settlement agreement?

Ms. COWAN. We have a—I may be talking out of line since I haven't seen the lawyers since yesterday. There should have been a suit filed yesterday in individual permittees' names against the settlement agreement because it violates a wide variety of laws, including the Administrative Procedures Act in addition to the Forest Service's own policy.

We have worked with permittees from both Arizona and New Mexico since April to protect their rights to file the appeal, and then asking for stays. All of the stays are being denied. We expect that those appeals will be denied and so we have to protect their interests and protect the rural families of New Mexico.

Mrs. CHENOWETH. Thank you.

Gabe Estrada, in responding to a request by my Chairman Don Young, who asked that the Forest Service find out about which environmental groups its employees belong to, Mr. Eric Nest (sic) from New Mexico stated, if they have got this raging conflict with regards to the response to ranching request, if they have got this raging conflict of interest, they should recuse themselves. The judges and Congressmen do it all the time, why shouldn't they? How do you feel about this?

Mr. ESTRADA. First of all, Chairwoman, we have a deep interest in our land. We live by the land. Our interest lies deeper than a paycheck. You stop the paycheck to any Federal Forest Service employee and see how deep their interest is. They are gone. We have them inside the government. This is the problem we have.

In our particular district, we had a lady that was brought in from New York as a ranger. Her background was in recreation. What business did she have in trying to manage range, forests and all of the multiple resources that are in the Forest Service's district?

Man, this lady, and I know there are a lot of ladies that fall into and are totally qualified to do what they are doing. I have one right

on my right here. I have a lady of 50 years of marriage sitting here that is one of the original settlers in this country. There are a lot of qualified women, but we got one that wasn't qualified.

We have had to go through the appeal process all the way to the regional office. We won because of the lack of knowledge that this person had. She denied and defied that grass was vegetative cover. She wanted 85 percent canopy cover on every inch of land.

These are the problems that we have and it isn't so much that we are suffering. I think Mr. Vigil's testimony, he used to have a lot more cattle, a lot more sheep, but those meadows and those ranges have been closed in by trees to where now we have to grow the grass up high in the air instead of having it on the ground, covering the ground.

We need to get rid of our canopy cover. We need to thin down trees, we need to make more quantity of water, and by having grass on the ground, God made grass to be the filter of water to filter these streams. These streams will purify themselves, as you know, but we need the water to go in before it can purify.

Our belief is that if we take care of the land, the land will take care of us, and that is why we have wildflowers, and that is the way we are bringing up our children, and the Forest Service needs to hire the qualified people to do the job that they are supposed to do. Don't send us unqualified people.

I don't mean for the Hispanic or woman to be placed in a position to fail, ma'am, because they are not qualified for it. It gives us a black eye, it gives everybody a black eye. Consequently in our district for 4 years we have regressed 50 years back.

Just to give you an example, I cooperated with the Forest Service and moved my permit from the area that produces water for the city so that we could leave some fuel for Forest Service prescribed burning. I went from 15 miles, getting to my permit to 85 miles, stayed there, and it cost me a lot to do so.

When I left, they didn't burn one tree or one inch. Consequently, we have got more trees, more growth. We didn't add anything to what is supposed to be a cooperative plan. But the Forest Service people do with permits or used to do, because of our agreement I hope to get us residents, they would bring a sheet of paper and then they say OK, you start on May 1, you start with so many cattle, you have placed all here and there, you maintain this fence, you give us a check for the amount of money that is due and you come out on a certain date. Is that a cooperative agreement? That is dictation. We stopped that.

Then we sat down and we said this is what we need. We need a recreation system, we need this, we need that. You control the elk, which is a tremendously big problem in northern New Mexico, and they just go ahead of our rotation system.

Mrs. CHENOWETH. Mr. Estrada, let me ask you, are elk indigenous to this area; were the elk here 400 years ago?

Mr. ESTRADA. I am not old, but I don't remember seeing elk in those days.

Mrs. CHENOWETH. That is another very interesting legal question.

Mr. ESTRADA. Let me give you an example. A lot of people don't know. I am on—my permit is 90 days. I can take a cow that weighs

900 pounds, maybe lighter, but average weight of 900 pounds of cow. She will consume in the neighborhood of 3,600 pounds of fuel if she is there 130 days. An elk that weighs 600, and my neighbors behind me know this, they stay on the land 365 days a year. They are consuming 6,600 pounds, more than double. And the Forest Service doesn't have any control on the elk.

It is the New Mexico Fish and Game Department who sells licenses and that is the only control they have. And out of this room, if ten people kill an elk, that is too many. The population is just overrunning everything and the few meadows that are left in the forest are being overrun by wildlife.

They don't provide any salt. You should see the ground. When a block of salt stays behind, when you move the cattle out, they will eat the salt and eat the dirt where that salt saturated into the dirt three feet deep. Not the environmentalists, the Game Department, the Forest Service, the permittees are the ones that are stewards of those elk also, but we have no control over them either.

Mrs. CHENOWETH. Thank you, Mr. Estrada. Right now I am going to yield back to Representative Redmond for any further questions that he might have.

Mr. REDMOND. I only have one question with regard to the elk, Mr. Estrada. I am not an elk hunter, I will admit that. Would it be possible for us to speak with the State wildlife services who have the jurisdiction over the elk, and is it feasible for us to adjust the policy to increase the number of permits for the ranchers, the farmers so that that would compensate them for the forests that they are losing?

Mr. ESTRADA. That would be a great beginning. That is only the start. You take a limited resource farmer, Mr. Redmond, and he has a small place, say 300 acres. Here he plants and harvests and irrigates. These elk come at night and they clean him up overnight and leave. He cannot sell a permit to you if you wanted to buy one because that elk isn't on his property when daylight comes. It came and rocked the land and took off into the woods, and it is on the public lands. That is just the beginning.

They need to sell two or three cow elk permits to permittees who utilize the resources of elk meat, and thin it down. Right now if you ask the Fish and Game people, they want to allow five bulls—I mean, one bull for every five cows. That is unthinkable. That is what is happening right now. We have so many areas that nobody ever—they walk in, spend a week there, walk out and they don't harvest any elk.

Mr. REDMOND. I have no jurisdiction over the State of New Mexico in terms of elk permits, but it seems to me that if it appears that in certain areas of the State if there is overpopulation of elk and if they are utilizing the forage that individuals are paying for either through the permits or through private land, it just seems to me there needs to be some kind of compensation, where we can balance an environmentally safe balance where we can thin the elk herd as well and be fair with the local residents.

Mr. ESTRADA. That would be a great recommendation, but I feel that the elk are not only destroying the deer population. I have been in the Mora Valley where they had six or eight barrels of hay and overnight herds of over 1,000 head just level the stock fence

and it is all done. So there is more cost and damage. You can't hardly put up a fence to hold elk. They will just make like an elephant and walk through it and go on through.

Mr. REDMOND. You said that was the beginning. Could you recommend to me what a more in-depth elk policy would be?

Mr. ESTRADA. They need to issue out more licenses. Most of the license that they have have been for male elk. I don't know if they are bull or the other sports allow them to kill females, but we need to reduce the population for the survival of all of them. There are areas that in the springtime some people go collecting antlers. I know a lot of them are still on the bodies that died because of starvation. This is awful that they have to die that way. If they were harvested, the rest of the population could survive. But we need to thin them down because of the forests.

Mr. REDMOND. Thank you, Mr. Estrada.

Mrs. CHENOWETH. I want to thank this panel for being here. I have many, many more questions. We had a hearing in Washington where we did ask questions about the lawsuit, and I do want to stay in close touch with you in regard to how the lawsuit is proceeding. I am personally very interested in that. I have learned a lot from you and I want to thank you very much, all of you, for being here.

And at this time now we will excuse this panel and now we will go to the open mike.

[Applause.]

Mrs. CHENOWETH. I will call the witnesses to the microphone, and if they are allotted 2 minutes for each individual. The first five be prepared to come up.

The first one is David Cordova. The second one is Sylvia Allen. The third one is Jimmie Hall. The fourth one is Bill Wright. And the fifth one is Charlie Chacon.

STATEMENT OF DAVID CORDOVA

Mr. CORDOVA. Chairwoman, Councilman, I am from Truchas, New Mexico. My father is Max Cordova, who just spoke before you here today.

I want to tell you first my family history. We have been in New Mexico for nine generations. The way me and my dad think of the land is we think of the land as we are taking from the land as far as we are in it right now. This is not something that we think is going leave once we are gone. This is something that I am going give to my kids, my grandkids and their kids are going to have.

There is no way in the world—when we speak of environmental—there is no way in the world that I think that any one person can come into this room and tell you that they are more environmental than we are.

I have hunted in the area. I killed my first elk when I was 10 years old. I broke my first horse in area. I see forests on an everyday basis. I live for the forest. Basically we live in the forest. For me it is not something as simple as looking at a piece of paper and saying, oh, I think I am going to save the forest today.

When there were forest fires in New Mexico about 3 years ago, I was one of 60 to 70 volunteers from the community that went up and fought the forest fire. We called environmental groups and we

asked them come up and help us fight the forest fire. Not one person did. Not one helped out with water, not one helped with food or drinks or anything.

We had a gentleman that was—he lost his leg in Vietnam. That man is more environmental than what I think any environmentalist from New York or California or anyplace else.

The New York Times has done some ads on Truchas, New Mexico, and they have come in several times and some of the ads have come out in the New York Times.

I saw an ad about 3 years ago from the Forest Guardians, basically, that had a bunch of tree stumps, that is all they had was a bunch of tree stumps, and they were appealing for funding. And they said this is northern New Mexico. And what that ad basically said is what we need for those people is we need to save them from themselves because they don't know what they are doing.

We have been here for hundreds of years and this land has been the same. What has happened out there is people have gone out there and ruined the rest of the United States in regards to cities and whatever and what they are doing and then they want to come to New Mexico because we haven't changed it. And then they say they should save the land from themselves.

We don't want any help. We are not willingly going to go out there and destroy our land. That is stupid. Where are we going to be in 5 years? We care about the land. I am not being paid anything to say that I am being paid for this land or anything. I have affected some of the funding for some of these people because I have gone out there and have gone and seen the community point of view. And I think it is. I am getting tired that nobody is listening to the community. We need to have people listen to the community because the problem out here is the people here. We are more environmental than a lot of other people out there, and we need to be heard and listened to.

Thank you, ma'am.

Mrs. CHENOWETH. Thank you.

STATEMENT OF SYLVIA ALLEN, ARIZONA-NEW MEXICO FIELD DIRECTOR, PEOPLE FOR THE USA

Ms. ALLEN. Good afternoon, Madam Chairwoman and Congressman Bill Redmond. Thank you for this opportunity. I am Sylvia Allen, the Arizona and New Mexico Field Director for People for the USA.

For over 7 years I have watched this big debate over the Mexican spotted owl. I was at some of the first hearings that were held. We packed the auditorium of over 3,000 people, and everyone in that group asked that the Mexican spotted owl not be listed.

Some of the questions that were asked that night is what sort of science is being used to list the owl. When we asked how many owls were here 20 years ago the representative said, we don't know. When we asked how many owls are needed for a viable population, they would say we don't know, and yet my own family was harmed by this.

My brother was part-owner in Precise Pine and Timber. He used to move over $20 million a year. Now they are just hanging on with

their fingernails. I want to submit to you his letter and his company.

[The information referred to may be found at end of hearing.]

Ms. ALLEN. Also there used to be a lot of families that used to work for his company, so you can understand what has happened to some of these families. One is a young man who last year wrote an article, educational paper, and he told about his family and his heritage growing up in the woods. It is a wonderful letter and I hope you will be able to read it.

The other one is a family who I have been friends with for over 32 years. When this happened in 1995, and the forests were shut down, many families were forced to have to move away or find other jobs, and many did. He looked for work in Colorado and Utah, and 11 months ago he was killed in a logging accident in Utah. His family was put through so much stress when he could have worked right in our own home state.

My opinion is that people, their very souls are being hurt. When we can no longer plan, dream, work, imagine, use and be able to make our livelihood in a way that we want to, I think what is the most important question here is what is happening to American's birthright, which is freedom? What are we doing to that?

When we get together and we do forest round tables, and I have done some of these, nobody ever stands up and talks about the inalienable rights of the people, it is who owns the contracts. And people who are there at those events, these are not scientists, they are using emotions, misinformation, half truths and lies. By the way, these were the people who were hired by the Forest Service to do the owl surveys. Now this shows you what kind of science we were dealing with. They were not biologists.

Thank you.

Mrs. CHENOWETH. I want to take care of a little bit of business before I call on Jimmie Hall. I do want to say without objection that Palemon Martinez' testimony is entered into the record.

Very well then, Jimmie Hall.

STATEMENT OF JIMMIE HALL, PRESIDENT, PRODUCTION CREDIT ASSOCIATION OF NEW MEXICO

Mr. HALL. Thank you, Madam Chairwoman, Representative Redmond. My name is Jimmie Hall, and I am President of PCA of New Mexico. It is a federally chartered association. We offer credit to a lot of northern New Mexico.

I have become very concerned about the availability of credit in rural New Mexico as a result of some of the Forest Service actions. My bank customers use collateral, their banking capacity and net worth of permittees. These three things which make up the basis of a loan are at the mercy of the Forest Service, who can come in and decide on a whim overnight. So the permittees would lose the value not only in their net worth but their ability to repay their loan.

I have read that the Forest Service has said repeatedly, and I think some of those coming out of the Albuquerque office, that we didn't or we haven't put anyone out of business. No, they didn't, but they did reduce the annual units that the permittee can no

longer repay his loan. So who gets to foreclose and wear a black hat? Me? I think not.

I have a permittee—I have several permittees that I lend money to that is in the room. One of these permittees when he refused to sign his Forest Service document was told—I think he was told—but anyway he also had a loan owned by FHA. The Forest Service immediately notified them and they began foreclosure proceedings. I am not the black hat guy. Thank you.

Mrs. CHENOWETH. Thank you.

Bill Wright.

STATEMENT OF BILL WRIGHT

Mr. WRIGHT. My name is Bill Wright. I am an independent resource management consultant. I am here today because I was asked to provide, advise, actually an assessment occurring in northern New Mexico. I am also here by proxy for a rancher, Ned Sanchez, who grazes livestock on allotment in the Spring Creek allotment.

As of this week, on the Spring Creek allotment they were advised by the Forest Service that their livestock will be removed from Forest Service lands August 24. Now these people have nowhere to go. This part of the grazing is an integral part of their operation. They depend and they plan on these days of grazing on the public lands as part of their operation. So if this comes to pass, then they are going to——

Mrs. CHENOWETH. Bill, I am sorry to interrupt you. What is the reason they are leaving the public lands?

Mr. WRIGHT. It goes back to the criteria of the 30 percent use. The Forest is claiming that their livestock, they have already assumed 30 to 40 percent of utilization. Even though they have been practicing intensive management, they are not inflexible as far as by numbers, using all of the pasture at one time, many of these options should have been considered way back at the beginning of the grazing season.

And the second issue I would like to discuss briefly was to expound on this elk use. I used to be on the district ranch staff on this very same grazing district from 1978 to 1987. I have an in-depth knowledge that in fact the capacity that was never allocated for elk back in the seventies is now not even grazing pasture. An example, the 50 elk were present in 1971. We have got 200 elk grazing in there today in 1998. However, the Forest base remained consistent, so consequently there is a discrepancy in terms of allocation.

The environmentalists are in a position that the Forest Service is wrong. They need to abide by regulations to manage their own property. The ranchers right now are the scapegoats. Thank you.

Mrs. CHENOWETH. Charlie Chacon.

STATEMENT OF CHARLIE CHACON

Mr. CHACON. I am very pleased you folks are here. I am very indebted to you both. Thank you. My name is Charlie Chacon. I am a permittee. I have one in Colorado and one here in the Kit Carson.

I see a lot of the permittees here and a lot aren't present, but nevertheless, I would like to touch on some of the things that I

think that need some bringing up. One of them is water in the allotments. Regardless of whether it is BLM or whether it is Forest, we are having no water, and that would do us a lot of good not only to our personal holding but also to elk.

The other thing, the brush control is out of hand. We have so much brush that our cattle can't get to some of the pastures that were available many years ago. I am old enough to know and old enough to remember when they started fencing the forest lands. This happened way back. Since then, I see that our lands are going to waste because the uses are very limited.

And so there—and to answer Mr. Horning's comments about the cattle are everywhere, that is a big lie. Our cattle are tagged and they are counted before they go into these allotments. So what he is saying, he is bringing it up on his own.

That is all I have to say. Thank you.

[Applause.]

Oh, I have one more comment. These environmental groups, all they are trying to do is starve us to death. What they are trying to do also, if that don't succeed, they will put us in big ovens like the Nazis did to the Jews, the people in Germany.

Thank you.

Mrs. CHENOWETH. The next five who will testify are David Sanchez, William Moore, then Ernest Torrez, and then Carl Smith and then Warren Reed.

STATEMENT OF DAVID SANCHEZ

Mr. SANCHEZ. Congressman and Chairwoman, I want to thank you guys for taking the time in coming to the Española Valley, to New Mexico to listen to our needs and problems. These problems and needs are not new. These issues have been existing since the first part of this century.

Unfortunately we have an element today that we didn't have then, and I am referring to the environmental groups that brought a lot of problems, stress, everything that they have brought through their litigation and their slandering of our way of life and the land out here.

I credit Mr. Horning, the likes of him, for being an entrepreneur and finding a new way of making a living, but it just doesn't fit in northern New Mexico and we wish he would take it elsewhere.

[Applause.]

My grandfather was born in the Juan Jose Lovato Land Grant which is just west here. Today it is under the management of the Santa Fe National Forest. We still operate as permittees in that land grant. It is Federal property under a set number of AUM's and permits. Those determinations of carrying capacities were made in the middle part of the century, and I say today that they were very conservative, because we were only granted a small few permits.

Today we have thousands of elk, approximate numbers of 50,000 in the area, and never did the agencies or we the people envision that we were going to have this population explosion of elk.

The Forest Service has basically held meeting incentives to manage the land appropriately and do the right thing as many of us have, and that the lands today are what they are because of how

we have taken care of them. But I think it is totally unfair that we were only given a few small amount of permits and yet they allow the Game Department of New Mexico carte blanche to run as many elk as they like to on there with no accountability on the impact it has to the resources.

This is unfair on how the land is being managed, the responsibility. We have questioned the Forest Service, who is responsible for the number of elk out there, and they say it is the Game Department.

The only management that the Game Department has illustrated to us is that they have bag limits. That is inconsistent with carrying capacity and the resource. It doesn't matter what species it is, it should be managed with carrying capacity.

We are opposed to that double standard that we have been treated the way we have been treated. There should be an opportunity for more permits. The Forest Service can sustain 50,000 elk, I think they can allocate a few more permits so the people can make a living in northern New Mexico.

Thank you.

Mrs. CHENOWETH. Thank you, David Sanchez.

William Moore.

STATEMENT OF WILLIAM MOORE

Mr. MOORE. Thank you for the opportunity to be here, it is a pleasure. I want to tell you about what the Endangered Species Act is and how it affected me. It halted all current timber sales under litigation at the time, of which I had multiple contracts for.

During that time, I had big deposits with the Forest Service and interest on which I never received anything back as I expected. Also, stress on my family and my father, too, and stuff, and we were concerned about our future and where we were going to go. I own a sawmill and a logging company and I still do today.

I believe that the forest must be opened up and not allow catastrophic fires to happen. Pretty much with this Endangered Species Act, I have been brought to almost a complete halt. I believe environmental stuff is really a large part of the deficit sales here. This is a bunch of expense for no reason.

In my view, it is also affecting my net worth and my way of life. My father and I built our sawmill together and we have quite a working relationship together and a big family unit that we enjoy, and that is our way of life. Trees are renewable resource. There is already 3.2 million acres of wilderness area in the State. How much area do we need to set aside for special interests?

The local demand for products here is very strong, but we have no way to get in on the National Forest. If you really want to know how the trees are doing in the forest, call to Albuquerque and get a copy of the inventory for Region III; 1910 and in 1987 they were prepared. The trees are holding very well. There is no reason to shut down the industry whatsoever, big or small.

We need everything, because the people that will work at the big mills have their own individual needs also, and we are not depleting the resource at all. We need a solid state of material to run our family business with. How can our business grow with constant

litigation under the current laws which the environmentalists take advantage of to shut us down.

We are being abused and the laws need to change, the Endangered Species Act needs to be changed. People need to be brought into the equation. We need economics and growth to meet the needs of our people. Multiple use must be promoted just as loggers are like farmers, just like agricultural pursuits are their way of life.

It is needed, it is here and needs to keep going, and I appreciate your help in this interest. Thank you.

Mrs. CHENOWETH. Thank you, Mr. Moore.

Next we call on Ernest Torrez.

STATEMENT OF ERNEST TORREZ

Thank you, I appreciate this opportunity. My family is from La Hada, New Mexico, which is near the Cuba area on the other side of the mountains here.

I am on the Acequia Commission of our community, which is something I didn't volunteer for. I was basically appointed by family to represent family on this.

It is very difficult for me to speak of these kinds of things because there is a passion that we have where I am from, the land. We have passion to keep doing what we do, and the family things are inseparable.

I can't really appreciate some of the references this gentleman here, this Mr. Horning, has for anything. It boils my blood to have him under the same roof with me, but that is the way the rules of the game are played.

I have a document here. I wanted to bring this document, "The Potential Economic Consequences of Designing Critical Habitat for the Rio Grande Silvery Minnow." It is pertinent to this discussion for a lot of reasons. Fish and Wildlife is deciding whether or not to designate the Rio Grande cutthroat trout as endangered. It is going to put a knife—well, it is going to start a war and then it is going to put a knife in people's hearts.

This document says on page 115, "All else remaining equal, reductions in Socorro County have a greater likelihood of affecting low-income groups, given the concentrations of persistent poverty in the county."

There is no regard here for the human equation. I guess that is pretty obvious. It really—it concerns me, this Endangered Species Act, because tomorrow is my son's birthday, he is going to be 5 years old. This past June when I was irrigating off the Acequia, he was in the mud just like I used to be in the mud. He has got more hands-on biological knowledge than Mr. Horning does. He can tell you what a salamander is, he can tell you what a Rio Grande cutthroat is. By the way, we did capture three of these semi-endangered and we had them for lunch right out of the ditch.

What I am trying to bring forth here is how absurd the absurdity of this law is and how much it is affecting families. It is directly impacting families. We are not rich by any means. We are rich in culture, maybe a few hundred acres of private land, but it is going to go down the tube unless you guys can tell your eastern, your

Yankee counterparts in the Congress that, don't tread on my family. We will suffer no one's blood on our neck.

Thank you.

Mrs. CHENOWETH. Thank you Mr. Torrez. I would like to make the documents a part of the record. What page was that on about the water rights?

Mr. TORREZ. I think it is 115.

Mrs. CHENOWETH. Page 115. Thank you very much.

The Chair recognizes Carl Smith.

STATEMENT OF CARL SMITH

My name is Carl Smith. I am a permittee from northern New Mexico. Our family has been up here a lot more than 4 years. Now, I have got a brother-in-law that was in the logging business, a long time operation, that went under because of the Mexican spotted owl. His operation went out of business several years ago. His children have left the State, I think his wife soon will, and I haven't seen any spotted owl yet.

I think this Endangered Species thing is a big charade. I don't know how many spotted owls you have spotted in your country since you put all the loggers out of work, but I haven't heard one.

Now, we are facing the same problem with our grazing situation. We want to take care of the land. We are firmly committed to not causing deteriorating ranges, but we are facing, for the first time, the new 40 percent forage implementation rule which didn't sound too bad to us. We understood we had been using 50 percent of the forest this last year and know we are going to be using 40 percent.

Most of us wanted to see better conditions on the range so we weren't all that opposed to it. What it amounts to is that as soon as your cattle have eaten a little bit of grass and drank a little water, though they may not have touched the grass on that side, it is time to move. So now we are looking at coming home, some of us after 1 month, some after 2 months, after going on 10 days to 2 weeks late. We are buying hay, we are doing everything we can think of to survive, but it will be impossible for many operators to continue given this new plan that the Forest Service has, and we feel unrepresented. We don't know whether to believe what the Forest Service is telling us. If they tell us we have got to do it, we don't know whether we have got to do it.

I sure hope you can straighten this mess out. Thank you.

Mrs. CHENOWETH. Thank you, Mr. Smith.

The Chair recognizes Warren Reed.

STATEMENT OF WARREN REED

Mr. REED. I am beginning the fourth generation of grazing in the Carson National Forest Service and private and public land in northern New Mexico. I have the land, I hope to keep it. I can't keep it under the present conditions. I have 9 days from now until the 24th of August to decide what I am going to do with what was mandated under the new provisions of the Forest Use Act.

I submit that they either be sold or the process will take away the heritage and land which we have. I think that the decision that is made to come out on the 24th of August, it was based on a couple of things. One is on the 10 to 12,000 acres of land. There were

two cages that were put there by the Forest to measure the amount of forage that was gone. I would say that is not enough to adequately measure all except the very small area in which these cages were put.

I think also that we need to look at the fact that the decision to move from the forest was probably made early in the spring, not given a chance for the rain or the growth expected as things and time passes.

Probably the biggest issue is can we take care of the forest and work to better it, but we do need to have an input and be able to stay for the length of time that our signed agreement calls for. Thank you.

Mrs. CHENOWETH. The next five will be first Brian Sanford and then Bud Eppers, Paul Bandy, Claudio Chacon, and Moises Morales.

Brian Sanford, please come to the mike.

STATEMENT OF BRIAN SANFORD

Mr. SANFORD. Thank you, Madam Chair, Representative Redmond. I had the privilege of sitting in one of the only chairs that was in the sun through that window.

Thank you for coming to New Mexico. I appreciate you coming down here to hear the issues. My name is Brian Sanford, and I am a Range Resource Specialist with the New Mexico Department of Agriculture, which is the State agency representing agriculture in New Mexico.

Today I am representing Secretary of Agriculture Frank DuBois. He couldn't be here, he has got a very sick grandson, but he also wants to extend his thanks for coming to hear the issues of the constituents, your constituents, Representative Redmond, and people who are very much concerned about these issues.

I really have no oral comments for this Committee today; however, I have brought the written testimony of Secretary DuBois. I think that was given to your staff a couple of days ago. If you have any questions on that, myself and other staff are here to answer them.

The testimony concerns the general decisionmaking atmosphere of the Forest Service that is occurring right now. A lot of this is due to NEPA compliance. There is a very myriad of issues.

Also the testimony concerns two very specific examples which staffers from our department, myself as one of them, find very interesting and they are specific to allotments. And I hope that this kind of testimony helps to present the issues to you.

If you do have any questions about that testimony, either now or in the future, we would love to clarify and discuss them with you. As I say, I yield the remainder of my time. Thank you.

Mrs. CHENOWETH. Mr. Sanford, could you elaborate on the testimony a little bit?

Mr SANFORD. Sure. I guess overall, our testimony regards the way in which the Forest Service has not collected data in order to make their decisions. They have not insured that their permitting process complies as such, and they haven't taken action against grazing and timber. Those would be the two large issues.

Also my professional opinion, they have allowed the Fish and Wildlife not to tell them how many species and how much habitat they need, but they have allowed the Fish and Wildlife to tell them how to get it. So the Fish and Wildlife Service's job is to tell them how many species they have in their habitat in their forest, but it is the Forest Service's job to go out and use the tools at their discretion. However, the Forest Service's job is to dictate both.

Now a specific example concerns two allotments. However, there are several individuals here from Spring Creek allotment that are involved in this issue and so the issues are the same throughout the State, the concerns are. I provided you with planning the processes on the Gila, two specific permits which are really in compliance, and that is why there is some very interesting things going on down there that you can read about in bullets highlighted within to try to educate you. And I can go into those if you want me to or I can—our staff would love the opportunity to visit with you, Representative Redmond and yourself or your Committee, to try to begin to look at some ways to solve these problems with these Federal agencies.

Mrs. CHENOWETH. Thank you. That is very interesting, and we will look forward to submitting more questions to you.

Mr. SANFORD. All right, thank you.

Mrs. CHENOWETH. If you would be sure and drop your testimony off with the court reporter.

The Chair recognizes Bud Eppers.

STATEMENT OF BUD EPPERS

Mr. EPPERS. Representative Redmond and Chairwoman Chenoweth, welcome to New Mexico, the land of opportunity, the land of enchantment and opportunity. We are here today to focus this hearing on the issue of settlement agreements between the Forest Service and the environmental organizations.

I think the record really needs to record that that settlement agreement was never signed by a judge. It was an agreement that was reached between the environmental organization and the Federal agency, and they went out and told the permittees, the Forest Service went out and told the permittees that they had settled an agreement under which they had to maintain fencing of riparian area, and this is not true.

I would ask for the record to reflect this and you all check into it, because that settlement agreement was not signed by a judge.

We talked about the sweetheart arrangements between the environmental organizations, and I have been involved in several pieces of legislation or litigation over the past number of years, and I can tell you the sweetheart arrangements between the Justice Department and the attorneys for the BLM and Forest Service and the State at the regional levels have a very close-knit situation.

The environmentalists would hold up a hoop and the Justice Department and attorneys for the agency would try to jump through it just as high as they can. In addition, then of course they settle out of court and pay off the exorbitant legal fees of the environmental organization. This is a heck of a sweetheart deal, one that I think needs to be looked into very carefully by your Committee and Congress as a whole.

My main focus was on mining millside on Forest Service land that was broken into by Federal Forest Service personnel and the State environmental department personnel. The individual filed suit in court to have a trial by jury within the State of New Mexico.

The Federal courts immediately, or the Federal judges immediately had this case taken out of state court and put into Federal court, denying this individual a right of trial by jury as is provided by our Constitution.

In addition to that, they also in the Tenth Circuit Court, they appealed this to the Tenth Circuit Court, and the Tenth Circuit Court ruled or stated that it must be pointed out that the Forest Service employees are aware that they are not subject to perjury in the Tenth Circuit.

It appears as of 1991, the Tenth Circuit has determined that those Federal employees who gave perjured testimony are absolutely immune from Section 1986 actions in Bristol v. Lahue, 1983. The Tenth Circuit found that the judgment and the decision are absolutely immune from giving perjured testimony and conspiring to give the same.

Congressman, you have the authority under the Constitution to change this, and I would request that you all do so. Thank you very much.

[Applause.]

Mrs. CHENOWETH. Mr. Eppers, I can assure you that I feel very strongly about the judge who made that decision. That never came through the Congress, and I am pleased at your great understanding and irritation, and I am surprised you are not angry about it, but it is something that we in the Congress must deal with or we won't see a turnaround in the direction we are going right now.

So thank you very much for your valuable testimony.

STATEMENT OF PAUL BANDY

Mr. BANDY. I want to thank you both for being here and I want to congratulate you this hot afternoon. I am a rancher from Aztec, New Mexico. I have cattle on BLM and Forest Service and in Colorado, and I would like to comment today on something that I haven't heard anybody make a comment on, and that is the remarkable proliferation of species that is indicated by all of this litigation and controversy.

My understanding is that "species" is a Latin word that means "kind," as in God created animals in their own time. And if you look in the dictionary, it says that species is part of a group of animals that can reproduce, that can have both viable and fertile offspring.

Now, we had a willow flycatcher in Farmington last spring, and we were talking to the Fish and Wildlife biologist about the willow flycatcher, and it seems the southwest willow flycatcher which we consider endangered is virtually not related to the northern flycatcher, and of which there are many.

I guess you have more flies in the north, although I have a hard time believing that. But for some reason that this animal we presume is endangered, experts cannot tell the difference except by their song, that the flycatcher is not even endangered here, though

they might actually be part of the same species, as confirmed by Mr. Webster.

I really find it remarkable that the administration has time to help God with the creation of species and that this really seems like a travesty not only against science but against the English language.

Thank you.

Mrs. CHENOWETH. Thank you very much Paul.

Claudio Chacon.

STATEMENT OF CLAUDIO CHACON

Mr. CHACON. My name is Claudio Chacon, and I am a rancher in northern New Mexico. I was co-founder of an association which lies approximately 70 miles from here in the north.

Our problem is that we are adjacent to the Chama Wilderness Area and also adjacent to the wilderness study area. The wilderness study area, in my opinion, is a ploy to set aside some lands so we couldn't use them anymore. We are being adversely affected by the wilderness study area. We haven't heard from the Bureau of Land Management or the Forest Service at what point it is going to be culminated, and we would like to see the study culminated so that we can again gain use of the lands.

In my estimate, the study area doesn't meet the destination. We have got developed properties that are in the study area, there is developed roads on it, there is fields of wheat grass, there is windmills, and all of this area is being considered as part of the study area.

I would like to see or have an answer from somebody as to when this is going to be finished so we can go ahead and start using these properties. It is really hard to get used to because of the restrictions on the study area. We try to do some brush control, and we are told by the Bureau of Land Management from Taos that we couldn't do chemical processes, spike treatments on the land, and as a result we are losing forage on the property.

Again, I would just like to find out when this is going to end so we can have an idea. We are not getting an answer from anybody. Also at the onset, when we were advised of this study, it was not stated to what the limitations were going to be. We didn't know and weren't advised that we weren't going to be able to use these lands as we had anticipated.

Thank you.

[Applause.]

Mrs. CHENOWETH. Thank you very much. Mr. Redmond just indicated to me that his office specifically will offer to find out the answer to your question.

Mr. CHACON. Thank you very much.

STATEMENT OF MOISES MORALES

Mr. MORALES. Representative and Chairwoman, my name is Moises Morales. I am a County Commissioner. I represent a tri-culture county. I want to talk a little bit about the Guadalupe Hidalgo and also about the Forest Service and the problems our neighbors in the area are having.

The treaty of Guadalupe Hidalgo was signed in 1878 by the two great nations and must be honored. And that is why, Representative Redmond and Ms. Congresswoman, we want you to go back to Congress and give us justice in this land grant issue.

I am very offended when we have people from Washington, DC, that can't even clean up the Potomac River, to come over here and tell us how to run our lives. This land here in Rio Arriba County and northern Colorado is a healthy area that the people can live with their families and all cultures have kept it healthy.

These people that come from Washington, you know, if I would go to Washington and you were conducting a hearing over there, you wouldn't pay attention to me; you would pay attention to the people in Washington. And I don't know how it is in Idaho, but you would pay attention to Idaho. But today I am asking you to pay attention to all of these people here in Rio Arriba who have been almost destroyed by these environmental groups of the government and by the Forest Service. They are trying to get rid of all farmers and ranchers in this part of the country, indigenous and all kinds of cultures.

When I was growing up with my grandparents in northern New Mexico, the Forest Service Fish and Game took the land away from my grandfather because he did not know how to speak English. He had four permits in the mountains. My grandfather—I was too small or I would have stopped it. A week later they brought that animal back rotten.

These same people have lied all along like they are lying to these cattlemen that they are taking their permits away from. In the 40's they took our winter pasture away. They told our grandparents we are going to take your winter pasture away to repair it and then we will give it back. That day has never come. In the 50's they took away our mule, cow permits and this has never stopped.

I mean we get involved in human rights, owls or whatever. Everybody in Rio Arriba pays taxes. I am asking you people, go back to college and change this before we have another Rio Arriba Courthouse raid that happened in 1867 because of what they were doing to our people. Thank you.

[Applause.]

Mr. REDMOND. Thank you for your comments, Moises. Just a quick update. The land grant of Guadalupe Hidalgo and the Act of 1997, we were hoping to have it up to the floor for a vote before the August recess. As a result of the two shootings at the Capitol building, we lost over 20 hours of floor time and so all of the preparation—we do have in our possession a letter from the majority leader that the bill, H.R. 2538, will come to a vote between now and the 15th. They have assured us of a vote between now and the 15th of September, and at this particular juncture it takes 218 votes to pass the land grant bill. We have commitments from 225 Members of Congress who said they will vote yes for it. So unless they change their minds, God willing, between now and the 15th of September, for the first time in history we will pass through the House of Representatives both the lands grants.

Mrs. CHENOWETH. We have three witnesses left, R. C. Posey, Dennis Braden and Porfirio Cisneros.

STATEMENT OF R. C. POSEY

Mr. POSEY. My name is R. C. Posey. I can't write very well. It shows you how poor our schools are. Chairwoman, I really appreciate you coming here. It has been a fantastic experience. I am from the southern part of the State. I am a native New Mexican from Alamogordo.

I am going to contact Congressman Skeen's office and suggest he have a similar hearing in the southern part of the State. I think it would be very informative for a lot of people. Also where you talked about education a while ago, I consider that people, even though they don't have college degrees, they do have a doctorate in hard knocks, because they are survivors, and if they weren't they wouldn't be here.

Three sets of my great grandparents moved to the Sacramento Mountains in the 1880's. They came to graze their cattle, and it is funny to me that they have had cattle in the forest land for over 100 years and now all of a sudden they are causing problems, and I just don't understand that.

As far as the spotted owl is concerned, they are doing a lot of logging in the Sacramento on private land, and where they are logging and kind of tearing up the land a bit, the owls are moving in there because they can get the moths. Others places the Forest Service is going in and feeding the owls. How much money is that costing us?

Besides the logging and losing the logging, it is costing us money to have these people go out and feed the owls. The Forest Service recently had a meeting to talk about potential thinning of the Forest Service down in the Sacramentos.

It is very interesting that they want to cut and burn trees up to nine inches, nothing over nine inches. The sawmills can't use anything under nine inches. Now where did that come from? Very interesting.

I have also noticed that a lot of the data, a lot of the things that the Forest Service and the environmental activists and the animal rights activists, they base a lot of their information on emotion only and no scientific data. As far as the elk is concerned, I have been working with the State Game Commission for over 2 years. It is a very good group. We have been trying to work on elk and deer problems and also other types of problems, and, Congressman Redmond, I would be glad to talk to you after the meeting is over with about anything that I am able to help in that regard.

Also for everyone's information, there will a State Game Commission meeting Thursday and Friday in Albuquerque starting at 9 at the Hyatt Regency. Everyone is invited to attend. At the end of the meeting everyone has 3 minutes to speak on any issue that you want to speak. I would encourage you to go.

If anyone has any questions or you can't go, get in touch with me and I will be sure and bring it up. Thank you.

Mrs. CHENOWETH. Thank you Mr. Posey.

STATEMENT OF DENNIS BRADEN

Mr. BRADEN. Madam Chairwoman, thank you. Thank you, Congressman Redmond, for the activity you have shown in the grass roots and home front and it is appreciated.

I have got a conundrum in that I am neither an eloquent speaker and I put together more notes here than I could probably do in a few minutes, so I am going to speak fast.

Mr. Horning and myself have something in common. It is that we have both been in northern New Mexico 4 years. That is where our commonness ends. I am west born and west raised. My dependence and love and interest in public land and private lands are concurrent with the majority of people in this room.

Most of my life I have been positive about the future of public land ranching, and I thought that probably we would maintain the use of the land. I think probably in the last 50 years the positive—I realize that we are playing with groups that don't play legally or ethically or morally. Mr. Horning made a comment about ranchers not being able to change. But education of ranchers have risen just like with most other industry. Either with citizen flow, grazing techniques that are recognized at universities as well as agencies as scientific data, these are ignored by the environmental communities. And it is because they are not interested in better land management. They are interested in abolishment of grazing.

Also, our interest is not participating with the environmental sector. Congressman Bingaman just had a roundtable this morning. It was under an environmental agenda and environmental format. Fifty percent of the people that participated in that were ranchers and 50 percent environmentalists, so those were very interesting.

I have got to say, and I will hurry, one of the biggest problems that I think that we see is that we are legislated to and laws are passed from faceless people that will know neither us, the situations that we are in or the land we are on.

One of the things that would be particular to this would be the regionalized or localized Federal land management to where the agency people had to look me or these colleagues in the eye when they have policy or laws that affected us and they had to live day-to-day with the same law that they passed.

Thank you.

[Applause.]

Mrs. CHENOWETH. Porfirio Cisneros.

STATEMENT OF PORFIRIO CISNEROS

Mr. CAZARES. Thank you, Madam Chairwoman. My name is Cody Cazares and I will reading on behalf of Mr. Cisneros.

Porfirio Cisneros is the father of Floyd Cisneros, a permittee on the Questa Ranger District of the Carson National Forest. Floyd Cisneros was killed in a mechanical accident this past week and had intended to testify or present information on the problems he is facing on his sheep permit.

Porfirio Cisneros indicated his son was the current holder of the sheep permit. Porfirio held the permit previously and his father and grandfather before him. The family has held the sheep permit more than a century and even today wants to continue to operate as a sheep permit.

The problem appears to be that the U.S. Forest Service has reduced the sheep permit from 235 to 135 head and now wants to remove sheep from the allotment to accommodate stocking with Big

Horn sheep. He has been offered a change from sheep to cattle at 27 head. Where—there is a question mark.

The Cisneros family does not want to change from sheep and fears the action may result in a loss of their grazing permit. The allotment area and beyond is best suited for sheep grazing. The Cisneros family feels a need of assistance and protection on what they feel is a long standing interest and right. On behalf of the Cisneros family, I thank you.

[Applause.]

Mrs. CHENOWETH. Thank you. Now I would like to call our esteemed Mayor for some final words before we close the hearing. Mayor?

Mayor LUCERO. Thank you very much for this great day. I guess many of us learned so much today and it was great to be here. One of the things that have not been pointed out that I would like to point out is that over 75 percent of the land of Rio Arriba County is controlled by the Federal Government. Only 25 percent of the land pays taxes, and then you people wonder why we have over 10 percent unemployment.

If you took 75 percent of the land away from many other areas, they would have over 10 percent unemployment also. It is unfortunate that before, maybe 50 years ago, we all shared the land and shared it so well. Then all of a sudden they began to take our land away from us. Today we have to live in quarter acre lots in a trailer house. These are the errors of the original land of New Mexico because we have lost our lands.

Now what is left. This building here is all New Mexico. The timbers above are New Mexico timbers. This is made of Mother Earth, of bricks and mortar. Everything that you see here, Madam chair, is New Mexico. This is the beauty of New Mexico. This is what we are, this is what we love. We can't have this taken way from us, but yet we seem to feel, as has been shown today, that every day we lose more and more and more of our New Mexico to more and more and more of the bureaucracy of government.

So we want to give you on behalf of the people of northern New Mexico a little bit of New Mexico so that you can take it with you back to Washington and eventually to Idaho, a very, very beautiful state, and the only other state that I would live in other than New Mexico, it would be Idaho.

This is a pot of a black pot of the Santa Clara. Carved on the pot is a forest, the forest of New Mexico. On the pot is also carved an elk. The Bald Eagle of the United States of America, the Bald Eagle of New Mexico. This is made of Mother Earth, Mother Earth, New Mexico. As we all are made of Mother Earth, New Mexico. So please take a little bit of New Mexico back with you and come back soon so that we can show you the land we love, the land that is us.

[Applause.]

Mrs. CHENOWETH. Ladies and gentlemen, I am going to stand up to make my final comments. I just want to say it has been a very memorable hearing. I have learned a lot. I have said that a number of times. But I really know how you feel. I really feel what you feel, and I don't ever want you to give up hope. We have been through tough times before.

Our land, whether it is on your land down here, our land in Idaho and the land across this Nation, our relatives together have mixed our blood when we have had to fight and bleed for this land.

So I really feel what you have said today. It means more to me than just establishing a hearing record. The very interesting issues that I want to look into specifically, and I would like to be back in touch with Mr. Bill Wright with regards to the issue of the history of the elk coming into this area, this is not a species that is indigenous and I think probably most lands rights predate the elk coming in. And there is a very interesting question that comes up and that is if you bring another species in that consumes your water rights and consumes your forage rights, which you have a right to forage, a private property use right in my opinion, and there are cases that are continuing to be enforced, existing law that has built itself like a strong pillar, but unfortunately, it is being ignored right now.

Yes, these are tough times and I find that no wonder people want to come to this area because the openness of the hearts and the minds and the homes of you people. But people have not always acted with regards to respect and been good guests and been good newcomers here.

It grieves me to see the lack of respect and the unwillingness to really understand the culture of this area. People who aren't willing to understand, they are missing so much. I do want you to know you are not alone in this fight at all. We hear you and there has been a speeding freight train that seems to have been running out of control down here. It seems to have moved our country to the point where private property rights are no longer regarded as they should be, and the rights of the States to control their water and protect people's water rights. It is not being regarded in the same way.

But let me tell you, I can see from one end of this Nation that people are waking up, and the days of the conflict industry are numbered. They are numbered because they are losing credibility. We welcome everyone's testimony. I represent the people, and you, so I think we need to continue to encourage that intellectually, integrity and honesty with one another and just know that we are never going to quit.

We will never, never, never give up. Our land here in America means too much to us, doesn't it?

Mr. REDMOND. It has been a long afternoon, but I believe it has been a fruitful afternoon. I think that this meeting is decades late, but nevertheless Washington has come to Española. I want to thank our gracious host, Mayor Lucero. Let's have a round of applause for him.

[Applause.]

Richard, thank you. Thank you very much. I want to thank the gentlewoman from Idaho for coming and for hearing, and not only for hearing and seeing, but also for feeling the needs of the people of northern New Mexico. I want to thank you.

[Applause.]

And I just want everybody to leave here assured, knowing in your mind and your heart that Bill Redmond, your Congressman is going to be there for you. (In Spanish.) Thank you.

Mrs. CHENOWETH. Let me say the record will remain open for 10 days for any of you who wish to supplement your testimony with any documentation that is pertinent to the body of your testimony.

And please know that we may also be submitting questions to you and we would like for you to answer those questions as quickly as you possibly can.

With that, this hearing is adjourned.

[Whereupon, at 6:52 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows.]

STATEMENT OF ANTONIO DEVARGAS, LA MADERA, NEW MEXICO

I am a lifelong resident of Northern New Mexico, was raised in the village of La Madera by my grandparents and have **earned** my living out of Forest Resources for 28 years. I joined the United States Marine Corp in 1964 at the age of 17, and served a tour of duty in Viet-Nam from 1965 to 1966. When I returned from "Nam" in 1966 I found that a large number of war resistors from all over the Country had hidden in our Forest Communities, had been accepted by the people, and had acquired land.

My grandparents and their parents and grandparents all were born and raised in this same area and subsisted from the land. In the early 1900s, the Forest service made it's presence felt in our area. According to my grandfather, they went house to house informing the people about their mission. They described their mission as "Managing the land to improve it for the local people, and repeatedly reassured the people that they were not going to own the land, only make it more productive for their benefit and their heirs". Shortly thereafter a large timber harvesting operation was initiated that employed the people in logging, milling, and the building of the railroad line known as the "Chili Line" to extract the timber. My grandfather worked on the rail road and in the logging operation. My grandfather would describe the Forest Service and other government employees as "Americanos," he never spoke English.

After my service in the Military I worked in different States and finally came back in 1971 to work in the forest. I earned my living as a trapper, a hunting and fishing guide, I planted trees for the Forest Service and conducted thinning operations for the same. I also did taxidermy work to supplement my income. I have worked for private industry as a logger from 1972 to the present, all in Northern New Mexico. I have also been a fire fighter for 10 fire seasons in the Western United States.

In the past 6 years I have been deeply involved in the ongoing fights with groups who are intent on denying the local people access to the use of the Forests. The battles have been very bitter and very destructive to the villages and villagers of Northern New Mexico. I suspect that all rural dwellers in the western United States are under similar assault. The damage that is being done is very deep in that it is causing the local people to resent all newcomers and to view them as well as the government as the **enemy**. This is very disturbing because there are a lot of well meaning people who are being and will continue to be hurt on both sides of the issue for a very long time, and because if this trend continues, violence may be the only recourse that the locals will believe they have. If this happens, nobody wins and the greatest victim may be the very forests that all are trying to protect.

My experience with this issue is that the groups that seek to restrict access are really intent on displacing rural dwelling people in order to take over the land and resources. They think that people who live in rural areas have no political clout because of our small numbers, and that being raised in remote areas, our level of education and sophistication needed to survive in urban areas renders us ineffectual in terms of offering alternatives to their agenda. It is a very cynical and insidious assault on an entire people's custom, culture and traditional use of the land and the resources for their survival. They claim to love the land and that they only want to protect it, it is reminiscent of the Forest Service telling our ancestors that they only want to make the land more productive for the villagers when in fact a land grab was then, and is now progress.

In regards to the health of the Forest, I personally do not believe that it is in the level of distress that these groups seem to think it is. Most of the people involved with these groups are urban dwellers who have lost contact with the land, have only limited book knowledge of the land, and have absolutely no subsistence need for the land. They only wish to make our homeland into their playland now that the rural dwellers have made it safe for them and others who would otherwise be terrified to venture into the wilderness without clearly marked trails or a support system should they get lost. They forget that the support system was set up by the very people they wish to be rid of.

In terms of Forest health, I believe that thinning needs to occur because the Forest is very overstocked. Much of the thinning can occur as a result of sawtimber sales on a scale that provides for the economic stability of the forest dependent communities and still maintain the ecological integrity of the Forest. As far as the Spotted Owl is concerned, there are not any in this area and have not been here historically. This issue is a red herring as are most of the issues as they relate to endangered species. I have discussed this issue with many of the elders in the surrounding villages and they agree that the main change that is observable in regards to wildlife is exploding populations of Elk and the dwindling population of Mule Deer.

This is not related to either logging, woodhauling or grazing, it is merely an indication of poor wildlife management on the part of the Department of Game and Fish and the United States Forest Service. When groups with an agenda of displacing rural people point to an indication of overgrazing, it is always the fact that we live in a dry State that makes it appear that way. Obviously there will be a shortage of grasses when there is a lack of precipitation and this becomes obvious as soon as the rains come. The old people know this and are deeply resentful when their livelihood is threatened by historical people who evoke emotional responses from the masses of people in Urban areas who know no better.

The impact on local people is extreme because most people still use fire wood for heating and cooking. The local people use wild herbs as well as pinon nuts as part of their diet, and use the rocks, logs and gravel for building material for our homes. Most of us supplement our diet with deer, rabbit, grouse, turkey, fish and many other resources found in the forests that surround us. Seventy percent of the land in our rural villages are in hands of Federal Agencies, the State or Indian Tribes and we are therefore extremely vulnerable to shifting political winds that affect these Agencies.

Testimony of Max Cordova, President
Board of Trustees Nuestra Senora del Rosario San Fernando y
Santiago Land Grant established 1754

Before the House Committee
On Resources Subcommittee on Forest and Forest Health
August 15, 1998

Dear Madam Chairman and Committee Members:

Thank you for the opportunity to testify as part of this public witness hearing on Forest Service Management of National Forests in Northern New Mexico.

I am Max Cordova, President of Nuestra Senora del Rosario San Fernando y Santiago Land Grant in Truchas, New Mexico. The land grant was given to us by the Government of Spain in 1754, Government of Mexico 1829 and Government of United States in 1892-1905 by patent of the Congress of the United States and President Theodore Roosevelt. Each time its given to us by a government it gets a little bit smaller.

This land grant and others were guaranteed under the Treaty of Guadalupe Hidalgo signed by the United States and Mexico in 1848. [For background information see attached item 1 - Rep. Bill Redmond's "Background on the Issue"].

Today most of our ancestral land is under National Forest Service Management by National Forest. Our right to this and other land managed by the National Forest is documented in archive paper 771 dated March 1754: "Public land shall be common to new settlers herein mentioned and also forest and watering places." (See Item 2). Most of our communities then and now are Forest dependent. We are now facing a host of interrelated problems including unemployment, diminished access to forest land (for fishing, grazing, hunting, personal use building materials and firewood), forest degradation, and continued policy changes.

Everywhere it seems people are talking about the need to balance concerns for environmental protection and economic development. Those of us who live in rural, forest-dependent communities know that this is no easy task. My community of Truchas is not unique. Across the country, changes in the way forests are managed are bringing about significant social and económic transformations. These changes are particularly acute in traditional forest-dependent communities like Truchas and others - communities which represent the majority of rural America. Faced with the challenge of survival, we are trying to find ways to strengthen our communities by creating economic opportunities which, while forest-based, will be ecologically sound in the long term. By finding creative ways to integrate economic development and environmental protection now, we hope to strengthen our self-reliance, avert future crises, and create our

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prosperity. But because we are Forest dependent the Forest Service must walk hand in hand with us as we undertake this endeavor.

The uniqueness of our land and people is captured very clearly in "Region 3 Policy on Managing National Forest Lands in Northern New Mexico" (See attachment Item 3). Sad to say this policy has yet to be implemented by the Forest Service because it is thought to be more philosophical than practical. Yet, "I Have a Dream," that this is how the Forest Service should be managing lands in Northern New Mexico.

Federal policies regarding the Mexican Spotted Owl, Forest Service Management of Endangered Species and relevant policies are affecting rural forest dependent communities such as ours. In 1995 an 18 month injunction was filed by Forest Guardians and Southwest Center for Biological Diversity on behalf of Mexican Spotted Owl that seriously affected the health and welfare of our communities (see attachment #4). As a result of the injunction the Forest Service could not meet our basic fuelwood needs. We estimate we were 1800 cords short of fuel wood for our communities - fuelwood needed to cook our food and heat our homes. It is documented by the same environmental group that sued the Forest Service that 69% of the homes use fuelwood to heat our homes and to cook our food. In reality this figure is closer to 80%. (See attachment No. 5). To add insult to injury, the agreement, signed by the Forest Service and certain environmental groups that settled the lawsuit, completely left out those most affected by the lawsuit - Rural Forest dependent communities. An agreement was entered to that we thought was not in our best interests or those of our National Forests. (See attachment #6).

Since The Mexican Spotted Owl controversy in 1995 we have worked with the Forest Service to develop a sustainable fuelwood plan for the Carson and Santa Fe National Forests that complies with existing laws and regulations (sustainable means providing for current human needs without compromising the ability of future generations to provide for theirs). The plan would be a significant amendment to the forest plans and be documented in an Environmental Impact Statement with full public involvement. This plan shall give preference to local/traditional uses and identify areas of significant ecological and cultural value and areas where silviculture, riparian plantings, road closures and other restoration methods would be ecologically beneficial. Restoration work shall be contracted to local communities where economically feasible. Strategies for reducing fuelwood demand shall be taken into account in the plan assisting local communities and residents with weatherization programs, efficient wood burning stoves, solar improvements, and other methods to reduce fuelwood dependence in conjunction with other State and Federal agencies. These strategies shall consider traditional, historical and cultural uses of local communities and villages in order to maintain the peoples ties to the land.

Federal policy changes and the Forest Service unwillingness to implement these plans and any other plan for fear of lawsuits by environmental groups and shortage of funding by Congress to Forest Service have seriously curtailed forest restoration needed in National Forest.

2

*The Endangered Species Act leaves forest dependent communities out of the equation. We feel it is time to revisit it not with the intent to weaken, but to strengthen it with sensitivity to forest dependent communities. Too often land based communities are victims of well intentioned policies that fail to include them as part of the ecosystem. Forest Service policy, which sometimes feels written in concrete must be innovative to meet changing times and conditions. Instead we have big debates about what the National Forest should look like. For the Forest Service to use prehistorical, precolonization, or presettlement standards as the measure of what we want national forests to look like is the wrong measure to use on national forests. With the scientific knowledge we have we the rural forest dependent communities, challenge the Forest Service and environmental groups - **IS THIS THE BEST WE CAN COME UP WITH?***

I am proud to point out that in many instances the forest dependent communities are working with the Forest Service and finding innovative ways to overcome obstacles that will ultimately benefit the forest goal of management and restoration. One such effort where we have collaborated with local environment groups, Forest Service, and communities is the 'Montana de Truchas Woodlot' (See attachment #7). This is an attempt to help restore forest land and protect forest dependent communities in Northern New Mexico while working with Carson National Forest.

In closing, I would like to say that I would like to bring the land grant issue into focus because we are being blamed for many wrongs in New Mexico by the Forest Service. Recently, a Forest Service supervisor from the Santa Fe National Forest pointed out in a national syndicated column, that three forest service ranger stations and many forest service signs had been burned or bombed. In the same breath, he seemed to infer that land grant people were responsible for these and other cowardly deeds. Environmental groups have also blamed land grants for poor forest stewardship. We have to build trust between the Forest Service, environmentalists and communities. Although I admit that the actions of the Forest Service and its policies to take forest service resources away from the people has caused much dissent in Northern New Mexico but I believe that we all want the same thing - healthy forest, clean and abundant water and viable rural economies.

Thank you very much Madam Chairman.

***Max Cordova** was born and raised in Truchas, New Mexico. While the Spanish side of his family settled in the area in the mid-1700s, the residency of his Native American ancestors dates to the 11th century. He is currently serving his seventh term as President of the Truchas Land Grant, one of the few surviving Spanish land grants of Northern New Mexico. Before becoming President in 1988, Max served for four years on the land grant's board. He is also a fifth-general weaver, and worked for a time as a masonry supervisor at the Los Alamos National Laboratory. Max is a member of the National Network of Forest Practitioners and the Land Grant Forum, a New Mexico association of Spanish land grants. He also sits on the board of the Rio Arriba County Extension Service. Max has a wife Lillian and three children David, Bonnie & Max.*

3

attachment I

Background and Summary of H.R. 2538, a Bill to Establish a Presidential Commission to Determine the Validity of Certain Land Claims Arising Out of the Treaty of Guadalupe-Hidalgo of 1848.

Introduced by Rep. Bill Redmond (R-NM) on September 24, 1997

Background on the Issue:

At the end of the Mexican-American War, the United States signed a treaty with Mexico called the Treaty of Guadalupe-Hidalgo. February 2, 1998 marks the 150th Anniversary of the signing of this treaty. When the treaty was signed American troops held the Mexican capital, and it is believed that Mexico signed it under duress, selling a large part of their Northern territories fro $15 million. These territories included Alta, California; Arizona, New Mexico, and Texas between the Nueces and the Rio Grande; plus part of Utah, Nevada, and Colorado. The treaty is credited with creating the American Southwest.

The Treaty of Guadalupe-Hidalgo guaranteed this sale and was supposed to protect the lands, culture, religion, and civil rights of the wartime residents who had been Mexican citizens and their descendants. Article VIII of the Treaty states: "In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract shall enjoy with respect to it, guarantees equally ample as if the same belonged to citizens of the United States."

Article IX, which covers the social rights of the newly de-Mexicanized citizens, states that "The Mexicans, who in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic . . . shall be incorporated into the Union of the United States and be admitted to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution; and in the meantime shall be maintained and protected in the free enjoyment of their liberty and property . . ."

Native Americans referred to the treaty in legal disputes over reservation land, as did various Hispano political/land organizations. The Indian Land Claims Commission (1946) referred to the Treaty and used it to support their land disputes.

(4)

attachment I

ATTACHMENT # 2.

-3-

In the villa of Santa Cruz, on the 16th day of the month of March of the year 1754, I, Don Tomas Velez Cachupin, Governor of this kingdom of New Mexico, on having read the foregoing petition on the preceding page, presented by those therein signed, and also having seen the report made by Juan Joseph Lovato, Alcalde Mayor and Captain of War of La Villa de Santa Cruz de la Canada and its jurisdiction, by virtue of the decree which precedes it with the date of the 5th day of the current month, to which I hereby refer with regard to the furtherance of settling the lands that are suitable within the kingdom, and giving help and ample land to those families that live in poverty so that they may have land for cultivation and breeding all kinds of livestock, which is the will of His Majesty and in accordance with his royal laws, have decided, with previous agreement, that the applicants be granted ample lands for cultivation, which are of record at the aforementioned locality (as being) unappropriated according to the report of the said Alcalde Mayor, and one league of public land for grazing and raising of livestock, with the understanding that the said public land shall be common to the new settlers herein mentioned and also the forests and watering places. Also, with the condition that they must be assigned sufficient land to build houses, which shall be united and adjoining, forming a square plaza, inclosed and with only one gateway just large enough for wagons to go through, in a manner that the inhabitants and families may be able to defend themselves from intrusions and assaults of the barbarous enemies who may try to destroy it, in which they would succeed if the houses were scattered and without being all united. In order that said settlement and houses may be finished in the shortest time possible, they shall all work there together, each giving (help) to the other, and (they shall all help) with digging the acequia for the fields.

Archive 771

Therefore, that this may be in full force and effect, I order the said Alcalde Mayor, Juan Joseph Lovato, to place in possession, with royal protection, the said Juan de Dios Romero, Nicolas Romero, Bernardo Romero, Julian Romero, Salvador de Espinosa, Miguel de Espinosa, Thadeo Espinosa, Ventura de Espinosa,

Attachment #2

45

-4-

Ramirez Romero, Xavier Romero, [illegible], [illegible] and Rutebal Martin.

To one and all in the name of His Majesty, whom God save, I make said grant of the farming lands in equal parts and in the same qualities and amounts. The said Alcalde Mayor shall measure, by Castilian varas, in width and length, the farming lands which are to be given to each one of the above petitioners, which they shall possess and enjoy, which shall be marked by corner stones or monuments, together with their ingress and egress, so that they will not damage each other. The said Alcalde Mayor will choose and mark the land necessary for building the houses in the manner heretofore provided and in no other manner, under penalty of being prosecuted with the full rigor of the law, which shall be enforced by the said Alcalde Mayor.

The said possession shall be given them in due form in
Hive 771 accordance with the law, and with no damage to a third party. The said settlement shall be known by the name of Nuestra Senora de el Rosario, San Fernando y Santiago.

All the aforementioned and each one individually shall be advised or admonished that they cannot sell, donate, transfer, exchange, or in any other way encumber the said lands within the four years prescribed by the Royal Decrees, under penalty of annulment unless done as provided therein. When the said proceedings shall have been completed in continuation of this decree of grant, the said Alcalde Mayor shall make a certified copy of all of them and shall deliver it to the parties so that it may serve them as title, remitting the originals to be filed in the archives of this Government.

I so provided, ordered and signed with my assisting witnesses with whom I act; to which I certify.

Thomas Velez Deshumpin (Rubric)

Miguel Antto. Vasquez (Rubric)

Thomas de Alvear y Tellado (Rubric)

5

Royal Possession

6

At this locality of El Rio de las Trampas, jurisdiction of La Villa Nueva de Santa Cruz, on the 24th day of the month of April of the year 1754, I, Juan Joseph Lovato, Alcalde Mayor of this jurisdiction, because of the [illegible]

Attachment # 3

REPLY TO: 1030 Objective and Policy March 6, 1972

SUBJECT: Region 3 Policy on Managing National Forest Land in Northern New Mexico

TO: Forest Supervisors and District Rangers

For several years we have followed a policy on managing the National Forests of Northern New Mexico that is different in certain respects from that applied to other National Forests. While this policy has been in writing since 1967 and was at that time used in field orientation, it has not been distributed. Consequently, many Forest Officers now in place do not have knowledge of it.

RECEIVED MAR 10 1972

While the policy is philosophical in many respects, it does involve certain changes in regulations and procedures. Some of these have been made to the extent this can be done under law and in harmony with the perpetuation of the land and its resources. Its philosophical aspects are extremely important, however, and may be the most profound element of the policy statement.

A Southwestern Region Policy on Managing National Forest Lands in the Northern Part of New Mexico is given below. I urge you to become intimately familiar with this policy and remain in your open file for ready reference.

Southwestern Policy on Managing National Forest Lands in the Northern Part of New Mexico

One of the great challenges facing the Forest Service in the Southwest is to provide a means by which resources of National Forests and the Forest Service as an organization can contribute most effectively to many of the economic and social needs of the people of Northern New Mexico.

Inhabitants of the area, measured by standards in other portions of the Region, are below average in income.

Resources of the area, in terms of commercial products, are scarce and they do not provide adequately for the people.

7

Attachment # 3

2

Most of the inhabitants are long-time residents. Pueblo Indians, of which there are at least 19 distinct tribes, have their roots deep in antiquity. Their pueblos were in place, many in the exact spot where they now exist, when Coronado penetrated the area in 1540. Spanish American, the dominant, culture stems from the Coronado expedition and those who later followed him. These native people love the area and the rural environment it provides. They intend to stay.

Rural people in Northern New Mexico, both the Indians and Spanish Americans, live close to the land. It is a part of them--a part of their heritage and culture. To many inhabitants of this area, the land supplies a substantial portion of their living regardless of the economic level involved. Spanish is spoken throughout the area and local rural people more often than not converse with each other in Spanish. Indian pueblo inhabitants have their own dialects, and these are used within the tribal community.

The Forest Service becomes inextricably involved because of the large land area administered by this organization in Northern New Mexico. Many local people live within and adjacent to these public lands. Their economic well being is often tied closely to resources of the National Forests and the manner in which they are utilized. The fact that 22 percent of two northern National Forests, the Carson and Santa Fe, were at one time grant lands emphasizes the close ties local people have to the land. In the minds of many, rightful owners were unjustly deprived of these properties. To some degree or another, unrest and discontent of local native people over their lot in life have been prevalent since 1848 when the United States gained control of the area. This has manifested itself in periodic uprisings. Some have been violent in nature. Others, less spectacular but perhaps more effective, include thrusts made by local people through civil rights organizations, both National and local. Efforts by native people to gain recognition and consideration can be expected. The Spanish Americans are being encouraged to make their feelings known to the rest of America, and they are doing this in many ways. Since many of their objectives are tied to landownership and use, National Forests will continue to be a prime target until the local people are convinced it is in their best interest to live in harmony with public ownership of much of the area.

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The Forest Service can and must continue to be a viable, helpful, and effective arm of Government in Northern New Mexico. To continue such a role during the years ahead when there will be pronounced economic and social changes, philosophies and policies of the organization must be adjusted as required to meet the challenge of the time. First, the uniqueness and value of Spanish American and Indian cultures in the Southwest must be recognized and efforts of the Forest Service must be directed toward their preservation. These cultures should be considered "resources" in much the same sense as Wilderness is considered a resource with Forest Service programs and plans made compatible with their future well-being and continuance.

Second, the attitudes of people in the Forest Service, especially those who work in the Southwest, must be attuned to the land and its people and to the unique values involved. Forest Service employees at all levels of the organization must have a burning desire to perpetuate these unique values. An attitude which embodies this philosophy will become a part of every employee's training.

Third, Forest Service objectives and policies must be altered to the extent possible to recognize and be responsive to the culture and peoples.

Recently some adjustments in National Forest administration have been made in an effort to make resources of the National Forests more responsive to needs of local people. Other opportunities are recognized. Many require legislative action or major changes in Department or Service-wide policy to effect. Contracting requirements, personnel ceilings, and traditional philosophies of management and organization need adjustment. For example, Northern New Mexico contains many people who need work. The people love the forests and rangelands and enjoy working in them. Large contracts are not generally compatible with their needs. Types of jobs that provide work for local people are desirable and more of these would be helpful.

In livestock management, small permits are desirable. Adjustments in some traditional concepts and policies in range management need revision to best serve local people and the resource. Many of these have recently been made. More are needed.

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Likewise, availability of dead wood; small-diameter trees for poles, posts, and vigas; and relaxation in advertisement policies will make the timber resource more valuable to the local society Here again, progress has been made. More can be done.

A number of Indian ceremonial areas and religious shrines are located on National Forests. These locations will be recognized and the need of the Indians incorporated into the multiple use planning system.

Other opportunities have been identified. Most important is the attitude of Forest Service people toward the uniqueness of North New Mexico. To make National Forests contribute most effectiv to people of Northern New Mexico, their culture, both Indian and Spanish American, and their traditions must be recognized and treated as special and unique resources. If these unique resour are recognized, they become an asset to the National Forest Sys We are determined to make the Forest Service a viable, helpful and productive force in maintaining and improving the many pos values inherent in the Southwest and its people.

The Forest Service has an opportunity to become an essential a highly respected influence in Northern New Mexico if it but aris to the challenge. On the other hand, there is no middle ground. Failure to meet the challenge will mean conflict, frustrations, and a loss of prestige that will adversely affect the entire Fores Service and Department of Agriculture. Our course is clear. should be pursued with vigor and determination.

WM. D. HURST
Regional Forester

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David Cordova, left, and Sam Hitt unload a cord of wood from Hitt's truck Friday at the home of Mary and Eliseo Trujillo in Truchas. As Hitt delivered the wood, Mary Trujillo asked him: 'How will I c when I run out of wood?'

Hitt delivers wood, takes hea

By CATHERINE WALSH
For The New Mexican

TRUCHAS — An environmentalist accused of creating a firewood shortage in Northern New Mexico kept a promise Friday afternoon.

Sam Hitt of Forest Guardians delivered a half-cord of firewood — which he said he bought with his money — to a family in Truchas who was about to run out.

Mary Trujillo and her family obviously knew Hitt was coming.

As he unloaded the wood with the help of David Cordova, Trujillo stood in front of her house and read aloud questions and comments she had written in a notebook.

"How will I cook when I run out of wood?" she asked.

"How will I keep my kids warm when I put the last log in the wood stove?"

"If I'm too economical with my wood, the water pipes will ...ze," she said. "If the pipes ...st, it will cost a lot of money to fix them."

Trujillo said not having enough wood "puts a lot of ...on people like me." She told Hitt: "I could get charged with child abuse because I can't feed the kids and keep them warm."

Hitt listened sympathetically. He asked Trujillo where she got her wood.

Trujillo said her sons used to collect it for her in the forest. But with one son in prison and the other working nights, she has to "have up" to buy wood.

"I use about nine cords a year," she said. "If I go out to get wood, will I be ticketed?"

Hitt told Trujillo the restrictions on collecting individual firewood had been loosened. The problem, he said, is the lack of "dead and down" firewood in the Truchas forest.

Gesturing toward the front of the house, Hitt said: "With this south face, you could have a greenhouse. You would need only one or two cords of wood a year."

"Maybe," Trujillo said. She seemed doubtful.

Hitt said a greenhouse would enable the house's adobe wall to trap the sun's heat.

"It bothers me that we continue subsidies for large logging companies like Duke City Espanola, but cut subsidies that poor people could use to build greenhouses," Hitt said.

"I have to take time off from work to deliver wood," he added. "It's crazy!"

Hitt and other environmentalists said earlier this month that they would seek to establish a "firewood fund" for the Truchas area. So far, Hitt said, the Santa Fe-based Forest Guardians has received a donation of $1,000.

To deliver wood to needy families, Hitt went to Truchas last Saturday, too.

"Max Cordova told me to bring my truck," he said, referring to the president of the Truchas Land Grant who has been an outspoken critic of environmentalists.

Hitt helped area residents deliver five cords of wood donated by Dennis Duran, who recently lashed out at Hitt in The New Mexican.

Four-year-old Ashley Trujillo, who has pneumonia, keeps warm under a blanket in her grandparents' home.

SFNM 12/12/98

Photo by Adrian G. Gentile/The New Mexican

Salomon Martinez sits near his wood pile outside his Cordova home. 'Why should we go so far for wood when it's right here?' he asked.

Richardson calls for new agreement

▶ *Enviros say firewood restrictions have little effect on firewood collectors but big benefits for the owl*

By KEITH EASTHOUSE
The New Mexican

Rep. Bill Richardson, D-N.M., blasted environmentalists Tuesday for not paying enough attention to the needs of rural Northern New Mexicans like Salomon Martinez, who says he will have to travel nearly an hour to find wood he has traditionally gathered near his Cordova home.

Under an agreement with environmentalists, the Carson National Forest recently put restrictions on firewood gathering to create better habitat for the Mexican spotted owl.

Pointing to a pile of cut wood not only his ne[illegible] v, Martinez said that before the restrictions took effect, he collected enough wood to last him two months at the most. That will take him into early January, when winter will be fiercest and his need for wood to heat his home at its greatest.

Max Cordova, president of the Truchas Land Grant, stands in the Carson forest near Truchas Tuesday. He is active in Truchas' fight for more firewood rights.

The congressman made it plain Tuesday he wanted the restrictions lessened so firewood is easier to collect for residents like Martinez who live in largely Hispanic villages like Chimayó, Truchas and Las Trampas.

"I feel that you have been unwilling to meet the residents of Northern New Mexico dependent on subsistence collection halfway," Richardson told Forest Guardians and the Forest Conservation Council, both Santa Fe groups, and Carson Forest Watch, a Pelham organization.

Sam Hitt of Forest Guardians said the restrictions will have only a minor impact on personal use firewood collecting while potentially providing major benefits to the owl and to as many as 48 migratory songbirds that are declining in Northern New Mexico.

He accused Carson Forest officials of scapegoating environmentalists and of downplaying the fact that the agency agreed to the firewood collecting restrictions.

"Misinformation has been leaked for the sole purpose of slandering the environmental community," Hitt charged.

Forest Service officials could not

Please see FIREWOOD, Page A-3

Attachment #5

Firewood as Primary Heating Source

Eight Northern Counties

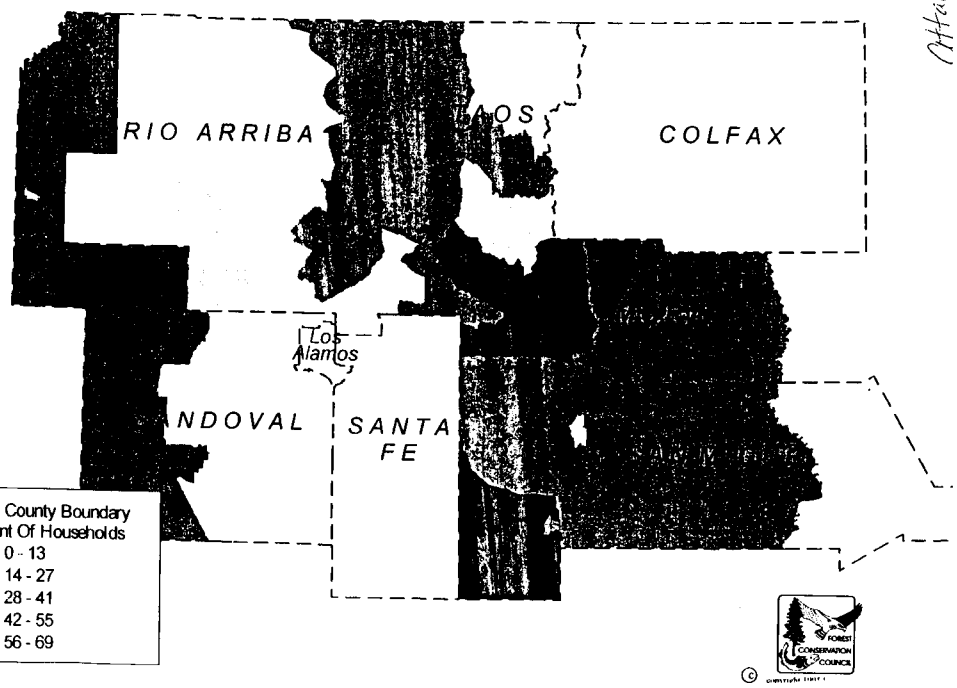

Exhibit J

Attachment #5

Attachment # 6

Entrust To: Sam Hill Date: 10/19/95 Time: 13:45:30
10-19-1995 12:00PM FROM U S DISTRICT COURT TO 9-1-3038716991

FILED ___ LODGED
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OCT 19 1995
CLERK U.S. DISTRICT COURT
DISTRICT OF ARIZONA
BY _____ DEPUTY

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

DR. ROBIN SILVER, et al., Plaintiffs, v. BRUCE BABBITT, et al., Defendants.	CIV-94-0337-PHX-CAM CIV-94-1610-PHX-CAM (Consolidated) **ORDER APPROVING STIPULATION CONCERNING PLAINTIFFS' CLAIMS AGAINST UNITED STATES FOREST SERVICE**
DR. ROBIN SILVER, et al., Plaintiffs, v. JACK WARD THOMAS, et al., Defendants.	

The Court having received and considered the Stipulation Concerning Plaintiffs' Claims Against the United States Forest Service, and good cause having been shown,

It Is Ordered as follows:

1. The Stipulation is approved in its entirety. The Stipulation and this Order consist of a compromise of disputed claims for the purpose of settlement in CIV-94-1610-PHX-CAM, and shall not constitute any admission of fact or law by any party. The parties shall not cite, rely upon, or mention the settlement, the Stipulation, this Order approving the Stipulation or the Judgment entered thereon, in any other litigation. If a person cites the entry of the injunction in this case in some other litigation, the fact that this case was thereafter settled may be made known to that court. The parties shall not cite or rely upon the settlement, the

Attachment # 6

Stipulation, this Order approving the Stipulation, or the Judgment entered herein concerning the construction or application of the Endangered Species Act.

2. The United States Forest Service shall complete the ongoing process of consultation with the United States Fish and Wildlife Service concerning the Mexican spotted owl for the existing Land and Resource Management Plans ("LRMPs") and the LRMP's as amended. The United States Forest Service and its Chief have waived their rights to appeal in this case from the August 24, 1995 injunction Order, the Stipulation and the Judgment to be entered herein.

3. The Forest Service shall suspend implementation or approval of all projects involving the cutting of trees in Region 3 until consultation on the existing LRMPs and the LRMPs as amended are completed (i.e., when the Biological Opinions are issued), except that the Forest Service may proceed with all projects and activities set forth in subparagraphs a through d below, during the consultation on the existing LRMPs and on the LRMPs as amended, provided that they meet the following restrictions. If a project has been omitted from Exhibit A by oversight of the Forest Service, the parties shall discuss same and determine if it may proceed by further stipulation.

a. Christmas tree cutting projects, involving any species, can proceed outside of riparian areas whether in or outside of designated critical habitat for the Mexican spotted owl (hereinafter "critical habitat"), provided no tree greater than 6 inches DBH is cut. If inside critical habitat, trees may only be cut within designated areas.

b. Outside critical habitat, commercial timber sales (harvest for which a fee is paid and which is intended for resale), that are listed in Exhibit A may proceed, if the trees are located in pinyon-juniper cover type and outside of riparian areas. Within critical habitat, commercial timber sales that are listed in Exhibit A

may proceed, if the trees are located in pinyon-juniper cover type, are outside riparian areas, and the dispersal habitat rule is followed.

c. Hazard tree felling can proceed only where there is immediate danger to human life or property. Routine or scheduled hazard tree removal remains suspended.

d. Cutting live trees for personal use (not intended for resale) products, such as latillas, tipi poles or fence poles, other than vigas and firewood, may occur in designated areas that are located outside of riparian areas and outside of critical habitat. Dead and down timber may be gathered for such personal use products, other than vigas and firewood, from designated areas that are located outside riparian areas, but may be located either inside or outside critical habitat.

e. Personal use firewood activity may proceed outside of critical habitat from general areas. Dead and down timber may be gathered from designated areas inside and outside critical Habitat. Dead standing timber may be taken only from pinyon-juniper cover type, outside riparian areas. On the Carson National Forest, all firewood must come from designated areas outside of critical habitat and riparian areas, except for existing slash piles. Dead standing timber may be taken only from pinyon-juniper cover type, outside riparian areas.

f. Vigas must come from designated areas outside critical habitat and riparian areas. They may be cut in Ponderosa Pine cover type in critical habitat only if the dispersal habitat rule is followed.

g. Roads and facilities projects listed on Exhibit A may proceed outside of critical habitat, except new road corridors in forested areas remain suspended. Inside critical habitat, roads and facilities projects listed on Exhibit A may proceed, if tree-cutting is confined to existing areas of disturbance (i.e. road

and Wildlife Service either concurs or declines to consider the matter), Ojos Ryan, Fence-Bagnall, Lons, and Yarro.

m. The following additional projects may proceed: Sunspot National Solar Observatory, Hutch Boondock, Black Fire (including Bank and Aspen) Salvage, Bridge Salvage, Scott Able Salvage, Brann, Mount Lemmon Federal Highway, Saint Joseph, Payment Unit One of Isabelle, Filipito Unit 4, Filipito Unit 9, Filipito Unit 8 (which has not been sold, except that trees larger than 18 inches DBH will not be commercially harvested in Unit 8 for ten (10) years following entry of the Judgment to be entered herein), Paris, and Hay on the Lincoln National Forest.

n. Emergency responses to prevent immediate, irreparable harm to human life or property caused by unforeseeable events such as wildfire, floods and storms, may be taken.

4. The Campbell Sale on the Apache-Sitgreaves National Forest and the Barber Sale on the Coconino National Forest will be cancelled by the Forest Service. In the absence of a catastrophic event that leaves no reasonable doubt that treatment is necessary, trees larger than 12 inches DBH will not be commercially harvested from the Campbell and Barber sale areas during the 15 years after the date of entry of the Judgment in this action. During this 15 year period, the Forest Service will not permit any precommercial thinning that removes trees over 6 inches DBH or reduces the canopy closure below 40%, nor construction of any new roads, in these sale areas.

5. The Mud Timber Sale on the Coconino National Forest is the subject of other litigation under the National Environmental Policy Act (NEPA), captioned Southwest Center

8. Regarding the notice of intent to sue dated October 11, 1994, sent by the Greater Gila Biodiversity Project and the Southwest Center for Biological Diversity regarding consultation on the LRMP level on some species listed as threatened or endangered pursuant to the Endangered Species Act, there shall be a "cooling off period" of thirty (30) days, beginning when the United States Forest Service receives from potential plaintiffs written notice that they intend to pursue in court their notice of intent to sue. During the cooling off period, plaintiffs will not file the suit contemplated in the notice letter and representatives of the potential plaintiffs and the United States Forest Service will meet and engage in alternative dispute resolution.

9. The United States Forest Service's pending Motion for Clarification is withdrawn and any remaining claims stated in the Complaint against the United States Forest Service and its Chief are dismissed with prejudice, other than claims for attorneys' fees and costs.

10. The United States Forest Service shall pay plaintiffs' reasonable attorneys' fees and costs incurred in relation to plaintiffs' claims against the United States Forest Service in this case, such amount to be determined, if possible, through further negotiations. If not resolved through negotiations, the Court will decide how much the Forest Service will pay in reasonable fees and costs to the plaintiffs.

11. The issues concerning plaintiffs' claims against the Bureau of Indian Affairs, Department of the Interior (BIA) remain pending.

12. Upon entry of the Judgment in this action the Court shall retain jurisdiction to award attorneys' fees and costs, enforce the provisions of this Order approving the Stipulation and to enforce the Judgment, and to resolve plaintiffs' claims against the BIA in this action.

Dated this 18 day of October, 1995.

C. A. Muecke
United States District Judge

Attachment #7

Montana de Truchas woodlot
Collaborative Stewardship program with Carson National Forest

Project Overview

Community Need

The communities along the Quemado River valley have a tradition of dependence on forest resources. From the firewood that heats their homes to the water that irrigates their fields, the adjacent mountains provide the essential materials for rural livelihoods. Some of these resources occur on private land grant property, but most are on land belonging to the United States Forest Service. Communities such as Truchas, Cordova and Chimayo look to the Forest Service for commercial and personal use fuelwood and construction material. Likewise, the Forest Service depends on these communities to provide the expertise and manpower necessary for achieving vegetative management objectives.

Building capacity in communities to operate forest service contracts and to utilize the materials derived from those contracts is critical to bridging the gap between the resources of the forest and the needs of the community. Although the community may have the skill and interest for a contract other obstacles prevent them from taking advantage of the opportunity. Some times the need in the community is as simple as the tools necessary to do the work; other times the community need may be more complicated, such as lack of access to markets for products derived from the contract. La Montana de Truchas Woodlot is being developed as a means of overcoming a range of obstacles faced by motivated forest workers.

Project Description

La Montana de Truchas Woodlot is a non-profit enterprise being setup to serve as a marketing center for small diameter wood products. The woodlot will buy logs which it will manufacture and resell both to the local community and to larger markets in nearby urban areas. Although the focal point will be firewood; vigas, latillas and specialty products will also be handled. By providing a guaranteed market for small diameter materials the woodlot will encourage forest workers to bid on forest service sales that are increasingly focused on small diameter trees. The woodlot will also support forest workers by providing tools, equipment and vehicles necessary to operate the sales. In some cases the woodlot may bid on the contract then look to the community for providing the labor.

Although it is being established as a business the woodlot has objectives beyond profitability. The social and environmental goals of La Montana are described in the following mission and principles statement.

Mission Statement

Develop and support a profitable and ecologically responsible wood products business that creates employment opportunities and provides subsistence wood products for Truchas Cordova, Chimayo, Cundiyo and Rio Chiquito (the Communities).

Attachment #7

Award for the use of collaborative stewardship as an innovative tool for environmental problem solving. On the Espanola Ranger District the Truchas Land Grant and the district are seeking creative solutions for the management of forest lands contiguous to Grant lands. The woodlot is the natural next step in bridging the gap between the resources on the national Forests and the resource needs of the community. In the past, the USDA Forest Service has supported the woodlot through its Rural Community Assistance program. Hopefully, this commitment to the project will continue.

Relation to Natural Resources

The forest lands around the Truchas Land Grant are characterized by many dense stands of secondary growth timber. A common vegetative management objective is the thinning these stands and return of the forest to a healthier condition. However, this type of work is often not appealing or profitable for the local operators. The lack of markets for small diameter materials and the shortage of forest crews specializing in this sort of work makes it difficult for the forest service to meet its objectives. The woodlot would provide both the required labor and the needed market.

The labor pool of the woodlot would allow the forest service to partner with the community in undertaking ecosystem management projects on public land. This relieves some of the burden to the agency that has too much work and too few employees. Furthermore, as the USFS designs sales of smaller diameter timber, it is imperative that there be markets for this material. Without reliable markets forest workers will be reluctant to bid on the work and the agency will be forced to have the work done. Markets, such a La Montana, allow the agency to put up sales that satisfy ecosystem objectives and be confident that bidders will be interested in the sales.

La Montana de Truchas Woodlot will help the USFS to meet forest health objectives that include:

- Increasing grasses and forbs
- Reducing catastrophic fire hazard through thinning and controlled burns
- Protection of riparian zones
- Restoring rangeland to pre-settlement conditions
- Promoting a variety of ages, crown covers and VSS classes

STATEMENT OF GERALD L. CHACON, RANCHER AND NORTHERN DISTRICT DEPARTMENT HEAD, NEW MEXICO STATE UNIVERSITY, COOPERATIVE EXTENSION SERVICE

Representative Chenoweth, as Chair of the Subcommittee on Forests and Forest Health, let me welcome you and your members to Northern New Mexico and to the Española Valley. It is an honor and privilege for me to testify before each of you on what I consider to be one of the most important issues to have ever faced rural New Mexicans—Forest Policy and Federal Laws which govern uses of public lands.

This year marked the 400th anniversary of livestock production in Northern New Mexico. My own family has continuously raised livestock on our private and surrounding lands for at least the last 168 years.

Each of you must clearly understand that nearly all of the area now part of the Carson and Santa Fe National Forests in Northern New Mexico were Spanish and Mexican Land Grants used to graze livestock, obtain drinking and irrigation water, to build homes, churches, and businesses which sustained our communities and families. Our people have always been land-based livestock producers with a successful history of livestock production going back to ancestral Spain. Look on any Forest Service map in northern New Mexico, nearly every mountain, stream, spring and pasture are Spanish names and places.

Today, as in our past, we have a proud history of serving the community and working with government, even when that same governance took community lands for the establishment of public domain. Still today, title to much of the forest land is not clear. Hopefully, you in Congress will allow communities to finally have the opportunity to prove ownership under a more fair process than what was historically given.

There are currently just over 2,000 families grazing on U.S. Forest and BLM land in Northern New Mexico. These permitters run on the average less than 50 head. Eighty seven percent are Hispanic.

There are 327 families using public land for grazing in Rio Arriba County alone.

Public lands sustains 60 percent of these ranchers livestock forage needs each year. Total gross receipts from all livestock in this county range between $7.8 and $14.7 million. This industry is very significant for a county whose population already has a 10.7 percent unemployment rate and where 23.5 percent of the families live below the national poverty level.

There are 3.5 million total acres in this county with 1.3 million U.S. Forest Service land and 50,000 BLM acres, 647,000 acres of Indian land and 108,000 State land acres.

The majority of resources available for our economic well being come through public lands. Access to these resources is key to our communities and cultures ability to survive.

The processes that would allow continued access are largely threatened by misinterpretation and misuse of laws and policies originally intended to preserve and protect the environment of these lands.

There are currently 29 species of animals alone listed on the State Threatened, Endangered Federal Threatened, Endangered and Candidate List in this county alone. This, coupled with NEPA, EIS, EA processes provides enough legal fodder to consume every Federal and State Agency, municipal and county government's budgets. This is currently the situation with U.S. Forest Service and the pending lawsuits against them.

The single most disruptive force in our rural communities today is the misuse of the Endangered Species Act and the scores of procedures that are required to enact it. The legal interpretations of this once well-supported law have succeeded in driving wedges between Environmental organizations, ranchers, loggers, miners, the recreation industry and the U.S. Forest Service. More recently, cities, towns and county commissions have been forced to defend themselves and their constituents from the never ending problems the Endangered Species Act creates for them. Growing numbers of credible science organizations and institutions seriously criticize its overall effectiveness. Identifiable errors in the determination of what is endangered and threatened have been identified. Wrongful determinations of endangered and threatened status have been exposed. The loose and expansive nature of the language in the listing criteria are very problematic. Further, the record of recovery from the Act itself is seriously questioned by more of the science community.

The immensity of problems and opportunities for legal wrangling are too large to even comprehend or to ever solve. Land-based people are doomed to a life in the courtroom.

We desperately need your help to develop law and action plans that recover species *with* the involvement of land-based people, not in spite of them. Law and policy interpretations that remove people from the land are sure to fail in the long run.

Law that puts people against people cannot help heal the environment or the economic status of rural communities. Law and policy of agencies which takes rights, property, punishes, fines and incarcerates is sure to fail in the long run.

Rather, incentives for land-based people to participate willfully in conservation efforts have historically proved most effective. No law or policy in and by itself ever accomplished anything without the will and support of the people.

One only has to look at what has been done working cooperatively to recover game species—ducks, geese, wild turkeys, elk, buffalo and many others, some of which were nearly extinct, now thrive.

We have the science, the money and the will of the people to accomplish anything we set our collective minds to do. The government and the people should not expend all our financial mental and physical resource to fight each other in the courtroom. I choose to think we are smarter than that, and when given an equal and balanced opportunity to we will find a win for natural resources and a win for people. We need your help to balance the scale of opportunity. Rural Northern New Mexicans cannot outspend national Environmental organizations with endless streams of financial and legal resources. Poor science, laws without clarity, and policy interpreted by the whim of any individual without consideration for people, will only further worsen our problems.

The more than $2 billion spent by agencies since 1989 for recovery would have gone a long way to diversify forest habitats had we allowed for sustained timber harvest, thinned overcrowded forests, developed watering for livestock and wildlife, used prescribed burns, controlled brushy species and otherwise enhanced wildlife habitats. Currently we lose 1 percent of our forest ecosystem grasslands per year due to encroachment of trees. Catastrophic fires consume forest resources and the budgets of agencies who fight them. Our efforts to control invasive brush in grasslands is constantly derailed by budget, policy and the fear of agencies to use proven, safe, and cost-effective herbicides.

Paperwork, hearings, budget, documentation, notification, are the business of agencies. No longer is range science, forestry, soil science, wildlife science and recreation the business of the U.S. Forest Service.

I would like to conclude with the first paragraph of the Extension Workers Creed. It is good food for thought for all of us assembled here today.

> "I believe in people and their hopes, their aspirations, and their faith; in their right to make their own plans and arrive at their own decisions; in their ability and power to enlarge their lives and plan for the happiness of those they love."

Thank you.

ADDENDUM

Specific Recommendations:

1. Revise the Endangered Species Act to provide incentives for conservation of species rather then punish people and communities with listed species.
2. Develop provisions for a peer review process of the nomination to prove status and necessary steps for recovery.
3. Provide recurring funds for local communities and allotments to better maintain forest, range and water improvements to enhance overall forest health—possibly from Land and Conservation Fund.

Return all or most of all User Fees to the land to improve and maintain forest health—keeping resources and communities economically healthy will return more dollars to the U.S. Treasury through taxes than User Fees.

STATEMENT OF ROBERT B. LUCE, GENERAL COUNSEL, RIO GRANDE FOREST PRODUCTS, INC., ESPAÑOLA, NEW MEXICO

Madam Chairman, Representative Redmond, and distinguished guests, my name is Robert Luce. I represent Rio Grande Forest Products, Española, New, Mexico. On behalf of Rio Grande, I would like to thank you for the opportunity to present testimony on such a critical issue as forest health and forest management in northern New Mexico. Frankly, it is good to have representatives who are concerned enough to bring the eyes and ears of Washington to Española.

Rio Grande operates the largest sawmill in the State of New Mexico. The mill has been located in the Española valley for more than 20 years. We are the second largest employer in the valley with approximately 100 employees. With the addition of loggers, and truckers that supply the mill with logs, we estimate that there are more than 1,000 families in northern New Mexico and southern Colorado that are directly dependent on our mill for their economic survival.

We currently produce approximately 35 million board feet of lumber per year, roughly enough wood to build 3,000 single family homes on an annual basis. The logs we process are harvested from public, tribal, and private lands utilizing the best management practices available. We do not encourage or endorse so-called "clear cutting," and we do not strip the land of every merchantable tree. All of our logging operations are managed by three graduate, professional foresters working in conjunction with other foresters employed by the U.S. Forest Service, Bureau of Indian Affairs, and State of New Mexico Department of Forestry. It is our policy to implement and encourage harvesting standards and methods that leave an adequately stocked residual stand of young, healthy timber that promotes natural regeneration. This policy ensures that we will have an adequate timber supply for future generations. We have art "eye to the future in New Mexico."

We believe that the most objective way to evaluate forest health and the effects of current Federal policy in New Mexico is to actually visit the timber lands. That way, you can compare the Federal timber lands with the private harvests that have occurred in the same region. Unfortunately, we can't make that type of trip today. So I have the next best thing for you to consider—photographs.

The first three pictures that I will be showing you were taken on the Fort Apache Indian Reservation which is owned by the White Mountain Apache Tribe. This is an example of a well managed private forest. Since 1918 the Tribe has continuously harvested timber on 750,000 acres of forest land. In addition to selective harvesting, the Tribe has initiated controlled burns of 10,000 to 45,000 acres of timber land each year. As a result of this type of management, mayor catastrophic fires have occurred less frequently on the reservation as compared to the national forests. This is primarily because "fuel ladders" have been greatly reduced through systematic harvesting and controlled burning.

The White Mountain Apache Tribe has sold approximately 50 to 100 million board feet of timber to the Tribal sawmill and off-reservation sawmills on an annual basis for the past 30 years. In the 1950's the timber inventory on the reservation was approximately 100 billion board feet. BLM's latest inventory reveals that there is still approximately 100 billion board feet of timber left standing on the reservation. In other words, after more than 30+ years of active timber harvesting and thinning operations, there has been no significant reduction in the forest inventory at White Mountain. This is a direct result of their well managed program of selective harvesting, and salvage operations combined with an active controlled burn program.

The second set of pictures is from the Hondo Complex Fire which burned in June 1996 near the town of Questa, New Mexico. Due to current Federal policies, there has been no systematic logging, thinning, or controlled burning in this area as has occurred on the White Mountain Reservation. The result is a proliferation of "fuel ladders" and bug infestation. These conditions provide an excellent source of ignition and allow catastrophic fire runs like this one at Flag Mountain which threatened the town of Questa. 7,700 acres of timber was burned for no good reason. The Carson National Forest estimates approximately 4.1 million board feet of commercial timber was destroyed. Today, pockets of insects are breeding in the dead timber. These insects will spread to adjacent healthy timber stands, where they will thrive and kill healthy trees. Scrub oak and under brush have replaced what was a mixed conifer living forest. Now, over two years after the fire, only six small salvage sales have been prepared—less than 10 percent of the total salvage volume. Only three have been sold and only one of the salvage sales has been harvested. In all likelihood, most of the burned timber will be wasted and left to rot as a timeless memorial to failed policy upon failed policy.

Now, is this a wise policy or should we follow the example set by the Jicarilla Apaches in northern New Mexico and the Southern Ute Tribe in southern Colorado. These Tribes lost 8,500 acres in the Mount Archuleta Complex burn in June of 1996. Less than 3 months after the ashes cooled, logging began to salvage the burned timber. The two tribes removed over 15 million board feet of fire killed timber. As we speak reforestation and erosion control measures are being implemented to restore these areas and they are well on there way to reforestation.

The last photograph that I would like to share with you is of the Oso Complex fire that burned 15 miles west of Española this last July. The Santa Clara Pueblo intends to sell approximately 2 million board feet of salvage timber from the Oso burn. Will the Santa Fe National Forest sell the remaining three million board feet of salvage or will it repeat the same mistake as occurred in the Carson National Forest following the Hondo Fire?

In addition to wasting a renewable resource by increasing the risk of wild fire, and bug infestation, current Federal policy threatens the economic livelihood of those families in northern New Mexico who are dependent on logging and the public forests for survival. We need only look at small rural towns in Idaho, Oregon, Wash-

ington and Montana to see the results of the current policy. Just last week, Boise Cascade announced the closure of four more sawmills in our region. Since 1989 over 300 sawmills, pulp mills, and plywood plants have closed as a result of the harvesting reductions that have occurred on Federal timber lands. Over 35,000 employees have lost their jobs, and thousands of workers have had to look elsewhere for work. There is very little likelihood that these individuals will be reemployed in their hometowns or for that matter in the wood products industry in another area of the country.

So for us, there are two issues: jobs and the waste of a renewable resource. Frankly, I would much rather see a well managed forest, like the one at White Mountain Apache Reservation than see the scorched hills of Hondo. As a company we realize and understand that the national forests must be managed responsibly so that this resource is available for future generations. At the same time, however, we must not lose sight of the fact that timber is a renewable resource. With that in mind, and especially considering the tragedy at Hondo, it is very hard to understand the rational underlying a Federal policy that places a virtual moratorium on harvesting timber in the national forests when the cost of such a policy is acres upon acres of burned timber, thousands of lost jobs, not to mention wasted lumber, and severe environmental degradation from the mud slides and soil erosion that follow.

In closing, I would encourage each of you to visit the White Mountain Apache timber lands. They provide an excellent example of what our national forests could and should look like. Short of a personal visit you will have to rely on the photographs. As you consider these pictures, we would challenge you and the other members of the Committee on Resources to answer these two questions:

1. Does our current land management policy protect the living forest or does it actually promote the waste of a renewable resource?
2. Has the current land management policy reduced the risk of wild fire or has it actually increased the risk of environmental degradation?

As you can see from the pictures, we believe that there is better way. In our view, Federal policy should follow the example that is being set by the White Mountain Apache Tribe and other privately managed forests if we are truly interested in doing the best possible job of manage Federal timber lands for everyone concerned.

Thank you.

Photo # 1 - White Mountain Apache Reservation, Maverick, AZ
Ponderosa Pine overstory with a vigorous stand of young pine regenerated beneath the seed trees. Broadcast burning removes the competing vegetation and allows young trees and native grass to become established and thrive.

Photo #2 - Typical young stand of "Blackjack" Ponderosa Pine.
Dense crown closure prevents grass or seedling growth. Smaller trees in the background would carry wildfire into the crowns of this young pole stand. Note the absense of grass and seedlings.

Photo # 3- A young stand of Ponderosa Pine sawtimber thinned in 1996. Logging slash and "ladder fuels" present minimal hazards. A broadcast burn in the fall of the year will eliminate the logging slash without scorching the residual trees. Fire will rejuvenate the grass and forbs while encouraging pine seedlings to become established in later years

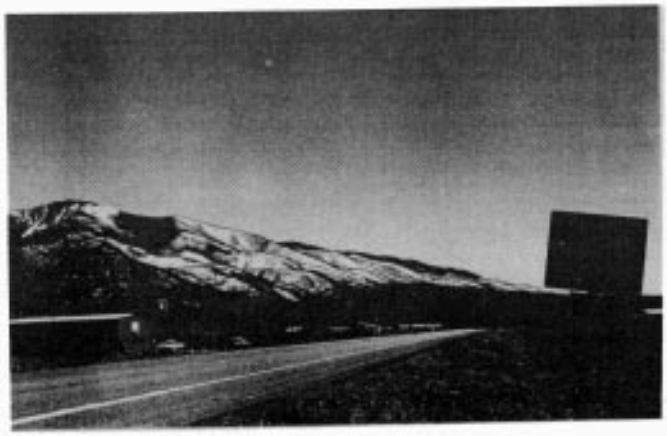

Photo # 4 - Hondo Complex Fire - Questa, NM
This photo was taken in December 1996 near Questa, NM. It shows the extend of the area lost - 7,700 acres of what was a mixed conifer forest.

Photo #5 - Hondo Complex Fire taken August 14, 1998
Standing dead timber has replaced the mixed conifer forest. Oak brush and weeds have invaded the burned area. Pockets of insects breed in the dead trees and move to the green timber adjacent to the burn.

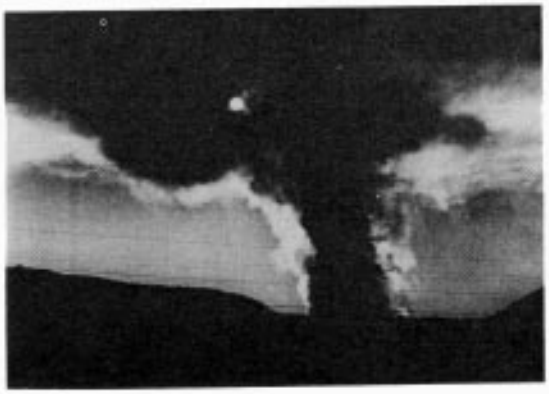

Photo # 6 - Oso Complex Fire-
The gloom of smoke from the Oso Fire blocks out the sun as it begins its run. Santa Clara Pueblo Tribe is preparing a salvage timber sale of about 2,000 MBF. Will Forest Managers on the Santa National Forest be allowed to do their job and salvage log federal land. Or, will it be another repeat of the same mistake as the Hondo Fire?

STATEMENT OF BRUCE KLINEKOLE,

My name is Bruce Klinekole. I am a Mescalero Apache and I live on the Mescalero Reservation in South Central New Mexico. I am a member of the Board of Directors for the Mescalero Apache Cattle Growers and of the New Mexico Cattle Growers Association.

I have been asked to give testimony before you today on forest health. First, let me thank you Congressman Redmond and Congresswoman Helen Chenoweth for allowing me to come before you today and give input on this very important subject.

As you are aware, forests around the nation are in poor health due to lack of management. If you have visited the Lincoln National Forest recently, you would notice that parts of the Lincoln are no exception. This can be attributed to poor management practices on the Federal level.

But if you visit the part of the Lincoln managed by the Mescalero Apache, you will notice something different. You will see a healthy forest, where wildlife and cattle thrive together, where timber is harvested and where we worship our creator.

I would like to tell you about the steps we, on the Mescalero Reservation, have taken to insure that the forests in our care are preserved for generations to come—where we give back what we have taken.

We are taught from a young age to respect the land we live on, to use it wisely and to give back what we have taken. It is by simply following these lessons that we have a section of forest that is in better health than those around us. We do graze cattle, we do harvest timber and do prescribed burns. I am here to tell you, when done correctly, these practices provide a lush landscape where everyone and everything benefit.

On the Mescalero Reservation we participate in selective tree harvesting. We have done clear cuts before, but only when there is a severe outbreak of diseased trees due to mistletoe or bark beetles. After each timber harvest, many hours are spent cleaning up and gathering the debris left. The debris is then burned during the winter months, clearing the way for undercover to thrive.

Currently, a six-man crew from the Mescalero Reservation, trained by our Branch of Forestry, is employed to check and mark trees in accordance with the Agency Forester's Timber Management Plan. Thinning crews are also employed to remove undesirable woody plants and trees from areas to provide better sunlight to the ground cover. These areas are eventually burned. Lush grasses sprout, providing grazing areas for wildlife and cattle. When done correctly, prescribed burning, and timber harvesting can have a most beneficial outcome.

Recently, we have been working in conjunction with the Department of Agriculture on the Great Plains Conservation Plan. Under this ten year plan, Mescalero Apache Cattle Growers' and Bureau of Indian Affairs personnel laid pipelines and installed stock tanks for better water distribution to wildlife and cattle in the area. We have also worked on spring development. By developing springs in the area, we have provided a cheaper water source for not only our livestock, but for wildlife as well. We have also seen a decrease in soil erosion in the area.

Our cattle producers also work to ensure the land is not overgrazed. Cattle are moved around and fenced to different areas at different points in time. We have seen a decline in soil erosion because of these practices. We have seen our grasses grow.

If you should come down to the Mescalero Reservation, and our portion of the Lincoln National Forest, you will notice how beautiful our forest is. You will notice the wildlife and you will notice the cattle. You will notice that the reservation forestland is not a tinderbox waiting for the next lightening strike. You will notice a well cared for landscape.

Understand that we have available to us the opinions of the Federal Government and its agencies, but our tribal advisors and tribal council have the final say in how we manage our land. We have chosen to manage it wisely. We have chosen to instill conservation practices, such as prescribed burning and responsible grazing and timber harvesting. We have not only benefited from these practices, but have used the land wisely, ensuring that it will be here for generations to come.

Again, I thank you for the opportunity to testify before you. I thank you for the opportunity to relate that if our forests are managed properly; wildlife, forests and cattle can coexist.

STATEMENT OF JAKE M. VIGIL, PRESIDENT, TIO GORDITO CATTLE ASSOCIATION, EL RITO, NEW MEXICO

Good afternoon, my name is Jake M. Vigil and I am representing the *Tio Gordito Cattle Association*. I want to thank the Subcommittee on Forests and Forest Health

and Chairperson Chenoweth for allowing me the opportunity to testify to this oversight hearing. I would also like to thank Congressman Bill Redmond for bringing this important hearing to Española, New Mexico. It is my hope some good will come from my testimony. Make no mistake, I love the forest dearly, I *do not* want to see it harmed in any way. At the same time, I do not want to see the destruction of our culture and customs. Please forgive me, I am not an educated man. All of my life has been spent making a living on the Carson National Forest in the Tres Piedras District raising sheep and cattle with my father. It is important you understand that I know the forest, and I know it well. My family, the Vigil's settled *Medanales* in the early 1600 hundreds and tamed the *tierra cimarone,* or wild lands. As a young boy my father would take me to the high *sierras* for the summer to herd sheep. Those were the happiest days of my life. Sadly, over the years I have noticed a decline in the health of the forest. Not because of sheep and cattle. Years ago we grazed more livestock than they do today, but because of inappropriate forest service policies and the implementation of so-called "environmental reforms" my beloved land is suffering.

We have bent over backwards to work with the Forest Service. This year we have already given up 23 days of grazing time on our permits due to what was referred to as "production decline." We may possibly lose up to another 30 to 60 days at the end of the season due to a policy called "40-60 utilization." This is a policy, derived from a formula dreamed up by the Forest Service and environmentalists behind closed doors, dictates utilization of 40 percent of the forage and 60 percent is left behind. Because of this ridiculous policy 42 families will be affected and 3,000 head of cattle will be forcibly removed from the Carson National Forest.

What I find interesting is that years ago we ran more livestock and the forest looked better than it does today. I believe it is due to the fact the Forest Service has invested so much money fighting the environmentalists in court, and so little is left for range improvements. I can hardly blame the Forest Service for making deals with the environmentalists. It is obviously cheaper to strike up a deal than it is to fight someone in court. Unfortunately, the "cheap" way out is not good for forest health, and it will ultimately mean the end of the Hispano culture.

With me today are five pictures I want you to see. One will detail a grazed area, and the other is a picture of a non-grazed area. All of the pictures are taken from my ranch: Number 1 is a boundary fence between my forest service permit and private land. The one on the left side has never been grazed and the right has had livestock on it since 1958. You will notice the right has many more different plants while the left is nothing but sage brush.

Number two and three are areas adjacent to each other. You will notice the abundant vegetation in photograph two, while the space represented in photograph three could never support any livestock or wildlife whatsoever.

Picture number four demonstrates the vegetation left behind when we left this pasture in July 28, 1998. Number five is an area cattle and wildlife never go because of the canopy under which nothing grows.

I am always amazed that never once has an environmentalist consulted me, or my neighbors, and certainly never has one asked to see our ranches. I might add, none of us have ever been invited to one of their meetings.

Environmentalists have the financial resources to try and make the forests into some idea of what they think the forests should look like. They do not realize grazing and logging are good for the land. As far as I am concerned, radical environmental groups are committing nothing less than a form of ethnic cleansing and are out to rid the forests of *Hispanos* by destroying our livelihood. The Forest Service, with approval from environmental groups, spend millions of dollars each year to recover artifacts and restore ruins. I guess a culture has to be dead for a thousand years before we try to save it.

Again I thank you for your invitation. I hope I have done some good.

STATEMENT OF CAREN COWAN, NEW MEXICO CATTLE GROWERS' ASSOCIATION

Let me begin by thanking you, Chairman Chenoweth, and members of the Committee for your interest in what is happening to rural families and economies in the Southwest at the hands of the Federal Government in concert with radical environmentalists. My name is Caren Cowan and I am here today representing the New Mexico Cattle Growers' Association.

During the past several months the Cattle Growers' have been the coordinating group for the litigation that livestock producers have been forced into between the radicals and the Federal Government. I have been the individual responsible for

communication between our attorneys and livestock producers as decisions are made.

I have been asked to come here today to address the settlement agreement entered into between the U.S. Forest Service and the Forest Guardians. I stress the words "settlement agreement" because the Forest Service and their friends persist in calling the agreement a "stipulation." Our attorneys have taught us that a stipulation is an agreement that is court sanctioned. The agreement we are talking about is not now nor has it ever been court sanctioned. In fact, a Federal district judged refused to sign off on the agreement because livestock producers would not agree to it.

As you know in October 1997 the Southwest Center for Biological Diversity filed a suit (the 666 case) against the Forest Service alleging endangered species claims. In December 1997 the Forest Guardians filed a similar suit (the 2562 case) but included clean water and other claims. It is my understanding the Arizona Cattle Growers' Association obtained intervener status in the 666 case.

In early 1998, I was contacted by both the Forest Service and the Arizona Cattle Growers with urgent requests that the New Mexico Cattle Growers' intervene in the 2562 case. My directors made the decision to do so. At about the same time the Forest Service moved to join the two cases. In early March I participated in a conference call on the cases that included our attorneys, the Arizona Cattle Growers and their attorneys, representatives of the U.S. Justice Department, Forest Service and U.S. Fish & Wildlife Service, and representatives of both the radical green groups. Basically we listened to the greens and the feds discuss how things would proceed under a grazing consultation agreement reached between the Forest Service and Fish & Wildlife.

A few days later we learned the Forest Guardians filed a motion for a preliminary injunction to immediately remove livestock from some 160 allotments in New Mexico and Arizona. Although we had not yet been granted intervener status, our attorneys were allowed to prepare responses, which were due the end of March.

About the first of April things began to pop. The cases were joined. Both New Mexico Cattle Growers and Arizona Cattle Growers were granted intervener status in the joined cases and the judge set a hearing date a mere two weeks away on the motion for preliminary injunction. Our attorneys immediately began preparing a case on behalf of the permittees.

A few days into the process, our attorney called and reported that she had been told by the Justice Department that it was not necessary for the permittees to be concerned with defending themselves because the government was confident of their case. I called the Forest Service in Albuquerque and asked about the report. I was told that yes, the Forest Service was working hard to defend themselves and the livestock producers and they believed they had a good case.

For that reason, I was surprised when our attorney called about a week before the scheduled hearing and said that a stipulation had been proposed. She had participated in a telephone call with the radical greens and the Justice Department and felt at that point that negotiations were going nowhere. On the Friday afternoon prior to the hearing, which was Good Friday, I again talked with our attorney. Although conversations on the stipulation had continued, she still felt no progress was being made.

I arrived in Tucson mid-morning on April 13 to finalize preparation for the hearing and the picture had radically changed. Justice and the radical greens had negotiated through Easter weekend and late on Sunday night had come up with a draft stipulation. While our attorney was on the phone for the negotiations, she felt she had virtually no impact on what went on.

I looked at the draft stipulation and consulted with my directors. There was no way we could agree to the stipulation. It would harm too many permittees. Our attorney advised Justice of our decision and that was the last we were consulted on anything.

The preliminary injunction hearing, which was to commence on the following morning, was postponed until afternoon. At a little after 1:00 p.m. we finally received a copy of the final draft of the stipulation. I was told that the Court received a copy at the same time.

The magistrate judge began the hearing on the preliminary injunction with no opening arguments. He did not appear to be aware that there was a stipulation in the works. We listened to the radicals' witnesses that afternoon and the following morning. The Justice Department attorneys asked very few questions and none that appeared to offer any protection of the livestock producers. Our attorneys were allowed to cross-examine the witnesses.

After the green witnesses, the Justice Department put on a few Forest Service witnesses who did nothing to defend their actions or the livestock producers and

who admitted that there actions in the proposed stipulation would result in additional litigation.

The magistrate judge then called a recess and asked all the attorneys into his chambers. The attorneys were told that the Federal district judge had denied the stipulation because the livestock producers would not be a party to it. Needless to say, we felt pretty good about the decision.

That didn't last long. The radicals, the Forest Service and the Justice Department representatives literally went into a back room and came out with a settlement agreement they called a stipulation. This agreement is actually worse than the draft that had been presented to the Court.

The next morning that agreement was presented to the magistrate judge who told the attorneys for the radicals and the Justice Department to sign it. The lead attorney for Justice stated that she was not authorized to sign such an agreement. The judge instructed her to sign it anyway until such time as the proper authorities could sign it. I have never seen anything but the agreement that was signed by the Justice attorney in Tucson.

While we were still in Tucson our attorneys and the attorney for the Arizona Cattle Growers filed a motion for a temporary restraining order to delay the implementation of the agreement, which we believe violates several Federal laws. The Court denied the restraining order, but noted that if the Forest Service wanted fences built, they would have to bear the cost.

There has been much speculation about when the Forest Service and/or the Justice Department actually began negotiating the settlement agreement they ultimately entered into. My first knowledge of it was just a week prior to the Tucson hearing.

However, I learned that in the weeks prior to the Tucson hearing, Forest Service personnel were on the ground in the Gila National Forest instructing permittees to build fences and stay off riparian areas without the required changes in annual operating plans (AOPs). Had those fences been built, those permittees would have given up their rights of appeal through the Forest Service's administrative policy or for a remedy in the courts.

The Southwest Regional Forester has told our Congressional representatives that livestock attorneys declined to participate in a potential stipulation. That is simply not true. The livestock industry refused to sign an agreement that could be fatal to rural families and rural economies. When we refused to play the game, the government and their buddies took their toys and went elsewhere.

In fact, I feel that the Forest Service is playing the old divide and conquer game. As I told you, the New Mexico Cattle Growers and the Arizona Cattle Growers were initially involved in this litigation. Immediately after the Tucson hearing, Forest Service personnel flew to Phoenix to meet with the Arizona Cattle Growers. While I don't know the specifics of that meeting, I do know that after the meeting that organization chose to withdraw from the proceedings.

I find it interesting that the Forest Service chose to fly to Phoenix, at taxpayer expense, when they didn't drive the ten or twenty blocks from their office to mine in Albuquerque.

The Forest Service has told Congress and the popular media that the settlement agreement was just what they already had plans to do, that the agreement merely formalized management practices that were already being implemented through AOPs. If that is the case, why have so many AOPs being amended since the agreement was put in place? If that is the case, why is the Forest Service telling permittees that they have a court order to make radical changes in operations?

The Forest Service is telling the popular media that they are not forcing producers out of business. If that is the case why do I have producers selling cattle at the bottom of a terrible cattle market?

The livestock industry spent tens of thousands of dollars to defend permittees at the hearing in Tucson. Actions of the government kept us from ever being able to present our side of the story.

Your full Committee was told last month by one of the radical environmentalist's attorneys that they had the science to prove their case. I don't believe the government has ever forced them to prove that science. I for one would certainly like to see that science, and I know that the folks I represent agree. Why isn't the government willing to fight for our rights?

You have been told in previous hearings that the radical greens are being funded by hundreds of thousands of dollars in donations from the East as well as in payments from the Federal Government when suits are settled. We are on the ground are paying for our fight through bake sales and dances and ropings.

The legal bills have continued to mount since the hearing in Tucson as our attorneys have filed appeals of the changes in AOPs for permittees in New Mexico and Arizona in order to preserve their rights for continued court challenges.

One final point that I would like to note that it is especially frustrating to hear from the Forest Service "that you cowboys are going to have change. You can't keep doing things like you did 80 (or 50 or 20 or 10) years ago."

As you know, livestock permittees work in concert with the Forest Service or the Bureau of Land Management. Annual operating plans are done ANNUALLY. The permittees are only allowed to do what the government says. My members tell me they have tried for years to get the agencies to let them utilize new and innovative management practices. They have been denied.

Livestock producers are just like everyone else in this world. We want to do a better job and are continually educating ourselves on better ways to do our jobs. We are a generational business. If we don't take care of what we have, we have nothing to pass on.

In addition, I am living proof that the cowboys have and do change their ways. I seriously doubt that 80 years or 20 years ago or 10 years ago or even five years ago somebody in a skirt would have been addressing about the plight of the cowboys.

Thank you for your time.

STATEMENT OF PALEMON A. MARTINEZ, SECRETARY-TREASURER, NORTHERN NEW MEXICO STOCKMAN'S ASSN., VALDEZ, NEW MEXICO

Chairman Helen Chenoweth:

Your Subcommittee hearing on Forests and Forest Health in Española and Northern New Mexico is greatly appreciated. We are an area of limited financial resources and this approach gives us an opportunity to present our viewpoints. We are also appreciative of the sensitivity of Congressman Bill Redmond to arrange this hearing.

I am the Secretary-Treasurer of the Northern New Mexico Stockman's Association and a grazing permittee on two Allotments in North Central New Mexico. My family has been involved in farming and ranching since Spanish settlement in this area and have dealt with Agricultural and Land Management agencies since their inception. I have been a part of this all my life.

I would first like to point out an issue along with a research document that can give you an excellent overview of Northern New Mexico and its historical and inherent problems. Our Northern New Mexico Stockman's Association feeling the various Federal initiatives, policies and regulations along with the entry of the legally inclined and well funded environmental organizations was prompted to consider **"Do we have any rights on the use of Public land, rights we always felt were inherent to our area and our culture?"** We had to find out. To do so we contracted with Michael C. Meyer, Ph.D, a noted University of Arizona Historian on Southwestern and Mexican history. This year Dr. Meyer completed his research entitled, *The Contemporary Signifcance of the Treaty of Guadalupe Hidalgo to Land Use Issues in Northern New Monaco.* This is a revealing legal and historical perspective of the common land uses under Spain and Mexican Law and subsequently under United States jurisdiction. We are providing you a copy of the Research publication as we have provided to our New Mexico Congressional Delegation. I would like to make the following observations:

- The text is informative, interesting and relevant to discussion of Northern New Mexico land use issues.
- The Treaty of Guadalupe Hidalgo of 1848 raises some fundamental issues of property protected for Mexican citizens and their successors in interest in New Mexico as well as the other Treaty States.
- If Treaties as provided by the U.S. Constitution Article VI, Section 2 are to be honored as if Treaties were the constitution itself, how then does the Treaty of Guadalupe Hidalgo apply to the protection of property rights concerning our contemporary land use issues? Can more recent Federal Laws such as Endangered Species Act, Clean Water Act, and others supercede the Treaty protections, or are there other avenues? How does Article V apply to property rights and takings issues on either a historical or on current situations? Are these Treaty issues similar to those of Native Americans as Protected and researched by the U.S. Indians Claims Commission? We were all considered Mexican Citizens at the time of the signing of the Treaty of Guadalupe Hidalgo. Do we merit the same considerations?

• To not belabor the Research Report, I would lastly call your attention to the section on "Conclusions and Recommendations" pages 82-90. Although Congressman Redmonds Land Grant Bill addressed some of these issues, we recommend Congressional review of the above cited recommendation as relate to all the natural resources—Land and Water along with significance to issues related to todays hearings.

We would like to call the Subcommittee's attention to certain Federal Land Management Agency Policies:

• The U.S. Forest Service Southwest Region adopted a "Northern New Mexico Policy" in 1969. This was done because of the situation and uniqueness. We felt this was a positive action and we recently recommended this policy continuation to Regional Forester Towns, and was seemingly well received. We understand that this Policy was also recommended by the Carson and Santa Fe National Forests. We also heard that although recommended, the legal reviews by higher level legal staff rejected the "POLICY" and that "POLICY" could not be different than elsewhere. WHAT IF WE CALLED IT "NORTHERN NEW MEXICO PHILOSOPHY"? The key is the approach and the sensitivity to custom and culture as the case may be.

• Grazing Advisory Committees were part of the operational norm and were abolished. Every other institution operates in similar fashion. We recommend reinstitution of these committees to improve resource management. A worse evil is moving all resource management to the courts. We believe that is the wrong approach to the problems as well as to the public land users. The exception may be those direct beneficiaries who are on the litigant payroll.

• Range management improvements and conservation supported by Congress and the USFS in the 1950's, 1960's and 1970's. This was a needed effort with excellent results. We needed those programs reinstated. We believe there would be greater public support for Federal fund expenditures for these programs than for the legal arena.

• The Endangered Species Act may have appeared like a needed and noble Act. The result has instead become a nightmare, legal and scientific entanglement that will destroy property rights, customs, cultures, bankrupt governments and individuals and not produce the intended noble results. WE RECOMMEND A REINVENTION OF THE ENDANGERED SPECIES ACT. WE ALSO RECOMMEND A REDIRECTION OF THE SPECIES RECOVERY DIRECTLY RATHER THAN ON SENSELESS LITIGATION.

• Lastly, we have experienced positive cooperative efforts on Forests and Forest Health by grazing permitters, U.S.D.A. Forest Service and other interested parties and would suggest this approach would be more practical, effective and productive.

Thank you four the opportunity to present this testimony before your Subcommittee.

August 13, 1998

Congressman Bill Redmond, (R-New Mexico)
Congresswoman Helen Chenoweth, Chairman
Subcommittee Forest and Forest Health

Dear Sir & Madam:

In response to your directive of our testimony in reference to Forests, Forest Health and Grazing on Public Ranges.

I feel strongly on all issues pertaining to our National Forests' management and compliance with the policies they have to answer to. The last straw is the pressure the environmental extremists are adding to Government officials answering to lawsuits filed day and night and using, Clean Water Act - Clean Air Act, Threatened and Endangered Species Act., etc.

The lack of U.S.F.S. officials to be able to contract timber sales, thin, latias and wood, balled trees, control burn on prescribed areas, and the continuance of the U.S.F.S. to suppress unnecessary fires at billions of dollars cost to our U.S. public is killing our ambitious citizens, is killing our small rural communities and has stopped the spin-off to many other businesses in our areas.

Due to Smokey the Bear Fire Supression, we are now killing the forest with trees, too - too many trees.

Dan Glickman for the past three years has promised us we would have more dollars to do prescribed burns and save billions by NOT suppressing ALL fires. Here we are in 1998 - no increase in control burns, no personnel to plan control burns, no dollars to do control burns, and more and more trees are infesting our over-populated forests creating an opportunity for devastating wild fires that were not planned.

Today, we have over 1,000 trees per acre on so many of our forests. The average rainfall is around 20" annually and the rainfall can only benefit about 200 trees per acre, so 800 plus trees are starving for moisture, getting stunned, deceased, dying, reducing the quantity of run-off to our streams and rivers, reducing the quality of water that does happen to flow into our streams, creating erosion and silt in our streams and rivers and depleting the size of grazing areas for wildlife, the protection of our top soil and forage for packing animals and domestic livestock permitted to graze on multiple use public lands.

What Washington tells us does not reach the grassroots people and our programs are not reaching their potential to restore our ecological balance. Fire has always been a tool to control over-growth and we have suppressed 10 yr - 25 yr. - 100 yr fires. Now we have 50 years of catch-up to thin, log, burn, or remove dead, downed, deceased trees off our forest and restore health for selected timber left on our public lands for future generations.

Our economic impact to Northern New Mexico has been devastating. You don't see the logging trucks moving to sawmills. There are almost no sawmills left in our area, Thanks to a supposedly endangered spotted owl that we have never seen here. The trucking business disappeared. . Truck service stations are no more. No more lumber jacks and no chain-saw services or sales. Unemployment is hovering as high as 19% in our rural areas.

We need to address entire water sheds, not only riparian areas. When we heal our water sheds, the riparian areas will flourish and so will nature's inhabitants. Why then has Washington killed our water shed funding ??

We had a very successful Agriculture Conservation Program where our Limited Resource Farmers and Ranchers could apply for individual practices and we had the Great Plains program for long range conservation of our precious semi-arrid South west. These programs were also done away with to form the Environmental Quality Incentive Program. Why stop proved practices and procedures just to add "Environmental", to title and now our EQIP program is dying on the vine. Our limited resource farmers and ranchers are left out in the cold - again.

Due to unfounded excuses about our livestock grazing on riparians, we have had to go the limit through the appeals process to prove unqualified U.S.F.S. rangers' charges, "That our livestock are polluting the river to where the filter plant for the City of Las Vegas could not filter out the impurities caused by livestock."

This was disproved by the efficient water department for the City that our water was one of the best quality water cities in the Southwest. This was also verified by the District Environmental Division when their test results were identical to City Water Department tests.

This U.S.F.S. Ranger's background was in recreation, not range or forest management. She had no business in this field, she was TOTALLY unqualified for this position. We are sure that there are women who are qualified and are doing a great job, but we were sent one from New York to tell us how we had totally destroyed our grazing allotment and riparian area. Thank God we challenged this non-factual charge. We were successful in our appeal and she is no longer here, problem solved.

Our grazing allotments are being attacked by Extremists and some forest service employees, also extremists, jump on the band wagon are charging permittees of misusing and abusing our public lands, when in reality we the permittees are the True Stewards of the land. We have been brought up and have raised our kids to the fact that if we care for our land, the land will take care of us. We have a deeper interest in public land than paid employees hired to carry out their objectives. You stop/check and their interest suddenly disappears - ours doesn't, we believe in our ability as stewards which God gave to us.

In our grazing permits the most challenge we face, natural, is the overgrowth, uncontrolled over population of trees. We have to partner with U.S.F.S. Administration and create a long term continous practice to thin down our forests and bring the trees per acre down to a health stand that our rainfall can sustain and maintain. We cannot afford to fight nature, we just know what our limits in forest stands are and stay with it until we balance what Smokey did to un-balance our tree population. To do this we need to put our money (D.C.) where our mouth is and get it down to grassroots doers that will accomplish our long term goal. Also, many of our people depend on fuel wood for heat and cooking and they should not be stopped from getting firewood to survive, the forest belongs to them too. We shouldn't burn timber that can be accessed and that our nation needs, we should harvest it. Our wilderness needs as much attention as any other land, why do our policies allow us to do nothing because it is wilderness.

Our permittees in the wilderness should not be treated stricter than the ones outside the wilderness.

The last item that needs high consideration is the over population of Elk. We are being overrun by elk and no control is in sight to remedy this problem. The Forest Service say the State Game people are in charge, but USFS furnishes the rango.

Sincerely,

BEAVER ALLOTMENT PERMITTEES:

Debra Estrada

Ray Crespin

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