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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

WildEarth Guardians,

Plaintiff,

vs.

United States Forest Service,

Defendant.

CV-10-00385-TUC-DCB

ORDER

On October 11, 2011, the Court entered an Order denying the Plaintiff’s Motion for Preliminary Injunction. On October 24, 2011, Plaintiffs filed a Motion for Limited Reconsideration. On December 2, 2011, the Defendants filed a Response in Opposition.

Defendants’ Opposition to Plaintiff’s Motion for Limited Reconsideration is well-taken, in that there is an inconsistency in the Court ordering preliminary injunctive relief in a companion case and not here, particularly because the administrative record is the same. (Opposition at 2 n. 1.) The Court will then take this opportunity to correct that error.

Plaintiff’s Motion for Limited Reconsideration concludes that the “Court’s October 11 Order inadvertently omits any resolution of WEG’s claims arising from the USFS’s admitted failure to implement RPM 3. While this Court found in this case that the USFS’s failure constitutes a violation of the ESA – and so held in the CBD case – the Court has not entered judgment on these claims in *either* party’s favor in this case. For this reason – and to maintain consistency with the Court’s previous statements regarding the legal

1 consequences of failure to implement RPM 3 in both this case and the CBD case – WEG
2 respectfully requests that the Court modify its October 11 Order in this case to hold for WEG
3 on the claims arising from the USFS’s non-implementation of RPM 3 to the extent and in the
4 manner proposed above.” (Motion at 14.) The Court will so modify the declaratory relief
5 portion of the Order.

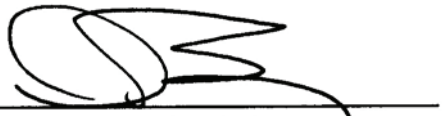
6 Plaintiff’s motion also clarifies for the Court that there is narrowly targeted relief
7 available to prevent irreversible and irretrievable harm, specifically “tree cutting in and
8 immediately adjacent to the Protected Activity Centers within the relevant project areas,
9 pending the completion of the re-initiated programmatic consultation.” Such limited relief
10 will supplement the relief previously granted by this Court in CV-10-431-TUC-DCB.

11 The October 11, 2011 Order is amended to reflect that the Court grants the motion in
12 favor of Plaintiff on that claim only and modifies the relief granted accordingly.

13 IT IS ORDERED that the Plaintiff’s Motion for Limited Reconsideration (Doc. 83)
14 is GRANTED.

15 IT IS FURTHER ORDERED that the Court’s Order dated October 11, 2011 is
16 amended to reflect that Defendant USFS tree cutting projects in the Perk-Grindstone Project,
17 the Phase II Utility Maintenance Project, and the Upper Beaver Creek Watershed Project are
18 preliminarily enjoined pending completion of the re-initiated programmatic consultation.
19 Defendants may move for dissolution of this Order if and when it deems appropriate. The
20 parties shall file a joint report on the status of this action on or before March 31, 2012.

21 DATED this 5th day of January, 2012.

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25 David C. Bury
26 United States District Judge
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