

USFS Comments about the
NM Meadow Jumping Mouse
& USFS Fencing "Riparian" Areas

April 3, 2017

By Otero County Farm and Livestock Bureau

Jim Ellett, President

4985 Rio Penasco Rd.

Hope, NM 88250

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Re: Comments about the NM Meadow Jumping Mouse

Ms. Elizabeth Humphrey, District Ranger
PO Box 288
Cloudcroft, NM 88317

The Otero County Farm and Livestock Bureau represents farmers and ranchers across Otero County. Our members are concerned that the USFS managers are violating both State and Federal Laws as you try to create areas for a non-existent mouse. The USFS has not presented us with any evidence that any meadow jumping mouse is known to exist in the upper Penasco watershed.

We have discussed the situation in our Board meetings and we know of no known and documented meadow jumping mice ever being actually seen or found on the upper Penasco. Our members own water rights and grazing allotments on the Penasco from the upper end where you have placed temporary fences and are now proposing to build permanent fences which will restrict our cattle off of waters owned by the grazing allotment owners.

In addition our members own both pre-1907 water rights and irrigation rights. If your fences allow the buildup of vegetation which restricts or hinders the flow of water it affects every water rights owner downstream all the way to the Pecos River including those who live in Texas. We believe your actions could have an adverse effect the Pecos River Compact between New Mexico and Texas so the legal implications are huge.

We request that you stop this project until we have ample time to follow up with our attorneys to review the legal implications and until you can show us proof that the US Forest Service has any water rights in New Mexico. We want to know how and when you obtained those rights and who authorized it. Our attorney reviewed NM and federal water laws and assured us that you do not have the legal right to any water from the National Forests in New Mexico.

We request that you review the NM vs US water case that was heard before the US Supreme court in 1978. We plan to continue to pursue our case before the New Mexico State Engineers office, the State legislature, and federal agencies and courts as is necessary to protect the rights of our members.

We are looking at all our options which include filing personal Bevin's Actions against any federal managers and employees who are TAKING our water or private property rights without our agreement and just compensation.

Please understand that we prefer to come to an agreement on this matter without having to pursue legal options but we will do whatever is necessary to protect the rights of our members. We request that this project be put on hold until the new administration is able to have the new Agriculture Secretary and the new head of the US Forest Service confirmed by the Senate.

Please cease and desist until we have more time to work with you and the forest legal team to work out the legal details.

Sincerely,


James Ellett, President

Cc: Esq Blair Dunn, H. Vern Payne, NM Farm & Livestock Bureau, Rep Jim Townsend, Rep. Yvette Harrell,