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CONSERVATION CONGRESS,  
Plaintiff,

v.

UNITED STATES FOREST SERVICE,  
Defendant.

No. CIV. S-13-0832 LKK/DAD

**ORDER**

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On September 6, 2013, this court enjoined defendant U.S. Forest Service from carrying out any actions pursuant to the Mill Fire Salvage and Hazard Tree Removal Project (the "Project"), other than those already approved by this court. Injunction (ECF No. 47) at 53. The activities already approved were described in the Forest Service's July 12 Notice, and involved only work on three miles of transportation roads and at the Old Mill Campground. See Notice, ECF No. 33. Plaintiff did not object to this work. ECF No. 37.

The Forest Service now moves for an order altering this court's injunction to permit "hazard tree abatement" along approximately 19.19 miles of roads and 9.72 miles of trails in

1 the Project area. Motion To Alter ("Motion") (ECF No. 51). The  
2 Forest Service asserts that "[o]nly hazard trees within striking  
3 distance of a road or trail would be felled, and all trees that  
4 are cut would be left in place except to clear debris that  
5 obstructs travel." Id., at 3.<sup>1</sup> The Forest Service asserts that  
6 of the 19.19 miles of roads proposed to be abated, "approximately  
7 0.91 miles of roads ... are within 1.5 kilometers of Activity  
8 Center 3019," and that of the 9.72 miles of trails, "0.72 miles  
9 of trails are within 1.5 kilometers of Activity Center 3019."  
10 Declaration of Mike Van Dame, October 1, 2013 (ECF No. 52) ¶¶ 8  
11 & 9.

12 Plaintiff opposes the motion, except that it agrees to the  
13 abatement of "the 0.23 miles of Maintenance Level 3 roads which  
14 are subject to the Court's order." Opposition to Motion To Alter  
15 ("Opposition") (ECF No. 53) at 3.

#### 16 ANALYSIS

17 This court's prior order remanded the matter back to the  
18 Forest Service for its failure to analyze the cumulative effects  
19 of its project, its flawed findings that the project would have  
20 no significant impact on the environment and that it would not  
21 affect the foraging habitat of the Northern Spotted Owl, and its  
22 failure to consult with or obtain the concurrence of the U.S.  
23 Fish & Wildlife Service about the project's possible impact on  
24 the owl. ECF No. 47. The Forest Service's motion to amend does

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26 <sup>1</sup> The Forest Service does not request permission to conduct any  
27 of the other activities proposed in the Project, namely, those  
28 relating to salvage timber harvest, fuel reduction, site  
preparation or reforestation. Motion at 6 n.2.

1 not address any of these problems, nor give the court any comfort  
2 that permitting the requested activity would avoid the problems  
3 already identified by the court. Accordingly, the court will not  
4 amend its prior order, except to the degree plaintiffs have  
5 expressed no opposition.

6 **CONCLUSION**

7 Defendant's motion to amend the judgment is hereby **DENIED**,  
8 except that it may proceed with hazard tree abatement of the 0.23  
9 miles of Maintenance Level 3 roads, as described by plaintiffs in  
10 their Opposition brief. See ECF No. 53 at 4-5.

11 IT IS SO ORDERED.

12 DATED: May 19, 2014.

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17 LAWRENCE K. KARLTON  
18 SENIOR JUDGE  
19 UNITED STATES DISTRICT COURT  
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