

Date: \_\_\_\_\_

To Whom It May Concern:

I am submitting this letter along with an executed copy of the Right-of-Entry Permit for Household Hazardous Waste, Disaster Debris, and Hazard Tree Removal on Private Property (“ROE”). This letter is to advise the State of New Mexico of my agreement as to the scope and intent of the release language in the ROE based on the State of New Mexico’s numerous statements regarding the scope and intent of the ambiguous release language contained in the ROE.

The State of New Mexico has been made aware of the concerns surrounding the ambiguous language of the release provision of the ROE. Additionally, the State of New Mexico has made numerous statements regarding the intended limited scope of the release language, which is a further contemporaneous acknowledgement of its agreement regarding the ambiguity and intended limited scope of the language of the release provision. Given the ambiguity of the ROE release language, the clarifying statements of the State of New Mexico provide the understanding of the parties to the ROE regarding the release language, which language covers an essential term of the agreement.

First, on June 14, 2022, Matthew Stackpole, General Counsel for the New Mexico Department of Homeland Security and Emergency Management (“DHSEM”) advised the law firm Lovell, Lovell, Isern & Farabough, LLP (“LLIF”) that New Mexico did not intend to cause participants in the program to release and waive their claims against the U.S. Forest Service. About two weeks later on June 27, 2022, DHSEM issued a press release titled “Enrolling in Full-Service Debris Removal Program does not prevent property owners from pursuing future litigation.” According to the press release, “Property owners who opt-in to the program by submitting Right of Entry forms are allowed to file lawsuits against government agencies in the future.” Further, the press release stated that the intent of the program is to “encourage everyone to opt into the program regardless of your plans to pursue litigation in the future.” A month after the press release was issued, Mr. Stackpole once again indicated to LLIF that the intended scope of the ROE document did not include a requirement that participants release their claims against the USFS, but advised that the State of New Mexico would not change the language of the release.

In addition to the foregoing statements by the State of New Mexico regarding the release language, on September 3, 2022, Dr. Jeremy Klass spoke to the Blue Haven Homeowners Association Meeting. Dr. Klass coordinates forestry and agricultural policy for the State of New Mexico through the Energy, Minerals and Natural Resources Department-Forestry Division. At the September 3 meeting, Dr. Klass told Blue Haven Homeowners that he understood the landowner concerns with the unintended breadth of the release language, he further explained that the State of New Mexico did not intend that property owners waive claims arising from the Hermit’s Peak and Calf Canyon Fires just to participate in the Debris Removal Program. He went on to explain that New Mexico is working on an amendment to the ROE to alleviate the landowner concerns regarding the language of the release.

Because of the above statements by the State of New Mexico, its employees, representatives, or agents, of the intended limited scope of the ROE and its release language, I agree with and assent to the State of New Mexico’s stated understanding of the ROE release language. By signing the ROE, and agreeing to the terms contained therein as stated, and in regard to the release as further explained by contemporaneous statements explaining the intended limited scope of the ROE release language, I agree with the State of New Mexico that the language of the ROE release is not waiving or releasing my claims against the United States Government, its agencies and employees for the damages I sustained as a result of the Hermit’s Peak and Calf Canyon Fires. By accepting this ROE, the State of New Mexico and all those agencies involved with the Full-Service Debris Removal Program, including the DHSEM, also agree with and assent to the above confirmed intended limited scope of the ambiguous ROE release language.

Sincerely,

(signature) \_\_\_\_\_

(printed name) \_\_\_\_\_

(signature) \_\_\_\_\_

(printed name) \_\_\_\_\_

(signature) \_\_\_\_\_

(printed name) \_\_\_\_\_