IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WILDEARTH GUARDIANS,

Plaintiff-Petitioner,

v. **Civ. No. 14-828 MV/KK**

UNITED STATES FOREST SERVICE,

Defendant-Respondent.

ORDER OVERRULING DEFENDANT'S OBJECTIONS
AND ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER is before the Court on Plaintiff WildEarth Guardians' ("Guardians") *Complaint for Declaratory and Injunctive Relief* (Doc. 1), filed on September 10, 2014 and its *Corrected Opening Brief* (Doc. 20), filed on June 23, 2015. (Doc. 20 at 23-24, 35.) In her Proposed Findings and Recommended Disposition ("PFRD"), filed August 30, 2018, United States Magistrate Judge Kirtan Khalsa recommended granting the request in *Plaintiff WildEarth Guardians' Corrected Opening Brief* (Doc. 20) to remand this matter to the Forest Service for immediate reinitiation of consultation on the effects of the Travel Management Decision on the Jemez Mountains salamander. The United States Forest Service filed *Federal Defendant's Objections to Proposed Findings and Recommended Disposition* on September 13, 2018. (Doc. 44.) Defendants' Objections are now before the Court.

District courts may refer dispositive motions to a magistrate judge for a recommended disposition pursuant to 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72. 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b)(1). "Within 14 days after being served with a copy of the

[magistrate judge's] recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1). When resolving objections to a magistrate judge's proposal, "[t]he district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1).

"[A] party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review." *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, "[i]ssues raised for the first time in objections to the magistrate judge's recommendation are deemed waived." *Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996); *see also United States v. Garfinkle*, 261 F.3d 1030, 1031 (10th Cir. 2001) ("In this circuit, theories raised for the first time in objections to the magistrate judge's report are deemed waived.").

The Court has considered the parties' submissions, the record in this matter, the Magistrate Judge's PFRD, and Defendant's Objections in light of the foregoing standards, and has conducted a *de novo* review. Based on this review, the Court finds that Defendant's Objections to the Magistrate Judge's PFRD are unfounded. In its Objections, Defendant raises arguments that were already raised in its Response Brief (Doc. 21), arguing that for a variety of reasons it is not obligated to consult on the effects of the Travel Management Decision on the Jemez Mountains salamander. These arguments were fully considered and addressed in the PFRD.

In short, following its *de novo* review, the Court finds no fault with the Magistrate Judge's PFRD, and discerns nothing that might usefully be added to it. Thus, rather than repeat what the Magistrate Judge has already written, the Court hereby ADOPTS the Magistrate Judge's PFRD and OVERRULES Defendant's Objections.

IT IS THEREFORE ORDERED that

The request in *Plaintiff WildEarth Guardians' Corrected Opening Brief* (Doc. 20) to remand this matter to the Forest Service for immediate reinitiation of consultation on the effects of the Travel Management Decision on the Jemez Mountains salamander is **GRANTED**.

IT IS SO ORDERED.

MARTHA VÁZQUEZ
United States District Judge