

AN ACT
RELATING TO DISASTERS; DECLARING A DISASTER IN CERTAIN AREAS
OF THE NATIONAL FORESTS IN NEW MEXICO; USING THE POLICE
POWER OF THE STATE TO EMPOWER COUNTY BOARDS OF COMMISSIONERS
TO TAKE ACTIONS NECESSARY FOR CLEARING AND THINNING
UNDERGROWTH AND FOR REMOVING AND LOGGING FIRE-DAMAGED TREES;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. FINDINGS--DECLARATION OF DISASTER--POWERS
OF COUNTY COMMISSIONS.--

A. The legislature finds that:

(1) numerous citizens and government officials in the state of New Mexico have repeatedly petitioned the United States forest service both collectively and individually at public meetings, by correspondence and by telephone to request that the forest service take appropriate action to remove or eliminate the conditions that have created a state of emergency caused by a present risk to the lives and property of citizens in and adjacent to national forests within New Mexico;

(2) all the petitions have for all practical purposes been either ignored or discounted by the United States forest service resulting only in what can be reasonably characterized as inaction on the part of the

forest service to appropriately reduce, if not remove, the risk to the lives and property of the citizens of New Mexico;

(3) because the United States forest service has failed to exercise its responsibilities as a sovereign to protect the lives and property of the citizens of New Mexico and because it is a fundamental principle under the laws of any just society that the persistent failure of a sovereign to fulfill such obligations constitutes grounds for the forfeiture of jurisdictional supremacy, such a forfeiture must hereby be recognized and declared; and

(4) because of recognition and declaration of this forfeiture of jurisdictional supremacy, a jurisdictional vacuum has been created that requires the state of New Mexico to acknowledge its obligations as a sovereign power to protect the lives and property of its citizens and consequently to authorize any action it presently deems necessary to fill the vacuum created by the federal government by assuming jurisdiction to reduce to acceptable levels, if not remove, the threat of catastrophic fires posed by present conditions in national forests within its borders.

B. The legislature declares a disaster within those areas of the national forests of New Mexico that suffered severe fire damage, as determined by the local

board of county commissioners, where large amounts of forest undergrowth have created the potential for damaging fires in the future. The legislature also declares that the disaster is of such magnitude that the police power of the state should be exercised to the extent necessary to provide the resources and services that will end the disaster and mitigate its effects.

C. After consulting with the state forester and the regional United States forester, taking surveys, holding those public hearings as may be necessary and developing a plan to mitigate the effects of the disaster, a board of county commissioners for a county in which a disaster has been declared pursuant to Subsection A of this section may take such actions as are necessary to clear and thin undergrowth and to remove or log fire-damaged trees within the area of the disaster. A county may enter into an agreement with a contractor, licensee or other agent to carry out the purposes of this subsection.

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____