

# **KHOSLA DECLARATION**

## **EXHIBIT 27**

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

EARTH ISLAND INSTITUTE, a  
non-profit corporation,

Plaintiff - Appellant

v.

CICELY MULDOON, in her official  
capacity as Superintendent of  
Yosemite National Park; UNITED  
STATES PARK SERVICE, an  
agency of the United States  
Department of the Interior; UNITED  
STATES DEPARTMENT  
OF THE INTERIOR,

Defendants - Appellees

No. 22-16483

D.C. No.

1:22-CV-00710-AWI-EPG

Eastern District of California, Fresno

DECLARATION OF MAYA KHOSLA

I, Maya Khosla, declare as follows:

1. I am over the age of 18 and I make this declaration based on my own personal knowledge.

2. I am a wildlife ecologist with extensive field experience in conifer forests in the vicinity of Yosemite National Park. For example, I have spent thousands of field hours since 2015 in forests just west of Yosemite within the area that experienced the 2013 Rim fire, observing various native wildlife species and forest conditions.

3. On September 27, 2022, at the request of plaintiff in this case, I visited the Merced Giant Sequoia Grove in Yosemite National Park to assess the representation by Yosemite National Park ecologist, Garrett Dickman, that in the Merced Grove conifers 12 to 20 inches in diameter have branches that “extend to the forest floor”, which Mr. Dickman termed “ladder fuels.” Ex. 17 at 20. Mr. Dickman cited to no source, and presented no evidence, to support his assertion that conifers 12 to 20 inches in diameter have branches that go all the way to the ground.

4. To evaluate Mr. Dickman’s central claim regarding conifers 12 to 20 inches in diameter and “ladder fuels”, a colleague and I, on September 27, 2022, conducted three transects 100 feet from the Merced Grove Road/Trail, parallel to it, in the portions that have not yet been logged. The transects were 10 feet wide

and, using an automatically extending metal tape measure, we recorded the height above the ground at which the branches began for all trees 6 to 12 inches in diameter, and 12.1 to 20 inches in diameter, within the transects.

5. For trees 6 to 12 inches in diameter (36 total in our transects), the average height from the ground to the first branch was 10.4 feet, with a range of 2 to 20 feet. For trees 12.1 to 20 inches in diameter (25 total in our transects), the average height from the ground to the first branch was 17.2 feet, with a range of 6 to 50 feet. There were no trees over 12 inches in diameter that had branches, or “ladder fuels”, that extended to the forest floor.

6. If there were more time, I could gather additional data on the height from the ground to branches on mature trees in the Merced Grove. However, it is my understanding that Yosemite National Park plans to resume logging of trees 12 to 20 inches in diameter along the trail/road in the Merced Grove within the next few days, and my work schedule does not allow for another site visit that soon. I can say with confidence that the results reported above are representative of conifers 12.1 to 20 inches in diameter in the Merced Grove and surrounding forests. I did not observe any conifers 12.1 to 20 inches in diameter with branches extending to the forest floor, within or outside my transects in the Merced Grove area. If one searched long and hard enough, perhaps such a tree could be found, but it is likely to be a rarity.

7. Based on the data from my transects, and my observations in general in the forests of the Merced Grove area, I conclude that Mr. Dickman's representation, that conifers 12 to 20 inches in diameter have branches ("ladder fuels") that extend all the way to the ground, is factually very inaccurate.

8. Attached to this declaration as Exhibit A is a photograph I took on September 27<sup>th</sup> in the Merced Grove. In the foreground of that photo are three conifers that are between 12 and 20 inches in diameter. None have branches that are anywhere close to touching the ground. These conifers are representative of almost all of the conifers of this size that I observed in the Merced Grove on September 27<sup>th</sup>.

9. Attached to this declaration as Exhibit B is a photograph I took on September 27<sup>th</sup> in the Merced Grove showing significantly smaller trees below 12 inches in diameter. Even most of these much smaller trees lack the ladder fuels described by Mr. Dickman.

10. Attached to this declaration as Exhibit C is a photograph I took on September 27<sup>th</sup> within Merced Grove. It shows a conifer between 12 and 20 inches in diameter with no ladder fuels and no branches lower than 30 feet above the ground. This tree and the height of its branches above the ground was not unusual based on what I observed and measured within the Merced Grove.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of September, 2022, Rohnert Park, CA.

/s/ Maya Khosla

Maya Khosla



## EXHIBIT A





## EXHIBIT B





### EXHIBIT C

