

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO,
et al.,

No. C 25-01780 WHA

Plaintiffs,

v.

**MEMORANDUM OPINION AND
ORDER AMENDING TRO**

UNITED STATES OFFICE OF
PERSONNEL MANAGEMENT, et al.,

Defendants.

STATEMENT

On January 20, 2025, Acting Director of the Office of Personnel Management Charles Ezell, defendant, issued a memo to department and agency heads directing them to identify all employees serving probationary periods by January 24, and to “promptly determine whether those employees should be retained at the agency.” Probationary employees are those who have served less than one year in the competitive service or less than two in the excepted service.

On February 13 OPM communicated with the heads of several federal agencies in a private conference call. Neither the participants nor the contents of that call are directly in the record.

1 The next day, OPM sent an email to federal agencies’ chief human capital officers (and
2 their deputies) stating:

3 Over the past several days, agencies have worked to review, clean
4 up, and finalize their lists of probationary employees they wish to
keep, and wish to terminate, and begin taking action.

5 We have asked that you separate probationary employees that you
6 have not identified as mission-critical no later than end of the day
7 Monday, 2/17. We have attached a template letter. The separation
date should be as soon as possible that is consistent with applicable
agency policies (including those in CBAs).

8
9 (Dkt. No. 37-1).

10 The large-scale termination of probationary employees from myriad federal agencies
11 followed. Plaintiffs contend that those employees were terminated at the direction of OPM.

12 Dr. Andrew Frassetto, for example, was hired as a program director at the National
13 Science Foundation on September 9, 2024 (Frassetto Decl. ¶3). Dr. Frassetto and over 100
14 other NSF employees were terminated *en masse* during a Zoom meeting on February 18 (*id.* ¶
15 10; Evans Decl. ¶28). A time-stamped transcript of that meeting, generated by an automated
16 closed captioning system, is attached to Dr. Frassetto’s declaration (Exh. B). In response to
17 inquiries by the terminated employees, NSF’s chief management officer, Micah Cheatham,
18 stated that “[w]e were directed last Friday [February 14] by OPM to terminate all probationers
19 except for a minimal number of mission critical probationers” (*id.* at 18). Asked if NSF had
20 attempted to negotiate with the administration to minimize the number of terminations,
21 Cheatham responded: “There’s no negotiation” (*id.* at 25).

22 In fact, when the NSF officials orchestrating the firings were confronted by the
23 terminated probationers, they stated that “[u]p until Friday [February 14]. Yes. We were told
24 by OPM it was the agency’s discretion whether to remove probationers or not. *We chose to*
25 *retain them all*” (*id.* at 17). But “late Friday night,” “[t]hey told us that they directed us to
26 remove probationers” (*ibid.*). “[T]here was no limited discretion. *This is not a decision the*
27 *agency made. This is a direction we received*” (*id.* at 12) (emphasis added).

1 Plaintiffs further allege that OPM ordered agencies to use template notices — supplied by
 2 OPM — to implement the ordered terminations, and that those templates falsely premised the
 3 *en masse* terminations on individual performance. The Department of Agriculture, National
 4 Science Foundation, Federal Aviation Administration, Department of Veterans Affairs, and
 5 Department of Health and Human Services each issued substantially similar letters (Bachelder
 6 Decl., Exh. 1; Evans Decl., Exh. B; Ronneberg Decl., Exh. 1; Schwarz Decl., Exh. A). Each
 7 stated that the recipient was fired because “[t]he Agency finds, *based on your performance*,
 8 that you have not demonstrated that your further employment at the Agency would be in the
 9 public interest” (*ibid.* (emphasis added)). The empty template provided to DOD by OPM
 10 likewise declares — despite empty “[NAME]” “[TITLE]” and “[ORGANIZATION]” fields —
 11 that “the Agency finds, based on your performance, that you have not demonstrated that your
 12 further employment at the agency would be in the public interest” (Schwarz Decl., Exh. D).

13 Dr. Frassetto is again illustrative. In a February 13 performance review — *five days*
 14 before he was terminated “based on [his] performance” — Dr. Frassetto’s supervisor reported:

15 [H]is role [is] mission critical. Dr. Frassetto has been an
 16 outstanding program director, and he has taken the lead role in
 17 overseeing this important and complicated portfolio for the
 18 division. Dr. Frassetto came to NSF with a unique skill set in
 19 interdisciplinary scientific research He has already
 20 demonstrated an outstanding ability to balance the various aspects
 21 of his job responsibilities and is highly effective at organizing and
 22 completing all his work in an accurate and timely manner.

23 . . .

24 Dr. Frassetto’s work on this portfolio has been outstanding and he
 25 has brought important experience to the role and has demonstrated
 26 highly competent project management and oversight. He is a
 27 program director who has needed minimal supervision and eagerly
 28 seeks special assignments at higher levels of difficulty. He has
 been an outstanding contributor to the division, directorate, and
 agency.

(Frassetto Decl., Exh. A).

The NSF officials who fired Dr. Frassetto (and over 100 of his peers) via Zoom on
 February 18 stated: “The cause comes from boilerplate we received from OPM. The cause

1 says that the agency finds based on your performance that you have not demonstrated that your
2 further employment at the agency would be in the public interest” (Frassetto Decl., Exh. B at
3 21).

4 On February 26, 2025, Civilian Personnel Policy Council members at the Department of
5 Defense (DOD) stated by email: “In accordance with direction from OPM, beginning
6 February 28, 2025, all DOD Components must terminate the employment of all individuals
7 who are currently serving a probationary or trial period” (Schwarz Decl., Exh. C at 1).

8 Tracey Therit, chief human capital officer for the VA, testified under oath at a
9 congressional hearing before the House Committee on Veterans Affairs on February 25:

10 **RANKING MEMBER TAKANO:** So nobody ordered you to
11 carry out these terminations?·

12 You did it on your own?

13 **MS. THERIT:** There was direction from the Office of Personnel
14 Management.

15 (Walls Decl. (Reply), Exh. A at 8).

16 On February 14, a probationer terminated by the Foreign Agricultural Service asked
17 USDA’s deputy chief human capital officer by email about the “specific details of my
18 performance that were evaluated and found to be insufficient” (Blake Suppl. Decl., Exh. A at
19 1). The response: “[A]gencies were directed to begin providing termination notices . . . and
20 directed [*sic*] the use of a specific template and language for the notice beginning immediately
21 upon OPM notification” (*id.* at 2).

22 In a “town hall” for IRS employees on February 21, the IRS’s chief human capital officer
23 (CHCO) stated:

24 I’m not sure why it’s happening Regarding the removal of
25 the probationary employees, again, that was something that was
26 directed from OPM. And even the letters that your colleagues
27 received yesterday were letters that written by OPM, put forth
28 through Treasury, and given to us I cannot explain to you
why this has happened. I’ve never seen OPM direct people at any
agency to terminate.

1 (Lezra Decl., Exh. A at 4–5).

2 The IRS had to “get permission” to make even minor alterations to the template OPM
3 termination letter:

4 There was a modification because we created our own email box
5 for employees to send questions to HR directly after they separate.
6 We felt it was important to have an avenue of communication open
7 for them if they had questions about their final paycheck, or
8 benefits, or leave payouts. So we did get permission to add that
9 email in there.

10 (*id.* at 4–5). The IRS CHCO continued:

11 And our actions are being watched by OPM. So that’s, again,
12 something else that’s unprecedented. . . . Everything we do is
13 scrutinized. Everything is being looked at twice. Any changes
14 that are made in our system that show any type of action that has
15 been deemed impermissible, we have to respond to why it
16 happened.

17 (*id.* at 3–4).

18 A termination letter received by a probationer at the Bonneville Power Administration
19 (within the Department of Energy) stated: “*Per OPM instructions*, DOE finds that your further
20 employment would not be in the public interest. For this reason, you are being removed from
21 your position with DOE and the federal civil service effective today” (Schwarz Decl., Exh. B
22 at 10 (emphasis added)).

23 As many as 200,000 probationary federal employees are at risk of termination (Br. at 19).
24 Those already terminated rank somewhere in the tens of thousands (*ibid.*). OPM and the
25 federal agencies involved have not disclosed the number or identity of those terminated (even
26 to their unions) (*ibid.*).

27 The ongoing, *en masse* termination of probationary employees across the federal
28 government’s agencies has sown significant chaos. By way of example, Major General (Ret.)
Paul Eaton states that the termination of over 1,000 employees across the VA has crippled the
agency’s administration of the Veterans Crisis Line (Eaton Decl. ¶¶ 8–9). When functioning
as intended, the VCL offers our veterans, who suffer from high rates of post-traumatic stress
disorder and suicide, 24/7 mental health care in moments of crisis (*ibid.*). Don Neubacher,

1 formerly the Superintendent at Yosemite National Park, states that the ongoing firing of
2 National Park System probationers will inflict immediate, foreseeable harm onto our national
3 parks and the habitats and animals therein (Neubacher Decl.). The Western Watershed Project,
4 meanwhile, has already had its ecological mission frustrated, as terminations at BLM have
5 rendered that agency unable to respond to the Project's FOIA requests (Molvar Decl. ¶ 7).

6 * * *

7 Plaintiffs in this action fall into two groups. *First*, the union plaintiffs: American
8 Federation of Government Employees, AFL-CIO (AFGE); American Federation of
9 Government Employees Local 1216; American Federation of Government Employees Local
10 2110; American Federation of State County and Municipal Employees, AFL-CIO; and United
11 Nurses Associations of California/Union of Health Care Professionals, AFSCME, AFL-CIO.
12 *Second*, the organizational plaintiffs: Main Street Alliance, Coalition to Protect America's
13 National Parks, Western Watersheds Project, Vote Vets Action Fund Inc., and Common
14 Defense Civic Engagement.

15 Plaintiffs filed a complaint for declaratory and injunctive relief on February 19, 2025
16 (Dkt. No. 1). Four days later, on February 23, they filed an amended complaint and moved for
17 a temporary restraining order (Dkt. Nos. 17, 18).

18 *First*, plaintiffs argue that OPM directed federal agencies to fire probationary employees,
19 and that the action was an *ultra vires* act because it exceeded the scope of OPM's statutory
20 authority, intruded upon the statutory authority of the individual federal agencies and their
21 heads, violated the Civil Service Reform Act's (CSRA) provisions governing agency
22 terminations based on performance and reductions in force (RIFs), and violated the General
23 Authority to Employ enacted by Congress (Dkt. No. 17 at 25–26). *Second*, plaintiffs argue that
24 the OPM directive to terminate probationary employees constituted a final agency action that
25 violated the APA because it exceeded the agency's statutory or constitutional authority, was
26 otherwise unlawful, was arbitrary and capricious, and did not undergo the necessary notice and
27 comment process (*id.* at 26–30).

1 Plaintiffs’ motion for a TRO seeks an order enjoining defendants from taking any actions
2 to effectuate OPM’s probationary employee termination directive.

3 4 ANALYSIS

5 The standard for a temporary restraining order is the same as that for a preliminary
6 injunction. *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir.
7 2001). “A plaintiff seeking a preliminary injunction must establish that [1] he is likely to
8 succeed on the merits, that [2] he is likely to suffer irreparable harm in the absence of
9 preliminary relief, that [3] the balance of equities tips in his favor, and [4] that an injunction is
10 in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

11 1. LIKELIHOOD OF SUCCESS ON THE MERITS.

12 A. PLAINTIFFS’ ULTRA VIRES CLAIM.

13 Plaintiffs argue that OPM’s termination directive constituted an *ultra vires* act that
14 violated, and — unless recalled — continues to violate the scope of its and all impacted
15 agencies’ statutory authority as established by Congress.

16 “The ability to sue to enjoin unconstitutional actions by state and federal officers is the
17 creation of courts of equity, and reflects a long history of judicial review of illegal executive
18 action, tracing back to England.” *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 327
19 (2015). “Equitable actions to enjoin *ultra vires* official conduct do not depend upon the
20 availability of a statutory cause of action; instead, they seek a ‘judge-made remedy’ for injuries
21 stemming from unauthorized government conduct, and they rest on the historic availability of
22 equitable review.” *Sierra Club v. Trump*, 963 F.3d 874, 890–91 (9th Cir. 2020) (citing
23 *Armstrong*, 575 U.S. at 327), *vacated and remanded on other grounds (mootness)*, 142 S. Ct.
24 46 (2021).

25 Plaintiffs are likely to succeed on their *ultra vires* claim. No statute — anywhere, ever —
26 has granted OPM the authority to direct the termination of employees in other agencies.
27 “Administrative agencies [like OPM] are creatures of statute. They accordingly possess only
28 the authority that Congress has provided.” *Nat’l Fed’n of Indep. Bus. v. Dep’t of Lab.*, 595

1 U.S. 109, 117 (2022). Congress’s statutory scheme grants to each agency head the authority to
 2 manage their own affairs, including the hiring and firing of employees. 5 U.S.C. § 3101
 3 (“Each Executive agency, military department, and the government of the District of Columbia
 4 may employ such number of employees of the various classes recognized by chapter 51 of this
 5 title as Congress may appropriate for from year to year.”); 5 U.S.C. § 301 (“The head of an
 6 Executive department or military department may prescribe regulations for the government of
 7 his department, the conduct of its employees”); *see also, e.g.*, 38 U.S.C. §§ 303, 510
 8 (VA); 10 U.S.C. § 113 (DOD).

9 The same is true of OPM. Congress has vested its director with the authority to “secur[e]
 10 accuracy, uniformity, and justice in the functions of the Office,” “appoint[] individuals to be
 11 employed by the Office, and “direct[] and supervis[e] employees of the Office.” 5 U.S.C. §
 12 1103(a)(1)–(3). But that’s it. OPM did not have the authority to direct the firing of employees,
 13 probationary or otherwise, in any *other* federal agency.

14 OPM concedes that it lacks the authority to direct firings outside of its own walls and
 15 argues, instead, that it “did not direct agencies to terminate any particular probationary
 16 employees based on performance or misconduct, and did not create a ‘mass termination
 17 program’” — it merely “asked agencies to engage in a focused review of probationers based on
 18 how their performance was advancing the agencies’ mission, and allowed them at all times to
 19 exclude whomever they wanted” (Ezell Decl. ¶ 7). OPM’s factual contention rests entirely on
 20 the Ezell Declaration.

21 Plaintiffs, meanwhile, have mustered a mountain of evidence that points in the other
 22 direction, from a broad range of federal agencies: “In accordance with *direction* from OPM . .
 23 . all DOD Components must terminate the employment of all individuals who are currently
 24 serving a probationary or trial period” (DOD), “[t]here was *direction* from the Office of
 25 Personnel Management” (VA), “agencies were *directed* to begin providing termination notices
 26 . . . immediately upon OPM notification” (USDA), “that was something that was *directed* from
 27 OPM” (IRS), “[w]e were *directed* last Friday by OPM” (NSF), “[t]hey told us that they
 28 *directed* us to remove probationers” (NSF) (emphases added). A full accounting is above. The

1 weight of the evidence supports plaintiffs’ contention that OPM exceeded the bounds of its
2 authority by unlawfully directing the mass termination of probationary employees across a
3 wide range of federal agencies.

4 OPM’s Article II argument likewise rests on the factual contention that OPM’s actions
5 constituted mere “guidance,” and is rejected on the facts (Opp. at 26). Article II, moreover, is
6 irrelevant here. Congress’s statutory scheme *created* the agency, *vested the agency with*
7 *authority*, and *defined the bounds of that authority*. It is an OPM action that is being
8 challenged and, as explained above, the evidence supports the contention that OPM’s direction
9 to other agencies fell outside its limited statutory authority.

10 ***B. PLAINTIFFS’ APA CLAIMS.***

11 Plaintiffs have also shown that their APA claims are likely to succeed.

12 Under the APA, only “final agency action[s]” — those that “mark the consummation of
13 the agency’s decisionmaking process” and determine “rights or obligations . . . from which
14 legal consequences will flow” are subject to judicial review. *Bennett v. Spear*, 520 U.S. 154,
15 177–78 (1997) (cleaned up) (citing 5 U.S.C. § 704). OPM’s direction to the other agencies
16 constituted a final agency action for the purposes of the APA. Plaintiffs have marshalled
17 significant evidence from numerous agencies stating that they were acting at the direction of
18 OPM.

19 As explained above, OPM’s direction to other agencies was not supported by any
20 statutory authority. Plaintiffs are therefore likely to show that OPM’s directive constituted an
21 agency action that was “in excess of statutory jurisdiction, authority, or limitations, or short of
22 statutory right” that must be “[held] unlawful and set aside.” 5 U.S.C. § 706(2)(C).

23 Plaintiffs are also likely to show that the OPM directive was an arbitrary and capricious
24 action. *Id.* § 706(2)(A). “The scope of review under the ‘arbitrary and capricious’ standard is
25 narrow and a court is not to substitute its judgment for that of the agency.” *Motor Vehicle*
26 *Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

27 “Nevertheless, the agency must examine the relevant data and articulate a satisfactory
28 explanation for its action including a ‘rational connection between the facts found and the

1 choice made.” *Ibid.* (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168
2 (1962)). The key fact here is that the template letters sent from OPM to the directed agencies
3 stated: “[T]he Agency finds, *based on your performance*, that you have not demonstrated that
4 your further employment at the Agency would be in the public interest” (Schwarz Decl., Exh.
5 D). *First*, it is unlikely, if not impossible, that the agencies themselves had the time to conduct
6 *actual* performance reviews of the thousands terminated in such a short span of time
7 (Archuleta Decl. ¶ 14). It is even less plausible that *OPM alone* managed to do so. In at least
8 one instance, a terminated scientist had received a glowing review — “[h]e has been an
9 outstanding contributor to the division, directorate, and agency” — five days before he was
10 terminated “for [his] performance” (Frassetto Decl., Exh. A at 1; Exh. C at 1). “Reliance on
11 facts that an agency knows are false at the time it relies on them is the essence of arbitrary and
12 capricious decisionmaking.” *Missouri Serv. Comm’n v. Fed. Energy Regul. Comm’n*, 337 F.3d
13 1066, 1075 (D.C. Cir. 2003).

14 Lastly, plaintiffs are likely to show that OPM failed to comply with notice and comment
15 rulemaking. “‘Rule’ means the whole or a part of an agency statement of general or particular
16 applicability and future effect designed to implement, interpret, or prescribe law or policy or
17 describing the organization, procedure, or practice requirements of an agency” 5 U.S.C. §
18 551(4). Rules are subject to the notice and comment process prior to enactment. 5 U.S.C. §
19 553. OPM’s January 20 memo and February 14 email are likely to constitute a “rule” under
20 the APA (*see, e.g.*, Dkt. No. 37-1 at 2) (“OPM believes ‘qualifications for continued
21 employment’ in the current context means that only the highest-performing probationers in
22 mission-critical areas should be retained.”). It is beyond cavil that they did not go through
23 notice and comment rulemaking.

24 OPM’s counters on this point rely on the jurisdictional “channeling” of the organizational
25 plaintiffs or the factual contention that OPM did not issue a directive and are rejected on those
26 grounds.

C. SUBJECT-MATTER JURISDICTION.

1 First, it is likely that the undersigned lacks jurisdiction to hear the union plaintiffs’ claims
2 for the reasons stated in recent denials of similar claims made by unions representing federal
3 employees. See, e.g., *Nat’l Treasury Emps. Union v. Trump*, No. 25-CV-420 (CRC), 2025 WL
4 561080, at *5–8 (D.D.C. Feb. 20, 2025) (Judge Christopher Cooper) (denying TRO); *Am.*
5 *Foreign Serv. Ass’n, Inc. v. Donald Trump*, No. 1:25-CV-352 (CJN), 2025 WL 573762, at *8–
6 11 (D.D.C. Feb. 21, 2025) (Judge Carl Nichols) (dissolving TRO); *Am. Fed’n of Gov’t Emps.*
7 *v. Ezell*, No. CV 25-10276-GAO, 2025 WL 470459, at *2 (D. Mass. Feb. 12, 2025) (Judge
8 George O’Toole, Jr.) (dissolving TRO).

9 “Congress may preclude district court jurisdiction by establishing an alternative statutory
10 scheme for administrative and judicial review.” *Am. Fed’n of Gov’t Emps. v. Trump*, 929 F.3d
11 748, 755 (D.C. Cir. 2019). Congress set forth such statutory schemes by way of the Federal
12 Service Labor-Management Relations Statute (FSLMRS) and the CSRA. The relevant
13 statutory background has been summarized in *National Treasury*:

14
15 The Federal Service Labor-Management Relations Statute (“the
16 Statute” or “FSLMRS”), set forth in Title VII of the Civil Service
17 Reform Act (“CSRA”), governs labor relations between the
18 executive branch and its employees. It grants federal employees
19 the right to organize and bargain collectively, and it requires that
20 unions and federal agencies negotiate in good faith over certain
21 matters. The Statute further establishes a scheme of administrative
22 and judicial review. Under that scheme, the Federal Labor
23 Relations Authority (“FLRA”), a three-member agency charged
24 with adjudicating federal labor disputes, reviews matters including
25 negotiability and unfair labor practice disputes. When reviewing
26 unfair labor practice complaints, the FLRA resolves whether an
27 agency must bargain over a subject, violated the duty to bargain in
28 good faith, or otherwise failed to comply with the Statute.

Direct review of the FLRA’s decisions is available in the courts of
appeals. 5 U.S.C. § 7123(a).

...

Separately, the CSRA also established a comprehensive system for
reviewing personnel action taken against federal employees. If an
agency takes a final adverse action against an employee —
removal, suspension for more than 14 days, reduction in grade or
pay, or furlough for 30 days or less — the employee may appeal to
the Merit Systems Protection Board (“MSPB”). The MSPB may
order relief to prevailing employees, including reinstatement,

1 backpay, and attorney’s fees. Probationary employees, however,
 2 generally do not enjoy a right to appeal to the MSPB. Employees
 3 may appeal final MSPB decisions to the Federal Circuit, which has
 4 exclusive jurisdiction over such appeals. This statutory review
 5 scheme, too, is exclusive, even for employees who bring
 6 constitutional challenges to federal statutes.

7 *Nat’l Treasury*, 2025 WL 561080, at *4–5 (cleaned up).

8 Under *Thunder Basin Coal Co. v. Reich*, a claim may fall outside of the scope of a special
 9 statutory scheme where “a finding of preclusion could foreclose all meaningful judicial
 10 review,” the claims considered are “wholly ‘collateral’” to a statute’s review provisions, or the
 11 claims are “outside the agency’s expertise.” 510 U.S. 200, 212–13 (1994). “These
 12 considerations do not form three distinct inputs into a strict mathematical formula. Rather,
 13 they serve as general guideposts useful for channeling the inquiry into whether the particular
 14 claims at issue fall outside an overarching congressional design.” *Trump*, 929 F.3d at 755
 15 (cleaned up).

16 The union plaintiffs’ attempts to distinguish their instant claims from those channeled to
 17 the FLRA and MSPB in *National Treasury*, *American Foreign Service*, and *Ezell* are
 18 unconvincing, and the analysis laid out in those decisions applies with equal force here: The
 19 union plaintiffs and their members must adjudicate their claims through the FLRA and MSPB.
 20 The union plaintiffs’ claims “are the vehicle by which they seek to reverse the removal
 21 decisions, to return [members] to federal employment, and to [collect] the compensation they
 22 would have earned but for the adverse employment action.” *Elgin v. Dep’t of Treasury*, 567
 23 U.S. 1, 22 (2012); *Heckler v. Ringer*, 466 U.S. 602, 614 (1984). That the FLRA or MSPB may
 24 lack the authority to adjudicate the union plaintiffs’ constitutional and APA claims does not
 25 constitute a foreclosure on all meaningful judicial review: Those issues can be “‘meaningfully
 26 addressed in the Court of Appeals’ that Congress [has] authorized to conduct judicial review.”
 27 *Elgin*, 567 U.S. at 17 (quoting *Thunder Basin*, 510 U.S. at 215). Both schemes “provide[]
 28 review in . . . an Article III court fully competent to adjudicate [plaintiffs’] claims.” *Ibid*.

Second, OPM argues that the CSRA and FSLMRS intended to channel *all* disputes that
 touch on a federal employment relationship to administrative review, *no matter the party*

1 *bringing such a dispute.* But a claim brought by Western Watersheds Project (WWP), for
 2 example, against OPM, alleging that the latter issued an unlawful, arbitrary and capricious rule
 3 that undermined the BLM’s ability to respond to WWP’s FOIA requests, does not feature a
 4 federal employee, their union representative, or their federal employer (in this example BLM).
 5 The plaintiff’s injury — frustration of its ecological mission — is equally ill-suited to
 6 adjudication by a *labor* board. True, the termination of a federal employee remains embedded
 7 within the dispute: WWP’s injury, it argues, occurred *because* OPM demanded, unlawfully,
 8 that the probationary employees at BLM be terminated. That, standing alone, is not enough to
 9 bring a claim within the scope of the statutory schemes created for the resolution of bargaining
 10 disputes and employee claims. Asked to provide a single example of a claim brought by a
 11 third party, against a third party, that had been administratively channeled via *Thunder Basin*,
 12 OPM could not. Such a rule would stretch that doctrine too far.

13 In sum, it is unlikely that this Court has jurisdiction over the union plaintiffs, but it likely
 14 does have jurisdiction to hear the claims of the organizational plaintiffs. This order moves to
 15 consider whether the latter group has standing.

16 **D. STANDING.**

17 The Supreme Court has set the bar for standing as follows:

18 [T]he irreducible constitutional minimum of standing contains
 19 three elements. *First*, the plaintiff must have suffered an injury in
 20 fact — an invasion of a legally protected interest which is (a)
 21 concrete and particularized and (b) actual or imminent, not
 22 conjectural or hypothetical. *Second*, there must be a causal
 23 connection between the injury and the conduct complained of —
 24 the injury has to be fairly traceable to the challenged action of the
 25 defendant and not the result of the independent action of some
 26 third party not before the court. *Third*, it must be likely, as
 27 opposed to merely speculative, that the injury will be redressed by
 28 a favorable decision.

24 *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992) (cleaned up; emphases added). Where
 25 plaintiff seeks prospective injunctive relief, he “must demonstrate that he has suffered or is
 26 threatened with a concrete and particularized legal harm, coupled with a sufficient likelihood
 27 that he will again be wronged in a similar way.” *Fellowship of Christian Athletes v. San Jose*

1 *Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 680–81 (9th Cir. 2023) (en banc) (quoting *Bates*
2 *v. United Parcel Serv., Inc.*, 511 F.3d 974, 985 (9th Cir. 2007) (en banc)). “[I]n an injunctive
3 case this court need not address standing of each plaintiff if it concludes that one plaintiff has
4 standing.” *Nat’l Ass’n of Optometrists & Opticians LensCrafters, Inc. v. Brown*, 567 F.3d 521,
5 523 (9th Cir. 2009). Given the nature of this action and the injunction requested, however, it is
6 necessary that standing be evaluated as to each organizational plaintiff.

7 “An organization has standing to bring suit on behalf of its members [“representational
8 standing”] if ‘(1) at least one of its members would have standing to sue in his own right, (2)
9 the interests the suit seeks to vindicate are germane to the organization’s purpose, and (3)
10 neither the claim asserted nor the relief requested requires the participation of individual
11 members in the lawsuit.’” *Fellowship of Christian Athletes*, 82 F.4th at 681 (quoting *Fleck &*
12 *Assocs., Inc. v. City of Phoenix*, 471 F.3d 1100, 1105–06 (9th Cir. 2006)).

13 An organization has direct organizational standing, meanwhile, “where it establishes that
14 the defendant’s behavior has frustrated its mission and caused it to divert resources in response
15 to that frustration of purpose.” *E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 663 (9th
16 Cir. 2021). “Of course, organizations cannot manufacture the injury by incurring litigation
17 costs or simply choosing to spend money fixing a problem that otherwise would not affect the
18 organization at all, but they can show they would have suffered some other injury had they not
19 diverted resources to counteracting the problem.” *Ibid.* (internal quotation marks omitted); *see*
20 *also FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 384–86 (2024). At bottom, the test is
21 whether an organization’s ability to perform the services they were formed to provide has been
22 “perceptibly impaired” by the challenged action. *E. Bay Sanctuary Covenant v. Trump*, 932
23 F.3d 742, 765 (9th Cir. 2018) (cleaned up).

24 (i) ***The Coalition to Protect America’s National Parks***
25 ***(The Coalition) and Main Street Alliance (MSA).***

26 “Aesthetic and environmental well-being, like economic well-being, are important
27 ingredients of the quality of life in our society, and the fact that particular environmental
28 interests are shared by the many rather than the few does not make them less deserving of legal

1 protection through the judicial process.” *Sierra Club v. Morton*, 405 U.S. 727, 734 (1972). In
 2 *Desert Citizens Against Pollution v. Bisson*, for example, BLM sought to exchange 1,745 acres
 3 of federal land in Imperial County for a 2,642-acre parcel in the Santa Rosa and Little
 4 Chuckwalla Mountains owned by Gold Fields, a mining company. 231 F.3d 1172, 1175 (9th
 5 Cir. 2000). Gold Fields aimed to turn the Imperial County tract into a landfill; the members of
 6 Desert Citizens aimed to save it from that grim fate via an APA action. *Ibid.* Our court of
 7 appeals held that the members’ continued use of the federal lands established an injury in fact:
 8 “The recreational or aesthetic enjoyment of federal lands is a legally protected interest whose
 9 impairment constitutes an actual, particularized harm sufficient to create an injury in fact for
 10 purposes of standing.” *Id.* at 1176 (citing *Sierra Club*, 405 U.S. at 734).

11 The National Park Service has terminated close to 1,000 newly hired employees
 12 (Neubacher Decl., Exh. A). Coalition board member Don Neubacher, the former
 13 Superintendent at Yosemite National Park (2010–2016) and Point Reyes National Seashore
 14 (1995–2010) submitted a declaration stating:

15 The Coalition to Protect America’s National Parks (“Coalition”) is
 16 a non-profit organization made up of over 3,400 members, all of
 17 whom are current, former, and retired employees and volunteers of
 18 the National Park Service. Together, they have accumulated over
 19 50,000 years of experience caring for America’s most valuable
 20 natural and cultural resources. . . . *Our members and their families*
 21 *are regular and avid users of the National Park System who would*
 22 *be adversely affected by any degradation of the parks or the*
 23 *programs of the NPS to preserve and protect the parks and make*
 24 *them available to visitors. Based on my experience as a park*
 25 *Superintendent, the termination of so many NPS employees at once*
 26 *will have an immediate adverse impact on the parks and park*
 27 *visitors. For example, at Yosemite, the park will likely have to*
 28 *stop specific functions and close park areas. There is no way to*
accommodate current visitation levels without additional staff
support during the upcoming peak season. When there was a
partial government shutdown in 2018, visitors trashed scenic
viewpoints, defecated outside locked restrooms and trampled
sensitive ecological areas with their vehicles and dogs. The park
receives annual visitation of over 4 million people.

(Neubacher Decl. ¶¶ 2–5 (emphasis added)). In a separate declaration, Jonathan B. Jarvis, the
 former Director of the National Parks Service, underscores the immediacy and scope of the
 harm to park operations, environmental protection, and natural resource monitoring (Dkt. No.

1 18-11). Some of the likely, imminent harms laid out above have already come to pass. A
2 member of the Coalition reported this week that they and their party were forced to abandon a
3 trip to Joshua Tree National Park because the Black Rock Nature Center, which ordinarily
4 provides shelter and commodes to the public, remained unstaffed and closed well after its
5 scheduled opening time (Neubacher Suppl. Decl. ¶ 4).

6 The Coalition has standing. Its members' continued use and enjoyment of our national
7 parks will likely be, and in at least one case already has been, injured by the terminations that
8 have taken place at the National Parks Service.

9 Main Street Alliance likewise has representational standing. MSA is a "national network
10 of small businesses, with approximately 30,000 members throughout the United States. MSA
11 helps small business owners realize their full potential as leaders . . . with the aim of creating
12 an economy where all small business owners have an equal opportunity to succeed"
13 (Phetteplace Decl. ¶¶ 2–3). "MSA's small business members rely on the U.S. Small Business
14 Administration ('SBA') for a variety of valuable services that help small businesses succeed.
15 These services include loans, loan guarantees, and grants; disaster relief; assistance in
16 connecting small businesses with government contracting opportunities; and a national
17 network of some 1,000 Small Business Development centers that provide counseling and
18 training to help entrepreneurs start their own businesses" (*id.* ¶ 4). A February 20 letter from
19 the Ranking Member of the Senate Committee on Small Business and Entrepreneurship to the
20 Administrator of the SBA cited reporting that hundreds of probationary SBA employees had
21 been terminated across the country and stated that "through our own investigation and public
22 reporting, we have learned that the fired employees included those supporting disaster
23 assistance and oversight of loan programs" (*id.* Exh. A). MSA asserts that the mass
24 terminations at the SBA are likely to impair disaster relief, the provision of loan guarantees,
25 and other services necessary for MSA's members to open a business or stay float (*id.* ¶ 9).
26 Some members who already have entered into contracts with the expectation of obtaining
27 timely loan guarantees "are likely to be on the hook for expenses owed to contractors and
28 suppliers without the ability to pay amounts owed" (*id.* ¶ 8).

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Northern District of California

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(ii) *The Western Watersheds Project (the Project).*

In *Havens Realty Corp. v. Coleman*, an organization “whose purpose was to make equal opportunity in housing a reality in the Richmond Metropolitan Area,” HOME, brought a Fair Housing Act claim against Havens Realty, which owned and operated apartment complexes in Richmond. 455 U.S. 363, 368 (1982) (internal quotation marks omitted). HOME asserted that Havens Realty’s unlawful “racial steering” — providing false information regarding the availability of housing to black individuals to maintain a segregated property — had frustrated its mission and, critically, its housing counseling service. *Id.* at 367, 369. The Supreme Court rejected Haven Realty’s standing challenge, holding:

If, as broadly alleged, petitioners’ steering practices have perceptibly impaired HOME’s ability to provide counseling and referral services for low-and moderate-income homeseekers, there can be no question that the organization has suffered injury in fact. Such concrete and demonstrable injury to the organization’s activities — with the consequent drain on the organization’s resources — constitutes far more than simply a setback to the organization’s abstract social interests.

Id. at 379 (citing *Sierra Club*, 405 U.S. at 739).

The Project has standing to challenge OPM’s directive to fire probationary employees at BLM and the U.S. Fish and Wildlife Service. Erik Molvar, a wildlife biologist formerly employed by the U.S. Forest Service and Army Corps of Engineers, and now the Project’s Executive Director, states that it “is a non-profit environmental conservation group that works to influence and improve public lands management” (Molvar Decl. ¶¶ 3–4). Founded in 1993, the group has some 14,000 members, with field offices in Idaho, Montana, Wyoming, Arizona, Nevada, and Oregon. The group is primarily focused on “the negative impacts of livestock grazing” (*ibid.*). The group is also an active litigant in the federal courts, where it advocates against commercial grazing on public lands. *See, e.g., W. Watersheds Project v. Kraayenbrink*, 632 F.3d 472 (9th Cir. 2011); *W. Watersheds Project v. Abbey*, 719 F.3d 1035 (9th Cir. 2013); *W. Watersheds Project v. Interior Bd. of Land Appeals*, 62 F.4th 1293 (10th Cir. 2023); *W. Watersheds Project v. U.S. Forest Serv.*, 603 F. App’x 612 (9th Cir. 2015) (mem.).

1 *First*, the Project has shown *actual* harm, namely that its ecological mission has been
2 perceptibly impaired by the termination of employees at the BLM:

3 This mass termination of employees will have an immediate
4 adverse effect on the ability of the [Project] to accomplish its
mission.

5 For example, I was told by a federal employee on February 20,
6 2025, that because of staffing issues the Bureau of Land
7 Management is unable to respond to a Freedom of Information Act
request submitted by the [Project]. Our work depends on timely
access to public records.

8
9 (Molvar Decl. ¶¶ 7–8). The termination of range managers and biologists, meanwhile, will
10 diminish BLM’s ability to provide timely “land health assessments to monitor the impact of
11 cattle and sheep grazing on public lands,” further undercutting the Project’s ability to pursue its
12 stated goals (*id.* ¶ 8).

13 *Second*, the Project has shown harm to both its members’ protected interests in and its
14 own efforts to advocate on behalf of endangered species. The Project is a party in an ongoing
15 litigation in the District of Montana (Molvar Suppl. Decl. ¶ 3). *Ctr. for Biological Diversity v.*
16 *Haaland*, No. 23-cv-02-BU-DLC (D. Mont.) (Judge Dana Christensen). There, the Project
17 (and its co-plaintiffs) challenged a 2020 finding from the FWS concerning the Missouri River
18 Distinct Population Segment of Arctic grayling, a freshwater fish with precious little habitat
19 left, under the Endangered Species Act (Molvar Suppl. Decl. ¶ 3). Following a partial grant of
20 summary judgment in the plaintiffs’ favor, Judge Christensen ordered FWS to make a new
21 finding regarding the status of the upper Missouri River Basin Distinct Population Segment of
22 Arctic grayling by August 2025. *Haaland*, No. 23-cv-02-BU-DLC, Dkt. No. 52 at 53. On
23 February 12 the FWS sought and received an extension of that deadline to February 2027
24 (Molvar Suppl. Decl. at ¶ 3). In a declaration to Judge Christensen, the FWS conditioned their
25 ability to meet that new deadline on the “assumption[.]” that “the Service will continue to have
26 the authority to hire and retain sufficient listing program staff to be able to carry out the
27 specified commitments.” *Haaland*, No. 23-cv-02-BU-DLC, Dkt. No. 63-1 ¶ 15. The Project
28

1 represents that, as of February 26, some 400 FWS employees have been terminated (Molvar
2 Suppl. Decl. ¶ 3).

3 Executive Director Molvar, himself a member of the Project, frequently fishes for Arctic
4 grayling in the lakes of the Sapphire Mountains, in Glacier National Park, and in Alaska (*id.* at
5 ¶ 9). He plans to do so again during a planned July 2025 trip to Alaska (*ibid.*). Under *Sierra*
6 *Club* and its progeny, therefore, the Project has standing to vindicate its members' legally
7 protected interest in the recreational enjoyment of federal lands and the flora and fauna therein.

8 (iii) ***Vote Vets Action Fund Inc. (VoteVets) and***
9 ***Common Defense Civic Engagement (Common***
Defense).

10 In *Fellowship of Christian Athletes*, an international student ministry challenged the
11 defendant school district's decision to bar its local chapter from formal "recognition" as a
12 student-run organization by the Associated Student Body (ASB). 82 F.4th at 681. The FCA
13 stated it was an international "ministry group formed for student athletes to engage in various
14 activities through their shared Christian faith" that operates through more than 7,000 local
15 chapters. *Id.* at 671–72. Their stated mission was to equip "student athletes from all
16 backgrounds for fellowship, spiritual growth, and service on their campuses." *Ibid.* FCA
17 required that students serving in a leadership capacity affirm certain religious beliefs through a
18 "Statement of Faith" (stating, among other things, that "marriage is exclusively the union of
19 one man and one woman") and a "Sexual Purity Statement." *Id.* at 672–73. The defendant
20 school district, citing the "discriminatory nature" of both statements, first stripped the club of
21 its recognition as an official student club, and then imposed new "non-discriminatory criteria"
22 for all student clubs, under which the local FCA chapter would be denied recognition in future
23 years. *Id.* at 675, 678–79. While FCA's local chapter remained on campus, it lost out on
24 certain campus privileges. *See id.* at 673.

25 Our court of appeals, sitting en banc, held that the FCA's national office had direct
26 organizational standing because the local chapter's exclusion from the benefits associated with
27 ASB recognition — access to fundraisers, the student yearbook, priority access to meeting
28 spaces, and so on — "undoubtedly hampered," *id.* at 683, the FCA's mission "to lead every

1 coach and athlete into a growing relationship with Jesus Christ and His church,” *id.* at
2 672. The FCA’s national office moreover, “had to ‘divert[] resources’ in ‘counteracting the
3 problem’ posed by the derecognition,” including “a huge amount of staff time, energy, effort,
4 and prayer that would normally have been devoted to preparing for school or ministry.” *Ibid.*

5 Plaintiff VoteVets has standing. VoteVets is a “non-partisan, non-profit organization”
6 that has “nearly 2 million supporters . . . with whom it regularly communicates about issues
7 affecting veterans, including the operations, programs, and services available through the U.S.
8 Department of Veterans Affairs” (Eaton Decl. ¶3). The VA has “dismissed over 1,000
9 probationary employees,” “rais[ing] concerns about potential staffing shortages and the quality
10 of care provided to veterans” (*id.* ¶ 8). For example, “the layoffs have hindered the recruitment
11 of essential support staff for VCL positions such as trainers and quality assurance personnel”
12 (*id.* ¶ 9). This shortage “has overwhelmed existing supervisors and affected the VCL’s ability
13 to provide timely assistance to veterans in crisis.” Major General Eaton attests that:

14 The February 2025 probationary terminations have had a
15 significant impact on the organizational activities of VoteVets.
16 The time of VoteVets’ staff and consultants has been diverted from
17 VoteVets’ regular activities to field and respond to inquiries from
18 veterans and their families and to connect them with case workers
19 in congressional offices. This has taken almost all of our resources
20 since the probationary terminations began, and has prevented us
21 from performing our regular activities to meet the needs of
22 veterans and their families.

23 (*id.* ¶ 11). VoteVets’ members’ access to services critical to the organization’s mission has
24 been hampered, and VoteVets itself has been forced to divert “almost all of [their] resources”
25 in “counteracting the problem,” depriving the organization of its ability to continue to provide
26 services to its members (*ibid.*).

27 Plaintiff Common Defense likewise has standing. Common Defense is a “grassroots
28 membership organization of progressive veterans, military families, and civilian supporters”
(Arbulu Decl. ¶ 2). With approximately 33,187 members in California (about 2,000 of them
veterans), Common Defense “mobilize[s] veterans to support and advocate for policies that
help veterans, military families, and all working families,” offers training and helps members

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begin issue campaigns, and otherwise engages in legislative and political advocacy (*id.* ¶¶ 3–5, 11). Military veterans compose a large percentage of federal employees, and widespread termination — particularly at the VA and DOD — have had a disproportionate impact on persons whom Common Defense typically serves:

As a result of these developments, Common Defense has had to devote considerable resources to responding to requests from our members and providing guidance about the mass probationary terminations. Many members believe that the termination of their employment may be imminent, and understandably have asked questions — by email, by phone, and on our members’ slack channel — about what the letter means for their rights as employees. Responding to members questions, and working to determine what answers we can give to those members, diverts resources from Common Defense’s advocacy mission and core priorities, including working to expand ballot access at the state level, advancing initiatives to address climate change, and training and educating members.

(*id.* ¶ 6). Common Defense, like VoteVets, has diverted considerable resources otherwise intended for the pursuit of its advocacy mission to the problems presented to its members, and its mission, by mass terminations, particularly at the VA and DOD.

* * *

First, OPM counters that plaintiffs fail on causation: There was no direction, merely a request; that request was carried out by some agencies; it was those agencies’ independent, intervening actions that are the proximate cause of plaintiffs’ alleged harm. This argument rests on OPM’s broader factual position that its memos and other communications to agencies regarding probationary employees constituted mere guidance, not direction. But plaintiffs have assembled a mountain of evidence supporting their more concise causal chain: OPM directed mass firings and plaintiffs each likely will be (or have been) injured as a result. Plaintiffs have each established a sufficient causal link between the mass termination of employees at the implicated agencies, and the imminent, foreseeable, and in some cases actual injuries that they face.

1 Next, OPM argues redressability:

2 They ask the Court to order agencies to rescind probationary
3 removals and reinstate removed employees. But, apart from OPM,
4 no other federal agency is a party here, leaving the Court without
5 the power to order those agencies to take any action. Thus,
6 Plaintiffs cannot show that an order of this Court would likely
7 grant their requested relief, rendering their claimed injuries non-
8 redressable here.

9 (Dkt. No. 33 at 13). Plaintiffs fairly allege that they have been harmed by OPM’s *direction* to
10 other agencies to fire their probationary employees. Declaratory and injunctive relief enjoining
11 OPM from issuing such a directive — one request among many made by plaintiffs — will
12 likely redress their alleged injuries.

13 **2. IRREPARABLE HARM.**

14 “[P]laintiffs may not obtain a preliminary injunction unless they can show that irreparable
15 harm is likely to result in the absence of the injunction.” *All. for the Wild Rockies v. Cottrell*,
16 632 F.3d 1127, 1135 (9th Cir. 2011). They have done so here.

17 “[T]he Supreme Court has instructed us that ‘[e]nvironmental injury, by its nature, can
18 seldom be adequately remedied by money damages and is often permanent or at least of long
19 duration, *i.e.*, irreparable.’” *Ibid.* (alterations in original) (quoting *The Lands Council v.*
20 *McNair*, 537 F.3d 981, 1004 (9th Cir. 2008) (en banc)). Relatedly, “deprivation of a source of
21 personal satisfaction and tremendous joy can constitute an irreparable injury.” *Ft. Funston*
22 *Dog Walkers v. Babbitt*, 96 F. Supp. 2d 1021, 1039 (N.D. Cal. 2000) (citing *Chalk v. U.S. Dist.*
23 *Ct.*, 840 F.2d 701, 709 (9th Cir. 1988)). That is true as to loss of access to national recreational
24 areas. *Ibid.* The partial closure and degradation of national parks constitutes likely, irreparable
25 harm due to both environmental injury and loss of access (*see* Neubacher Decl. ¶¶ 2–5). In at
26 least one instance, a closure at Joshua Tree has resulted in actual harm (*see* Neubacher Suppl.
27 Decl. ¶ 4). And the Arctic grayling, if it goes, is not coming back (*see* Molvar Suppl. Decl. ¶
28 3–9). The Coalition and the Project have established irreparable harm.

Loss of access to essential government services also constitutes likely, and in some cases
actual, irreparable harm. For example, the Veterans Crisis Line — an indispensable resource
for our veterans in times of crisis — has been “overwhelmed” and its ability to provide care

1 diminished for lack of staff (Eaton Decl. ¶ 9). Loss of access to that critical resource, standing
2 alone, constitutes irreparable harm to VoteVets’ members. Its failure to meet the needs of our
3 veterans presents the further likelihood of tragic results. MSA’s members’ access to crucial
4 SBA services, including the provision of loan guarantees, is likely to be diminished
5 (Phetteplace Decl. ¶¶ 5–9), and the Western Watersheds Project’s access to FOIA production
6 already has been impacted (Molvar Decl. ¶¶ 7–8).

7 Finally, plaintiffs face irreparable harm because they have diverted significant or even all
8 present resources to responding to the hardships created by the mass termination of
9 probationary employees (*see, e.g.*, Arbulu Decl. ¶ 6; Eaton Decl. ¶ 11).

10 MSA, the Coalition, the Project, VoteVets, and Common Defense have each established
11 irreparable injury.

12 OPM’s rebuttals, tailored largely to the union plaintiffs, are moot (Dkt. No. 33 at 10).
13 OPM’s assertion, meanwhile, that “[p]laintiffs have produced no credible evidence that
14 terminations of federal employees have caused a disruption in critical government services”
15 (*ibid.*) is refuted by the record, discussed at length in this memorandum’s consideration of
16 standing.

17 **3. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST.**

18 Because OPM is a party in this action, the balance of the equities and the public interest
19 merge. *See Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, they strongly favor plaintiff.
20 “The preservation of the rights in the Constitution and the legality of the process by which
21 government agencies function certainly weighs heavily in the public interest.” *Nat’l Treasury*
22 *Emps. Union v. U.S. Dep’t of Treasury*, 838 F. Supp. 631, 640 (D.D.C. 1993) (Judge Harold
23 Greene). Plaintiffs have presented real harms, detailed above, to their organizations, their
24 members, and their missions, while OPM has not provided a substantive opposition (Dkt. No.
25 33 at 22–23).

26 In sum, each *Winter* factor favors granting a limited injunction.
27
28

CONCLUSION

Based on the foregoing, the Court granted the following relief at the close of the February 27 argument:

That OPM’s January 20 memo, February 14 email, and all other efforts to direct the termination of employees at NPS, BLM, VA, DOD, SBA, and NSF are illegal, invalid and must be stopped and rescinded. That OPM must communicate that decision to those agencies by the next day, February 27.

(Dkt. No. 41).

This memorandum amends the bench order to address two errors (the inclusion of the NSF, and the exclusion of FWS). The Court’s TRO is accordingly **AMENDED** to the following:

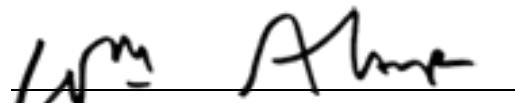
It is **ORDERED** that:

OPM’s January 20 memo, February 14 email, and all other efforts by OPM to direct the termination of employees at NPS, BLM, VA, DOD, SBA, and FWS are unlawful, invalid, and must be stopped and rescinded.

OPM shall provide written notice of this order to NPS, BLM, VA, DOD, SBA, and FWS.

The evidentiary hearing described at the February 27 motion hearing shall occur on **MARCH 13, 2025, AT 8 AM**. The hearing will be in person in Courtroom 12.

Dated: February 28, 2025.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

United States District Court
Northern District of California

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