



United States
Department of
Agriculture

Forest
Service

Washington Office

14th & Independence SW
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File Code: 6270-1-1
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Date: SEP - 6 2002

Ms. Jeannette Russell
National Forest Protection Alliance
P.O. Box 8264
Missoula, MT 59807

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Dear Ms. Russell:

This letter is our final response to your July 10, 2002, Freedom of Information Act (FOIA) request that we received in our office on July 11, 2002. You requested information related to the Forest Service report titled “Factors Affecting Timely Mechanical Fuel Treatment Decisions.”

Specifically, you requested:

1. A list of the mechanical treatments “projects” “that reduce hazardous fuels on National Forest System Land” that “were appealed.”
2. “A copy of all documents where the team leaders reported” that “new or revised standards and guidelines for wildlife habitat protection, new species listing, or habitat identification, and appeal or court-directed analysis supplementation all added significantly to the time required but did not materially improve the proposed action.”
3. “A copy of all documents sent to the Regional Office asking for information for this report and all replies from the Regional Offices.”

The report “Factors Affecting Timely Mechanical Fuel Treatment Decisions” was compiled in response to an inquiry from Congress. The timeframe for gathering the information used to develop the report was limited to hours. Thus, much of the information was provided orally in telephone interviews with a variety of Forest Service employees throughout the country. In response to items 1 and 2 above, we have searched our records and determined that there are no electronic or hard copy records of these interviews other than the report itself. However, since the release of the report, we have been updating and verifying the information about decisions appealed. We are enclosing a 4 page, more up-to-date, list of decisions (which is subject to further verification and change).

For item 3 above, we searched our records and have located 8 pages of documents that are responsive to that portion of your request. As explained earlier, the information used in the report was collected orally; thus, there is no written request to the Regional Offices seeking information for the report. However, some Regional Offices did reply to the verbal request via e-mail. We have enclosed those e-mail responses in entirety.



You requested expedited processing of your FOIA request stating, "This is a breaking news story of general public interest." Under FOIA case law, a request for expedited processing (1) "has been granted when exceptional circumstances surrounding a request warrant such treatment...such as when there is jeopardy to life or personal safety, or threatened loss of substantial due process rights," or (2) a request is made by a person primarily engaged in disseminating information, with an urgency to inform the public concerning actual or alleged Federal Government activity." You did not provide us with any information suggesting your requested records involve imminent threat to the life or physical safety of an individual. As to (2) above, agency rules in 7 CFR 1.9 interpret that an individual primarily engaged in disseminating means primarily members of the news media. Other requesters must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public as a whole, and not just a particular segment or group. You have provided us with no information to indicate that you and your organization are primarily involved in publishing or disseminating information to the public as a whole. Thus, your request for expedited processing of your FOIA request is denied.

The Freedom of Information Act allows you to appeal this determination. Any appeal must be made in writing to the Chief of the Forest Service and address it to: USDA Forest Service, Attn: FOIA Team Stop 1143, 1400 Independence Avenue, SW, Washington, D.C. 20250 – 1143. The term "FOIA APPEAL" should be placed in capital letters on the front of the envelope.

Sincerely,



for FREDERICK NORBURY
Director, Ecosystem Management Coordination

Enclosures



Claire Huking
06/26/2002 03:17 PM

To: Jerome E Perez/WO/USDAFS@FSNOTES, Steve Segovia/WO/USDAFS@FSNOTES
cc:
Subject: numbers

Hi Jerry -

Heres the best I can come up with....

FY 2001 - 30 projects were appealed, two were litigated (Maudlow-Toston and Jimtown).
FY 2002 - 23 projects appealed, one was litigated (North Elkhorns). I did not count South Elkhorns in my total because it is mostly veg management for range, but did include North Elkhorns because it includes some veg management for improved vegetation (ponderosa pine) even tho it is mostly a wildlife project.

We track all appealable decisions in the region for workload purposes and literally, almost all, are appealed. Occassionally one might not be appealed or is resolved through informal resolution, but they would be non-veg management type of decisions. I would feel comfortable saying 100% of all appealable veg. management decisions are appealed and 95% of all appealable decisions are appealed.

As for nonappealable decisions.... cat exs..... I do not have numbers. Based on a few responses from forests this morning, I'm guessing that each forest has done 1 to 5 veg. mgmt/fuels treatment CEs over the past two year. So for 13 units, average of 3 per forest..... 39 CEs for VERY SMALL projects over the last two years.

I guess this little exercise would support implementation of Julia's data base!

Let me know if you need more. Claire

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