



Jeff Burgess <jeffreydavidburgess@gmail.com>

FOIA APPEAL - #2021-FS-R3-02858-F

1 message

Jeff Burgess <jeffreydavidburgess@gmail.com>

Wed, Apr 14, 2021 at 1:58 PM

To: FS-wo FOIA <SM.FS.WOFOIA@usda.gov>, Alisha Daniel <alisha.daniel@usda.gov>, Helena Tsosie <helena.tsosie@usda.gov>

Dear FOIA Appeal Reviewing Officer,

I am appealing the decision approved by Southwestern Regional Forester Michiko Martin on March 31, 2021, in response to my FOIA request #2021-FS-R3-02858-F.

On February 28, 2021, I submitted a FOIA request to the U.S. Forest Service using the USDA Freedom Of Information Act (FOIA) Public Access Website, and it was received by the Tonto National Forest, in Phoenix, AZ, the following day, March 1, 2021. On March 25, 2021, I received a partial response from Tonto National Forest Supervisor Neil Bosworth wherein he explained that my FOIA request had been forwarded to the Forest Service's Southwestern Regional Office, in Albuquerque, NM, for processing. On March 31, 2021, I received a final response from the Southwestern Regional office.

My FOIA request asked for two types of documents regarding the history of the Tonto National Forest's two Tonto Basin grazing allotments, located in the Tonto Basin Ranger District:

1. "In 1996 two grazing allotment management plans (AMPs) were completed for what are now called the Tonto Basin Northwest & Tonto Basin Southeast grazing allotments in the Tonto National Forest's Tonto Basin Ranger District."

2. "... copies of those two AMPs. Also, in 2001 each of these permits were reduced by about 50% for noncompliance. Please send me copies of those two livestock reduction notices."

On March 31, 2021, the regional office emailed me copies of the two AMPs I had requested, along with the two related administrative action decision notices. However, the names of the associated grazing permittees had been redacted by the regional office from all four of the documents. The accompanying FOIA response letter explained that the redactions had been made because:

"We have determined that the information withheld implicates the respective personal privacy interests of those individuals and would not shed light on government activities or operations."

The letter also claimed that the redactions were in compliance with 5 U.S.C. §552(b)(6). This section of federal law, known as FOIA Exemption 6, is intended to protect personal information about individuals found in government agency "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;"

I am appealing these redactions because there would be no "clearly unwarranted invasion of personal privacy" from the release of the requested information - for several reasons:

1. U.S. Forest Service grazing permittees graze their livestock on public land grazing allotments, so the general public has an absolute right to know who is using a particular area of Forest Service land for commercial purposes, especially when they witness environmental degradation being inflicted on that land by a permittee's livestock.
2. In the case of the two Tonto Basin grazing allotments, the implementation of the two AMPs in 1996 was funded by the U.S. Bureau of Reclamation (BOR) as part of the 1992 wildlife habitat mitigation Interagency Agreement No. 2-AA-32-00150 between the BOR and the Tonto National Forest. The public has a right to know who the grazing permittees were that benefited from this substantial government assistance.
3. In the case of the two administrative action decision notices for the two Tonto Basin allotments, both of these notices were issued in response to the failures of these two permittees to comply with legal livestock management requirements issued by the Tonto Basin Ranger District. Their permitted cattle numbers were subsequently reduced. There are few better examples of why the names of the permittees should be disclosed to the public than when they fail to follow the rules for the privilege of using public land.

I request that all four of these documents be reissued to me with the redacted information about the identity of the permittees restored, as the withholding of this information is a clear violation of the FOIA. The Southwestern Regional Forester provided no explanation of how the release of the permittee identities, "would constitute a clearly unwarranted invasion of personal privacy." Nor can I think of any example where that would ever be the case.

Furthermore, for the same reason, I request that the Southwestern Regional Office, and the region's National Forests, cease redacting grazing permittee identities from the agency documents they release in the future in response to FOIA requests. The regional office's response to my FOIA request isn't an isolated incident, only the most egregious. For one example, permittee names were also redacted from the documents I recently received in response to my FOIA request #2021-FS-R3-02595-F. (I can provide several other examples, as can other Arizonans I know.)

In fact, the regional office has been redacting grazing permittee identities from all Tonto National Forest grazing management documents released in response to FOIA requests for several years. A process seems to have been set up in the region wherein any FOIA request that's deemed politically sensitive has to be reviewed by the regional office. This extra administrative step is a big waste of employee time and resources, and has resulted in multiple violations of the FOIA.

Sincerely,

4/14/2021

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Jeff Burgess
7650 S. McClintock Dr, #103-248
Tempe, AZ 85284
Ph: 602-819-0795

Cc:
Center for Biological Diversity
Grand Canyon Chapter, Sierra Club
Western Watersheds Project

6 attachments

-  **Redacted Records for Release 02858 Burgess.pdf**
2480K
-  **TontoBasinAMPs-1996-Redacted-Release 02858.pdf**
3036K
-  **Interagency-Agreement-2-AA-32-00150-1992.pdf**
589K
-  **FOIA-response-final-2021-FS-R3-02858-F-033121.pdf**
220K
-  **FOIA-response-initial-2021-FS-R3-02858-F-032521.pdf**
194K
-  **FOIA-response-final-2021-FS-R3-02595-F-033021.pdf**
221K