



File Code: 6270
2024-FS-WO-00075-A

Date: 4/30/24

Delivered via ELECTRONIC MAIL: jeffreydavidburgess@gmail.com

Mr. Jeff Burgess
7650 S. McClintock Dr., #103-248
Tempe, AZ 85284

Dear Mr. Burgess:

This is our final response to your Freedom of Information Act (FOIA) appeal dated April 15, 2024, and received April 16, 2024, in the U.S. Department of Agriculture's (USDA) Forest Service Washington Office FOIA Service Center. Your appeal is assigned tracking number 2024-FS-WO-00075-A.

You are appealing the Southwestern Region's February 23, 2024, response to your December 24, 2023, FOIA request, assigned tracking number 2024-FS-R3-01615-F. In this request, you asked for the following:

“[C]opies of the 2022 annual operating instructions (AOIs) for the following Tonto National Forest grazing allotments:

- *Cave Creek Ranger District - Blackjack, Skeleton Ridge, Red Creek, New River*
- *Globe Ranger District - Radium, Ranger Station, Gerald Hills, Jones, Sedow, Chrysotile, Winters, Dimario*
- *Tonto Basin Ranger District - Havens, Delshay, Boneyback, Seventy-Six, Deer Creek, Dagger, Hardt Creek, Tonto Basin Northwest, Tonto Basin Southeast, Armer Mountain, A-Cross, Poison Springs, 7/K, Black Mesa, Rye Creek*
- *Payson Ranger District - Deadman Mesa, American Gulch, Rye Creek, Gisela, Pine, Cedar Bench, Pole Hollow, Diamond Rim, Hog Canyon, Bull Springs*
- *Pleasant Valley Ranger District - Vosberg, OW, Red Lake, Frio Canyon, Gentry Mountain, Flying V, Buzzard Roost, Potato Butte, Catholic Peak, Cherry Creek, Marsh Creek, Center Mountain*
- *Note: The Pleasant Valley grazing allotments may now be administered by the Payson Ranger District office.”*



In your appeal, you contest the decision of the Southwestern Regional Forester to withhold content in part pursuant to FOIA Exemptions 4 and 6 of the FOIA.

As a preliminary matter, on February 22, 2024, the Tonto National Forest provided you with 10 pages which were released in full. They routed the remaining responsive pages to the Southwestern Regional Forester for further processing and noted the following:

- There was a no records response for the Dimario allotment. This allotment is a vacant allotment and will likely remain vacant as no permittees have wanted to absorb this very small allotment.
- There was no records response for the Deadman Mesa and Bull Springs allotment, which are not permitted and do not have AOIs issued.
- Several allotments were combined as follows:
 - American Gulch, Rye Creek, and Pole Hollow are permitted together and under the same AOI
 - Diamond Rim and Pine are permitted together and under the same AOI
 - Cherry Creek and Frio Canyon are under the same AOI
 - Vosberg, Crouch Mesa, and Pleasant Valley are under the same AOI
 - Flying V and Flying H are under the same AOI
 - Red Lake, Catholic Peak, and Gentry Mountain are under the same AOI
 - Marsh Creek, Christopher Mountain, and Ellinwood are under the same AOI

In addition, please note that the page count provided to you, and noted in the February 23, 2024, response letter, was inaccurate due to duplicate versions of the documents being included. The correct page count for the documents addressed in this appeal is 125 pages, which includes the additional document provided to you on March 7, 2024.

Your appeal is granted in part and denied in part. We reviewed the 125 pages and determined that some portions of the responsive documents can be released. However, under FOIA Exemption 6 of the FOIA, 5 U.S.C. 552 (b)(6), some portions must continue to be withheld. Our analysis resulted in an update to the final page count: 115 pages are released in entirety; and 10 pages are enclosed in part. Redactions were made pursuant to Exemption 6 of the FOIA.

We are no longer asserting Exemption 4 to redact any portion of these records.

FOIA Exemption 6

Exemption 6 requires the Government to withhold all information about individuals in “personnel and medical files and similar files,” where disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” Exemption 6 also involves a balancing of the public’s interest in disclosure against the individual’s privacy interest.

Pursuant to FOIA Exemption 6, we have redacted permittee home addresses. These individuals have a clear privacy interest in the protection of this information, and there is little or no public interest in its release. The individual privacy rights outweigh the public's interest in this information.

This is the Agency's final determination of your FOIA appeal. You may seek judicial review of the determination in an appropriate United States District Court pursuant to 5 U.S.C. § 552(a)(4)(B).

Prior to seeking judicial review, you may contact the Office of the Government Information Services (OGIS). OGIS was created within the National Archives and Records Administration when the OPEN Government Act of 2007 amended the FOIA. OGIS provides mediation of FOIA disputes between appellants and Federal agencies. Participation in mediation does not affect your right to judicial review. Contact information for OGIS can be found at: <http://www.archives.gov/ogis/>.

Sincerely,

 Digitally signed by
CHRISTOPHER FRENCH
Date: 2024.04.30 18:21:45
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CHRISTOPHER B. FRENCH
Deputy Chief, National Forest System

Enclosures: 125 pages