

**Exhibit 103**



Gianina Spano &lt;gianina@sorensonfoialaw.com&gt;

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## Fwd: SFFC v Forest Service - Clarification for 2023-FS-R3-05200-F Sorenson Santa Fe Resiliency Project

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Gianina Spano <gianina@sorensonfoialaw.com>  
Draft

Mon, Oct 9, 2023 at 1:01 PM

----- Forwarded message -----

From: **Daniel, Alisha - FS, NM** <alisha.daniel@usda.gov>  
Date: Tue, Jul 25, 2023 at 8:30 AM  
Subject: Clarification for 2023-FS-R3-05200-F Sorenson Santa Fe Resiliency Project  
To: [peter@sorensonfoialaw.com](mailto:peter@sorensonfoialaw.com) <[peter@sorensonfoialaw.com](mailto:peter@sorensonfoialaw.com)>  
CC: Burson, Dawnee - FS, NM <[dawnee.burson@usda.gov](mailto:dawnee.burson@usda.gov)>, Cramer, Jennifer - FS, NM <[jennifer.cramer@usda.gov](mailto:jennifer.cramer@usda.gov)>, FS-R3\_FOIA <[r3\\_foia@usda.gov](mailto:r3_foia@usda.gov)>

Good morning,

I apologize for the delay. We have received your hard copy request for records (see attached). Please be advised that the FOIA office does not check for mail daily at the regional office due to telework schedules, so staff are not in the office on a regular basis. If you would like your requests to be received promptly, we suggest you submit them through the USDA portal (USDA Public Access Website-Home). You can also submit requests to the region 3 FOIA box ([SM.FS.R3FOIA@usda.gov](mailto:SM.FS.R3FOIA@usda.gov)).

The received date for this request is July 17, 2023. Your request has been entered and assigned tracking number 2023-FS-R3-05200-F. Please use this number when referencing your request. Your request for expedited processing will be addressed separately.

We understand your request to be for:

Santa Fe Mountains Landscape Resiliency Project Santa Fe National Forest. Espanola and Pecos-Las Vegas Ranger Districts:

1. All records which discuss or describe information provided to the Forest Service Chief and Santa Fe National Forest Supervisor by Forest Service employees in the Southwestern Regional Office concerning the Santa Fe Mountains Landscape Resiliency Project#55088
2. AU records which discuss or describe communications to and from Members of Congress concerning the Santa Fe Mountains Landscape Resiliency Project #55088;
3. All records which discuss and describe the studies of Dr. William Baker, Dr. Chad Hanson, Dr. Dominick Della Sala and Dr. Dennis Odion in relation to the Santa Fe Mountains Landscape Resiliency Project #55088;

4. All records which discuss and describe the study Baker, W. L. 2017. Restoring and managing low-severity fire in dry-forest landscapes of the western USA. PLoS ONE 12: e0172288 in the Santa Fe Mountains Landscape Resiliency Project #55088;
5. All records which discuss and describe communications with the U.S. Fish and Wildlife Service concerning impacts to migratory birds and Endangered Species Act listed species in relation to the Santa Fe Mountains Landscape Resiliency Project #55088;
6. All records that discuss and describe communication with the New Mexico Environment Department and the New Mexico Department of Health regarding prescribed fire impacts to air quality and public health from the Santa Fe Mountains Landscape Resiliency Project #55088;
7. All records which discuss or describe communications with the Council on Environmental Quality within Executive Office of the President in relation to the Santa Fe Mountains Landscape Resiliency Project #55088;
8. All records which discuss and describe the unique characteristics and impacts to Inventoried Roadless Areas within the Santa Fe Mountains Landscape Resiliency Project #55088;
9. All records which discuss and describe management of five-needle white pines (Southwestern white pine *Pinus strobiformis*, limber pine *Pinus flexilis* and Rocky Mountain bristlecone pine *Pinus aristata*) within the Santa Fe Mountains Landscape Resiliency Project #55088;
10. All records which discuss and describe the management of Mexican Spotted Owl (*Strix occidentalis lucida*) populations and habitat within the Santa Fe Mountains Landscape Resiliency Project #55088;
11. All records which discuss and describe the protection, recruitment and promotion of old growth forests within the Santa Fe Mountains Landscape Resiliency Project #55088;
12. All records which discuss and describe the social cost of Greenhouse Gas (GHG) Emissions in relation to the Santa Fe Mountains Landscape Resiliency Project #55088.

The Santa Fe National Forest Land Management Plan:

13. All records produced in the development of the Santa Fe National Forest Land Management Plan which discuss and describe communication with the Biden Administration's initiative to conserve 30% of U.S. lands and waters by 2030 to combat climate change and prevent biodiversity loss;
14. All records which discuss and describe the publication: Reynolds, R.T. • A.J. Sanchez Meador. I.A. Youtz, T. Nicolet. M.S. Matonis. P.L Jackson. D.G. DeLorenzo and A.D. Graves. 2013. Restoring Composition and Structure in Southwestern Frequent-Fire Forests: A ScienceBased Framework for Improving Ecosystem Resiliency. USDA For. Serv. Rocky Mtn. Res. Sta. Gen. Tech. Rep. RMRS-GTR-310. Fort Collins. CO in relation to the Santa Fe National Forest Land Management Plan# 16318;

15. All records which discuss and describe studies of Dr. William Baker, Dr. Chad Hanson, Dr. Dominick Della Sala and Dr. Dennis Odion in relation to the Santa Fe National Forest Land Management Plan #16318;
16. All records which discuss and describe the study Baker, W. L. 2017. Restoring and managing low-severity fire in drv-.forest landscapes of the western USA, PLoS ONE 12: e0172288 in the Santa Fe National Forest Land Management Plan# 16318;
17. All records which discuss and describe management of five-needle white pines (Southwestern white pine *Pinus strobiformnis*, limber pine *Pinus flexilis* and Rocky Mountain bristlecone pine *Pimus aristata*) in the Santa Fe National Forest Land Management Plan #16318;
18. All records which discuss and describe the social cost of Greenhouse Gas (GHG) Emissions in relation to the Santa Fe National forest Land Management Plan #16318.

The Gallinas Watershed Prescribed Fire, Las Dispensas Unit m1d the Hermit's Peak/Calf Canyon Wildfire. Santa fe National Forest, Pecos-Las Vegas Ranger District:

19. All records which discuss or describe communications to and from Members of Congress concerning the Gallinas Watershed Prescribed Fire, Las Dispensas Unit and the Hermit's Peak/Calf Canyon Wildfire;
20. All records which discuss and describe the Burned Area Emergency Response (BAER) and Burned Area Rehabilitation (BAR) reports prepared in response to the Hermits Peak/Calf Canyon Wildfire;

#### Miscellaneous Requests:

21. All records that discuss and document the total acres by year of successfully completed prescribed fires on each of New Mexico's five national forests from 2015 to the present;
22. All records which discuss and describe the U.S. Supreme Court case *Chevron (J.S.A., Inc. v. Natural Resources Defense Council, Inc.* in connection with the Santa Fe Mountains Landscape Resiliency Project #55088, Santa Fe National Forest Land Management Plan# 16318 and the Gallinas Watershed Prescribed Fire, Uts Dispensas Unit and the Henn its Peak/Calf Canyon Wildfire.

Your request, as written, does not describe who you would like to have conduct the search, other than the Regional Office. Is the search to be limited to regional office staff only? We do not accept requests with the terms "all" within the description unless who should conduct the search is clearly identified. We do not have a way to know what you consider a search for "all" to encompass. We cannot guarantee all records will be located, only those that can be found in a reasonable search, which is the threshold for FOIA. The only way to try to obtain all records maintained by the Forest Service, or Region 3, is to have every employee in the Forest Service or Region 3 to conduct a search. Is this your intent? We have around 2,000 employees in the region, and most would have no records related to Santa Fe Mountains Landscape Resiliency Project Santa Fe National or the Santa Fe National Forest Land Management Plan. Such a request would be both time consuming and expensive.

You don't have to identify employees conducting the search by name, but at a minimum by office or job title, area of expertise. As written, we have very little information to go by and no way to know who should address the search for your request. We suggest you start with a search for responsive records to be done by the subject matter experts at the Santa

Fe National Forest who work on these two projects. While this may not provide all the records in the Forest Service possession, it will reduce the search to a manageable pool of employees. Should you want the search to be conducted by employees of the Forest Service that are not in Region 3, please state that clearly so those portions of the request can be sent to the proper offices for search.

Please be advised that our region has a backlog of requests to be reviewed. Requests are reviewed in the order in which they are received. There are approximately 110 requests ahead of yours in the processing queue(s) for the region waiting on review. As written, it may take months to complete the search for records. We do not know how many months it will take for your request to get to the top of the processing queue. You can reduce the scope of your request at any time, but cannot expand the search once it has been agreed upon. At the current rate of review, it may be several years before your request gets to the top of the processing queue and review is started.

Should you like to receive records earlier, you can reduce the scope of your request at any time. Requests with a small volume of records are processed in a separate queue than the more complicated requests with a larger volume of records. Currently simple requests are being completed in a month or so, and complex requests are taking months to years to complete due to the current backlog.

The FOIA specifies two requirements for a request for records to be considered a valid, "perfected" request: (1) It must "reasonably describe" the records requested and (2) it must be made in accordance with the agency's published FOIA regulations. After careful review of your FOIA request, the Forest Service has determined that your request does not specifically identify the records which you are seeking in such a way that the search can be accomplished without involving all Forest Service employees. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. See 7 C.F.R. § 1.5(b), and Forest Service Handbook 6209.13. Where possible, a requester should supply specific information regarding dates, titles, names of individuals, names of offices, and name of agencies or organizations that may help identify the records. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Please resubmit your request containing a reasonable description of the records you are seeking, without the term "any and all" or "all" clearly identifying who should search for records and what you consider responsive. As written, we are unable to determine what you seek and we would not be certain we would construe the scope of your request as you expect. Upon receipt of the requested information, you will be advised as to the status of your request.

From <https://www.justice.gov/oip/blog/foia-post-2008-oip-guidance-new-limitations-assessing-fees>, "Unusual circumstances" occur in three situations: 1) when there is a need to search for and collect records from field offices, or other establishments; 2) when there is a need to search for, collect, and examine a voluminous amount of records; or 3) when there is a need for consultations with another agency or with more than two components within the same agency. In all these situations the exception to the rule against assessing search fees or, if applicable, duplication fees, is met and the agency is not precluded from assessing such fees. Item 1, 2, and possibly 3 will apply.

In the event that we do not hear from you within 20 business days from the date of this letter, we will assume you are no longer interested in this FOIA request, and the case will be administratively closed. Please be advised that this action is not a denial of your request and will not preclude you from filing other requests in the future.

If you have any questions regarding this response or if further assistance is required, you may reply to this email to [r3\\_foia@usda.gov](mailto:r3_foia@usda.gov). You may also contact the Forest Service FOIA Public Liaison at [SM.FS.WOFOIA@usda.gov](mailto:SM.FS.WOFOIA@usda.gov).

Thank you,

Alisha

▪ **Alisha Daniel**  
**Government Information Specialist**

**Forest Service**

**Southwestern Region**

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