

Exhibit 104



Gianina Spano <gianina@sorensonfoialaw.com>

Fwd: SFFC v Forest Service - Response to Expedited Processing Request 2023-FS-R3-05200-F

Gianina Spano <gianina@sorensonfoialaw.com>
Draft

Mon, Oct 9, 2023 at 10:26 AM

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

From: **Daniel, Alisha - FS, NM** <alisha.daniel@usda.gov>
Date: Tue, Jul 25, 2023 at 8:33AM
Subject: Response to Expedited Processing Request 2023-FS-R3-05200-F
To: peter@sorensonfoialaw.com <peter@sorensonfoialaw.com>
Cc: Cramer, Jennifer - FS, NM <jennifer.cramer@usda.gov>, FS-R3_FOIA <r3_foia@usda.gov>

Good morning,

Attached is the response for expedited processing, request tracking number 2023-FS-R3-05200-F.

Please let me know if you have any questions or concerns related to our response

Thank you,

Alisha



Alisha Daniel
Government Information
Specialist

Forest Service
Southwestern Region

p: 505-842-3472
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 **FY 2023 - 625116 Denial Expedited Processing 2023-FS-R3-05200-F Sorenson.pdf**
278K



File Code: 6270
Date: July 25, 2023

C. Peter Sorenson
Sorenson Law Office
PO Box 10836
Eugene, Oregon 97440
peter@sorensonfoia.law

RE: Freedom of Information Act Tracking Number 2023-FS-R3-05200-F

Dear Mr. Sorenson:

This is a response for your Freedom of Information Act (FOIA) request dated June 28, 2023, received by the Southwestern Region FOIA Service Center on July 17, 2023. This request was assigned tracking number 2023-FS-R3-05200-F. Please include this case number in all communications regarding this request. This letter addresses the issue of expedited processing only. An email requesting clarification of your request was sent on July 24, 2023 to the email address provided in your letter.

Your request is 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 commllllications 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 dry-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 strobiformis*, limber pine *Pinus flexilis* and Rocky Mountain bristlecone pine *Pinus 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 and 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 Hermit's 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 (JS.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 Hermit's Peak/Calf Canyon Wildfire.

You asked for expedited processing with the following explanation:

The information is time sensitive and relevant to the Talpa Working Group put together by Carson National Forest and contractor Peak Facilitation. I am requesting a response by February 26, 2023 as the next working group session is on February 27, 2023.

To date you have not met the processing requirement of providing a certified statement for expedited processing required by the USDA processing regulation.

The Department's FOIA regulations state that we will provide expedited processing if a requester demonstrates a compelling need for the records by explaining in detail how the request

meets one or both of the criteria below and certifying the explanation is true and correct to the best of the requester's knowledge and belief. The two criteria are as follows:

- (1) Failure to expedite the request could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or
- (2) There is an urgency to inform the public about an actual or alleged government activity and the request is made by a person primarily engaged in disseminating information. (The requested information must be the type of information which has particular value that will be lost if not disseminated quickly; this ordinarily refers to a breaking news story of general public interest. Information of historical interest only or information sought for litigation or commercial activities would not qualify, nor would a news media deadline unrelated to breaking news.)

Your request does not contain enough evidence to support either of these criteria. You do not provide any justification that failure to expedite the request could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. The threshold exists to justify moving your request to the start of the processing queue ahead of those requesters who submitted requests prior to yours as requests are processed in an first in, first out basis.

You do not provide any justification that there is an urgency to inform the general public about the activities of Santa Fe Mountains Landscape Resiliency Project Santa Fe National or the Santa Fe National Forest Land Management Plan, or that you are a person primarily engaged in disseminating information. Your request for expedited processing does not address the interest of the general public in matters relating to the Santa Fe Mountains Landscape Resiliency Project Santa Fe National or the Santa Fe National Forest Land Management Plan or why delay in processing would compromise a significant recognized interest. Your request does not ask for a small amount of information, instead may result in thousands of pages of documents, some of which are already available to the public and may take many months of search and review prior to being released. Moving this request to the head of the queue would be a disservice to those already waiting to receive records whose requests pre-date yours.

While the Santa Fe Mountains Landscape Resiliency Project Santa Fe National or the Santa Fe National Forest Land Management Plan activity may be of interest to some individuals, you have not addressed the interest of the public in general. Your expedited processing request does not address how you disseminate information to the general public and provides no specific examples of how information has been provided to show how the knowledge of the general public has been increased by your dissemination of information in the past. The information you seek is not breaking news but appears to be of interest just to those in the listed organizations identified in your request, which would not be considered meeting the threshold to justify moving ahead of other requesters waiting on their requests. Your request for expedited processing therefore has been denied.

The FOIA provides you the right to appeal this response. Any appeal must be made in writing, within 90 days from the date of this letter to the Chief, USDA Forest Service. Additionally, due to the concerns surrounding the COVID-19 virus we are only accepting

appeals electronically at this time. Please email your appeal to SM.FS.WOFOIA@usda.gov. The term "FOIA APPEAL" should be placed in capital letters on the subject line of the email along with the FOIA case number assigned to your request. To facilitate the processing of your appeal, please attach a copy of this letter to your request as well.

If you need any further assistance or would like to discuss any aspect of your request, please do not hesitate to contact the FOIA Public Liaison at (202) 205-1542. Additionally, you may contact the Office of Government Information Services, National Archives and Records Administration, to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001, email ogis@nara.gov; telephone at (202) 741-5770; toll free at (877) 684-6448; or facsimile at (202) 741-5769.

If you have any questions regarding this response, please contact Dawnee Burson via telephone at (385) 266-1193 or via email r3_foia@usda.gov.

Sincerely,

SHERRI
SCHWENKE

Digitally signed by
SHERRI SCHWENKE
Date: 2023.07.25
09:02:35 -06'00'

MICHIKO J. MARTIN
Regional Forester

Enclosure