

From: [Katherine Coffey](#)
To: [Cirullo, Megan - FS, MT](#)
Cc: [Slezak, Gregg - FS, VA](#); [Yonce, Mary - FS, VA](#); [Martin, Jay - FS, VA](#); [Kristin Davis](#)
Subject: FOIA REQUEST # 2024-FS-R8-03815-F -- RE: Acknowledgement of Archer Knob FOIA
Date: Tuesday, April 30, 2024 3:54:14 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[2024.04.30 Revised SELC Archer Knob FS FOIA Request.pdf](#)

Hi Meg,

Thanks for your acknowledgement of our request. We've made a few edits to our request based on your suggestions.

Although I think we've solved the issue for the purposes of this request, it would be helpful to schedule a call to discuss one aspect of the request. Specifically, we disagree with your interpretation of the law regarding language such as "all records" or "including but not limited to" in our request. Would you be open to chatting about that so we can understand your perspective better?

Best,
Katherine

From: Cirullo, Megan - FS, MT <Megan.Cirullo@usda.gov>
Sent: Wednesday, April 10, 2024 4:57 PM
To: Katherine Coffey <kcoffey@selcva.org>
Cc: Slezak, Gregg - FS, VA <gregg.slezak@usda.gov>; Yonce, Mary - FS, VA <mary.yonce@usda.gov>; Martin, Jay - FS, VA <Jay.Martin2@usda.gov>
Subject: Acknowledgement of Archer Knob FOIA

Dear Katherine,

I hope this note finds you well. Thank you for your recent Freedom of Information Act (FOIA) request to the USDA Forest Service - Southern Region (R8). This email acknowledges receipt of your FOIA request dated April 02, 2024, which was received in the FS – George Washington and Jefferson National Forests office that same date. For the Archer Knob Project, you requested:

- 1. Most current shapefiles for the Project area as set forth in the Draft Environmental Assessment;*
- 2. All records in the Project file, including but not limited to:*
 - a. Records related to old growth surveys conducted in the Project area, including tally sheets, maps, and other information;*
 - b. Any records of coordination with the U.S. Fish and Wildlife Service;*

- c. Records related to water quality assessments and proposed stream crossings, including any permits required under the Clean Water Act; and*
- d. Records of ground disturbance in Potential Wilderness Areas.*

Your request has been assigned to me as FOIA Coordinator for the George Washington and Jefferson National Forests.

We would point out that FOIA requests seeking "any and all documents," "any documents," "including, but not limited to," or "all documents" . . . are "impermissibly broad and do not comply with FOIA's requirement that the request for records 'reasonably describe[] such records.'" Exxon Mobil Corp. v. U.S. Dep't of Interior, No. 09-6732, 2010 WL 2653353 (E.D. La. June 29, 2010) (McNamara, J.). The FOIA requires agencies to conduct a "reasonable" search for requested records. (Campbell v. SSA, 446 F. App'x 477, 480 (3d Cir. June 3, 2011) (quoting Weisberg v. DOJ, 705 F.2d 1344, 1351 (D.C. Cir. 1983)).

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 identify the records which you are seeking with sufficient particularity to allow us to conduct a search. 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). In order to process your request, you must provide the following information/clarification:

1. Your request does not specify a date range for the search. We suggest a beginning date of October 1, 2021. Environmental Coordinator Jay Martin informed me the project didn't kick off until winter 2021/spring 2022, so my recommendation is a little backdated prior to the project's scoping period, though I'm open to whatever helps you.
2. Revise your request to remove the language that is non-compliant with the FOIA. We suggest the following language (suggested deletions in strikethrough and suggested additions highlighted):

1. Most current shapefiles for the Project area as set forth in the Draft Environmental Assessment;

*2. All **The following records** in the Project file. ~~including but not limited to:~~*

- a. Records related to old growth surveys conducted in the Project area, including tally sheets, maps, and other information;*
- b. **Any** Records of coordination with the U.S. Fish and Wildlife Service;*
- c. Records related to water quality assessments and proposed stream crossings, including any permits required under the Clean Water Act; and*
- d. Records of ground disturbance in Potential Wilderness Areas.*

Please advise whether our suggested revisions are acceptable or if you wish to propose your own. If 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.

Provisions of the FOIA allow USDA to recover part of the cost of complying with your request. For purposes of fee assessment, you have been categorized as a "All Other" requester, pursuant to 7 CFR Appendix A to Subpart A of Part 1 Section 2(b)(4)(i). For your review and information, a copy of the USDA FOIA Fee Schedule is attached. However, if our processing costs are less than \$50.00, we will not bill you because the cost of collection would be greater than the fee collected. See, 43 C.F.R. § 2.37(g).

You have requested a fee waiver. Your fee waiver request is under consideration.

We are unable to provide the estimated time required to process your request until it is perfected.

You will receive a substantive response when your request is fulfilled, denied in part, or denied in full. If a request involves a voluminous amount of material, or searches in multiple locations, the Forest Service will often provide interim responses, releasing the records on a rolling basis instead of waiting until all processing is completed. Therefore, you may receive more than one substantive response.

Due to the increasing number of FOIA requests received by this office, and the resulting backlog of requests, we may encounter some delay in processing your request. Pursuant to USDA FOIA Regulations, Title 7 CFR §1.6(a), the Forest Service processes FOIA requests according to their order of receipt.

If you have questions about this request, please feel free to submit a query via email to megan.cirullo@usda.gov. In all correspondence, please reference your assigned case number: 2024-FS-R8-03815-F.

We appreciate your patience as we proceed with your request. Have a wonderful day!

Sincerely,

Meg C



Meg Cirullo
Public Affairs Staff Officer

Forest Service

George Washington and Jefferson National Forest

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