

From: Collins, Jason - FS
Sent: Tue, 13 Oct 2020 14:10:17 +0000
To: Razor, Aaron - FS
Subject: FOIA release letter needed for Request: 2020-FS-R2-06486-F
Importance: High

Good morning,

I put the responsive records in the public pinyon release folder under Request: 2020-FS-R2-06486-F. I used exemption 3 and 6. The forest already did the first release of the fully releasable documents in FOIA Express. We have 7 business days to get this request out in time. RMLV should be reviewing this release.



Jason Collins
Region 2 FOIA Coordinator

Forest Service
Rocky Mountain Region

p: 303-275-5194
jason.collins2@usda.gov

1617 Cole Blvd
Lakewood, CO 80401
www.fs.fed.us



Caring for the land and serving people

From: Stewart, Marry -FS
Sent: Tue, 1 Jun 2021 15:47:57 +0000
To: Coldwell, Barbie -FS
Subject: FW: 021-FS-R2-03896-F FOA release recommendations for the Valle Seco Land Exchange appraisals

From: Robertson, Jason -FS <jason.d.robertson@usda.gov>
Sent: Thursday, May 27, 2021 3:02 PM
To: Stewart, Marry -FS <marry.stewart@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Subject: RE: 021-FS-R2-03896-F FOA release recommendations for the Valle Seco Land Exchange appraisals

Thanks you Marry,

Unless the Forest has issued Record of Decision, Chuck and I don't believe anything has changed re our recommendation not to release appraisals as these are still deliberative in nature and could be compromised if released prematurely.



Jason Robertson
Director
Forest Service Rocky Mountain Region
Recreation, Lands, Minerals, & Volunteers

p: 303-275-5470

(b)(6)

Jason.D.Robertson@usda.gov

1617 Cole Blvd, Bldg 17

Golden, CO 80401

www.fs.fed.us

Caring for the land and serving people

From: Stewart, Marry -FS <marry.stewart@usda.gov>
Sent: Wednesday, May 26, 2021 9:13 AM
To: Robertson, Jason -FS <jason.d.robertson@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Subject: 021-FS-R2-03896-F FOA release recommendations for the Valle Seco Land Exchange appraisals

Good morning Jason and Chuck,

I'm inquiring about the recommendation that Jason sent, with Chuck's input, for the previous FOIA request for the Valle Seco Technical Appraisal Report (2021-FS-R2-02802-F).

Does this previous recommendation still stand as your recommendation for the Valle Seco Land Exchange Appraisals FOIA request (2021-FS-R2-03896-F) that we are processing now? That is, do you currently recommend that the appraisals not be shared?

Your previous recommendation is; “At a minimum, I recommend the appraised values and other valuation information in the appraisal not be shared until the Agency has made a planning decision on the land exchange. Further, Chuck Brown, as acting Regional Appraiser has recommended in the attached file not to release other components of the appraisal until the Agency has made a planning decision on the land exchange. I am inclined to support this recommendation, based on agency precedent, the possibility release could compromise the appraised value of the estate due to competitive or other actions, and the fact that the Agency has not yet made a decision on the proposed land exchange. Could you carry forward to OGC, the second matter re whether we must release the rest (non-valuation elements) of the report? The other (non-valuation) elements of the report inform and are integral to the appraised value. While much of this information may be available from other sources, the manner in which we rely on and use this for informing the decision are not. Sharing appraisal components and supporting information before making a decision on the land exchange has the potential to result in changes to the valuation of the property, which could moot the appraisal or result in termination of the land exchange project altogether. The agency direction and guidance you cited also imply we need not share this information from the appraisal.”

Please advise at your earliest convenience so that we can process this FOIA request (2021-FS-R2-03896-F) in a timely manner.

Thank you very much for your time and consideration.

Respectfully,



Marry Stewart
Acting Region 2 FOIA Coordinator

Forest Service
Rocky Mountain Region

Marry.Stewart@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

Fox, Elizabeth - FS

From: Stewart, Marry -FS
Sent: Thursday, June 24, 2021 2:42 PM
To: Fox, Elizabeth - FS
Subject: FW: R2RO response for FOIA request #2021-FS-R2-03896-F
Attachments: Formal Letter 535619.pdf

Hey Beth,

Just an FYI that this FOIA is out the door.

Cheers,

Marry

From: Rasor, Aaron - FS <aaron.rasor@usda.gov>
Sent: Thursday, June 24, 2021 11:04 AM
To: mattkenna@gmail.com
Cc: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Stewart, Marry -FS <marry.stewart@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>
Subject: R2RO response for FOIA request #2021-FS-R2-03896-F

Good morning,

I have attached the Formal Notification Letter and an active link to the responsive records for FOIA request #2021-FS-R2-03896-F.

The link below is the enclosure specified in the attached letter. The link contains a downloadable release of the responsive records to your request. Let me know if you have any problems accessing the link; it will stay active for 30 days. If you need additional time to download the records, please notify me before the 30 days is over.

<https://usfs-public.box.com/s/tfxwamweaw7h5f5qghj9605bx3b6erqp>

Please note that this link is accessible to anyone who obtains it; we request it is not shared outside of your organization. Let me know if you have any questions or problems accessing either the file or link.

Sincerely,



Aaron Rasor
Data Services Specialist, FOIA

Forest Service
Rocky Mountain Regional Office

p: 303-275-5050
aaron.rasor@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

Fox, Elizabeth - FS

From: Smith, Rebecca A -FS
Sent: Wednesday, September 23, 2020 2:21 PM
To: Fox, Elizabeth - FS
Subject: RE: Valle Seco LEX COWPL FOIA Request

I provided responsive documents regarding the communications with Brad Weinmeister. I didn't provide anything regarding Lynn Wickersham. If we end up needing to provide something related to Lynn Wickersham, let me know.

From: Fox, Elizabeth - FS
Sent: Wednesday, September 23, 2020 2:13 PM
To: Smith, Rebecca A -FS <rebecca.smith@usda.gov>
Subject: RE: Valle Seco LEX COWPL FOIA Request

Thank you.

Does your response below omit item #3 as well??

Since we are waiting clarification to delete from the request.

From: Smith, Rebecca A -FS <rebecca.smith@usda.gov>
Sent: Wednesday, September 23, 2020 2:10 PM
To: Fox, Elizabeth - FS <Elizabeth.Fox@usda.gov>
Cc: Collins, Jason - FS <Jason.Collins2@usda.gov>
Subject: RE: Valle Seco LEX COWPL FOIA Request

Documents that are responsive to their items #1-4 have been placed in the FOIA Box folder. We do not have any documents that are responsive to their items #5-9.



Becca Smith
Lands and Minerals Specialist
Forest Service
Pagosa Ranger District, San Juan National Forest

p: 970-264-1521
f: 970-264-1538
rebecca.smith@usda.gov

P.O. Box 310
Pagosa Springs, CO 81147
www.fs.fed.us



Caring for the land and serving people

From: Fox, Elizabeth - FS
Sent: Tuesday, September 15, 2020 2:49 PM
To: Smith, Rebecca A -FS <rebecca.smith@usda.gov>
Cc: Collins, Jason - FS <Jason.Collins2@usda.gov>
Subject: Valle Seco LEX COWPL FOIA Request

Becca~

Please open and review the attached stated subject.

As the lead on this project please let me know if you need any further clarification before we respond to the requestor.

Please reply by COB on Thursday, September 17, so we can prepare an acknowledgment letter to the requestor and set this FOIA request up in FOIA Express.

Do not hesitate to contact me if you have any questions.

Beth Fox

Executive Assistant



Forest Service

San Juan National Forest

p: 970-385-1290

f: 970-375-2331

elizabeth.fox@usda.gov

15 Burnett Court

Durango, CO 81301

www.fs.fed.us



Caring for the land and serving people

From: CO Wild Public Lands <coloradowildpubliclands@gmail.com>

Sent: Tuesday, September 15, 2020 2:27 PM

To: Fox, Elizabeth - FS <Elizabeth.Fox@usda.gov>

Subject: Valle Seco LEX

Dear Ms. Fox,

Please find attached a FOIA request for documents regarding the Valle Seco Land Exchange.

Thank you,

Anne Rickenbaugh

--

Colorado Wild Public Lands

PO Box 1772, Basalt, CO 81621

www.coloradowildpubliclands.org

Fox, Elizabeth - FS

From: Overturf, Jeff -FS
Sent: Thursday, October 1, 2020 2:44 PM
To: Fox, Elizabeth - FS
Subject: RE: Pinon Public Link for FOIA Request #20-FS-RS-06506-F - CKrupp Valle Seco Land Exchange with Wild Earth Guardians

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Beth, I have copied the content referenced below to Pinyon Public:

<https://usfs-public.box.com/s/ufke3n82660g48vzyvcy8miwnxzeny7y>

Note that anyone who possesses this link may access the content.

Let me know when this content can be removed. Thank you!

--Jeff

From: Fox, Elizabeth - FS <Elizabeth.Fox@usda.gov>
Sent: Thursday, October 01, 2020 2:37 PM
To: Overturf, Jeff -FS <jeff.overturf@usda.gov>
Subject: RE: Pinon Public Link for FOIA Request #20-FS-RS-06506-F - CKrupp Valle Seco Land Exchange with Wild Earth Guardians

I apologize I copied the wrong one verbiage for the subject.

That one is currently being worked on.

This is the correct one with the link I provided. My apologies let me know if it still does not work.....

20-FS-R2-06486-F - Anne Rickenbaugh with CO Wild Public Lands

<https://usfs.box.com/s/26a7msym26gtsl0juqj993qt2lkgysgr>

From: Overturf, Jeff -FS <jeff.overturf@usda.gov>
Sent: Thursday, October 1, 2020 2:31 PM
To: Fox, Elizabeth - FS <Elizabeth.Fox@usda.gov>
Subject: RE: Pinon Public Link for FOIA Request #20-FS-RS-06506-F - CKrupp Valle Seco Land Exchange with Wild Earth Guardians

Hi Beth, happy to help! In order for me to be able to copy the content outside the firewall, you will need to make me an Editor in Pinyon for the folder (or the one above it, whatever is easier).

Once I have access, I can then make a copy for the public area and give you a link to share out.

Let me know if you have any questions on this—thanks!

--Jeff

From: Fox, Elizabeth - FS <Elizabeth.Fox@usda.gov>

Sent: Thursday, October 01, 2020 10:06 AM

To: Overturf, Jeff -FS <jeff.overturf@usda.gov>

Cc: Collins, Jason - FS <Jason.Collins2@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>

Subject: Pinon Public Link for FOIA Request #20-FS-RS-06506-F - CKrupp Valle Seco Land Exchange with Wild Earth Guardians

Jeff~

Could I please get a Public Link so I can release documents out the requestor??

The documents that need to be release are in the link below:

<https://usfs.app.box.com/folder/123595198305>

Thank you in advance,

Beth Fox

Executive Assistant



Forest Service

San Juan National Forest

p: 970-385-1290

f: 970-375-2331

elizabeth.fox@usda.gov

15 Burnett Court

Durango, CO 81301

www.fs.fed.us



Caring for the land and serving people

REGIONAL OFFICE - REFERRAL FORM
DENIAL CERTIFICATION AND JUSTIFICATION

(Refer to FSH 6209.13, 12.1)

PART I - FOIA REQUEST

1. Requester:	ANNE RICKENBAUGH	3. Case No.:	2020-FS-R2-06486-F
2. Description:	Valle Seco Land Exchange	4. Date Referred:	10/01/2020
	CO WILD PUBLIC LANDS	5. Date Due:	

PART II - CERTIFICATION OF SEARCH

- 1. no yes A reasonable search of all hard copy and electronic records was performed.
- 2. no yes All staffs, offices, and districts were searched.
- 3. no yes There is litigation/court order affecting all some of the records.
Identify which records are being withheld pursuant to litigation/protective order:

PART III - INITIAL DENIALS

1. Records should be withheld in whole or in part for the reasons given below pursuant to 5 U.S.C. 522(b) and 7 CFR:
- Exemption 2 - internal personnel rules and practices
 - Exemption 3 - exempt by other federal statutes. Explain: ARCHY INFO
 - Exemption 4 - confidential
 - trade secrets commercial financial
 - business submitter has been notified
 - Exemption 5 - privileged
 - deliberative process Attorney work-product Attorney-client privileged
 - Exemption 6 - unwarranted invasion of privacy
 - Exemption 7 - law enforcement records, if disclosure would:
 - 7A - interfere with enforcement proceedings
 - 7B - deprive a person the right to a fair trial or impartial adjudication
 - 7C - constitute an unwarranted invasion of personal privacy
 - 7D - identify a confidential source
 - 7E - identify procedures risking circumvention of the law
 - 7F - endanger life or safety
 - Exemption 9 - geological and geophysical information
 - No records exist responsive to the request.
 - Other. Explain:

PART IV - STATEMENT OF JUSTIFICATION

PART V - ENCLOSURES

- | | |
|--------------------------------------------------|----------------------------------------------------|
| <input type="checkbox"/> Original Request Letter | <input checked="" type="checkbox"/> Correspondence |
| <input type="checkbox"/> Index | <input type="checkbox"/> Highlighted Records |
| <input type="checkbox"/> Draft Response for RF | |

I have thoroughly searched for and reviewed the involved records. I have taken all the information recorded on this form into account in making my determination on the involved records. I have reviewed the enclosed records and identified the portions to be withheld. I have provided a direct response for all records except those forwarded for nondisclosure.

Name: /s/ Office:

From: Stewart, Marry -FS
Sent: Tue, 1 Jun 2021 15:47:57 +0000
To: Coldwell, Barbie -FS
Subject: FW: 021-FS-R2-03896-F FOA release recommendations for the Valle Seco Land Exchange appraisals

From: Robertson, Jason -FS <jason.d.robertson@usda.gov>
Sent: Thursday, May 27, 2021 3:02 PM
To: Stewart, Marry -FS <marry.stewart@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Subject: RE: 021-FS-R2-03896-F FOA release recommendations for the Valle Seco Land Exchange appraisals

Thanks you Marry,

Unless the Forest has issued Record of Decision, Chuck and I don't believe anything has changed re our recommendation not to release appraisals as these are still deliberative in nature and could be compromised if released prematurely.



Jason Robertson
Director
Forest Service Rocky Mountain Region
Recreation, Lands, Minerals, & Volunteers

p: 303-275-5470

(b)(6)

Jason.D.Robertson@usda.gov

1617 Cole Blvd, Bldg 17

Golden, CO 80401

www.fs.fed.us

Caring for the land and serving people

From: Stewart, Marry -FS <marry.stewart@usda.gov>
Sent: Wednesday, May 26, 2021 9:13 AM
To: Robertson, Jason -FS <jason.d.robertson@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Subject: 021-FS-R2-03896-F FOA release recommendations for the Valle Seco Land Exchange appraisals

Good morning Jason and Chuck,

I'm inquiring about the recommendation that Jason sent, with Chuck's input, for the previous FOIA request for the Valle Seco Technical Appraisal Report (2021-FS-R2-02802-F).

Does this previous recommendation still stand as your recommendation for the Valle Seco Land Exchange Appraisals FOIA request (2021-FS-R2-03896-F) that we are processing now? That is, do you currently recommend that the appraisals not be shared?

Your previous recommendation is; “At a minimum, I recommend the appraised values and other valuation information in the appraisal not be shared until the Agency has made a planning decision on the land exchange. Further, Chuck Brown, as acting Regional Appraiser has recommended in the attached file not to release other components of the appraisal until the Agency has made a planning decision on the land exchange. I am inclined to support this recommendation, based on agency precedent, the possibility release could compromise the appraised value of the estate due to competitive or other actions, and the fact that the Agency has not yet made a decision on the proposed land exchange. Could you carry forward to OGC, the second matter re whether we must release the rest (non-valuation elements) of the report? The other (non-valuation) elements of the report inform and are integral to the appraised value. While much of this information may be available from other sources, the manner in which we rely on and use this for informing the decision are not. Sharing appraisal components and supporting information before making a decision on the land exchange has the potential to result in changes to the valuation of the property, which could moot the appraisal or result in termination of the land exchange project altogether. The agency direction and guidance you cited also imply we need not share this information from the appraisal.”

Please advise at your earliest convenience so that we can process this FOIA request (2021-FS-R2-03896-F) in a timely manner.

Thank you very much for your time and consideration.

Respectfully,



Marry Stewart
Acting Region 2 FOIA Coordinator

Forest Service
Rocky Mountain Region

Marry.Stewart@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

Fox, Elizabeth - FS

From: Stewart, Marry -FS
Sent: Thursday, June 24, 2021 2:42 PM
To: Fox, Elizabeth - FS
Subject: FW: R2RO response for FOIA request #2021-FS-R2-03896-F
Attachments: Formal Letter 535619.pdf

Hey Beth,

Just an FYI that this FOIA is out the door.

Cheers,

Marry

From: Rasor, Aaron - FS <aaron.rasor@usda.gov>
Sent: Thursday, June 24, 2021 11:04 AM
To: mattkenna@gmail.com
Cc: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Stewart, Marry -FS <marry.stewart@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>
Subject: R2RO response for FOIA request #2021-FS-R2-03896-F

Good morning,

I have attached the Formal Notification Letter and an active link to the responsive records for FOIA request #2021-FS-R2-03896-F.

The link below is the enclosure specified in the attached letter. The link contains a downloadable release of the responsive records to your request. Let me know if you have any problems accessing the link; it will stay active for 30 days. If you need additional time to download the records, please notify me before the 30 days is over.

<https://usfs-public.box.com/s/tfxwamweaw7h5f5qghj9605bx3b6erqp>

Please note that this link is accessible to anyone who obtains it; we request it is not shared outside of your organization. Let me know if you have any questions or problems accessing either the file or link.

Sincerely,



Aaron Rasor
Data Services Specialist, FOIA

Forest Service
Rocky Mountain Regional Office

p: 303-275-5050
aaron.rasor@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

From: Sidon, Joshua - FS
Sent: Fri, 2 Apr 2021 22:20:00 +0000
To: Robertson, Jason -FS;Brown, Charles - FS
Cc: Coldwell, Barbie -FS;Collins, Jason - FS;Rasor, Aaron - FS;Hesch, Patricia -FS
Subject: FW: FOIA Request 2021-FS-R2-02802-F Question regarding Land Exchange Records

Hey Jason and Chuck,

We ended up moving forward with the heavy redactions of the appraisal reports based on exemption 5 of the FOIA since there has been no decision made on Valle Seco. However, we also engaged the WO FOIA program to ensure that was the right call. Based on that engagement, it looks like FSM 5410 does encourage release of completed and signed reports (see below). However, we do have discretion to withhold some information (confidentiality of business information). Lets regroup on this early next week. If we are going to change course, we should get in touch with the requestor as soon as possible since we already send them the redacted versions.

Jason R. – since you'll be digging out from leave, I'll connect with you to see when we can fit this conversation in.

Thanks!

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region
p: 303-275-5152
(b)(6)
joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401
www.fs.fed.us



**Caring for the land and serving
people**

From: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>
Sent: Friday, April 2, 2021 3:57 PM
To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Cc: Collins, Jason - FS <Jason.Collins2@usda.gov>
Subject: FW: FOIA Request 2021-FS-R2-02802-F Question regarding Land Exchange Records

Josh,

Had a lengthy conversation with Meg Scofield regarding Land Exchange records and after reading through the cover letter to the Forest Supervisor (**Below**) it looks like we need to go through Jason Robertson (I think) and because these documents are signed and completed they can be released with approval from the Regional Appraiser. We can discuss Monday if you would like. Have a good weekend!

In accordance with FSM 5410, the appraisal report will be made available when requested; however, copies are not to be retained in Regional, Forest, or District landownership adjustment files. The Valuation Services staff, in accordance with the Appraisal and Records Management handbooks, will maintain them.

FSM 5410

5410.74c - Release of Records under the Freedom of Information Act

The release of valuation products must be conducted in accordance with Title 7, Code of Federal Regulations, Subtitle A, Part 1, Subpart A, and the direction in FSM 6270.42.

1. The Chief Appraiser has custody of valuation work products for the Washington Office and the Regional Appraiser has custody of valuation work products for the Regional Office.
2. The Washington Office Director of Lands is responsible for approving the release of appraisal reports or appraisal information for the Washington Office in response to written requests under the FOIA. The Washington Office Director of Lands shall consider the Privacy Act, the confidentiality of business information in accordance with 7 CFR 1.11, and the recommendation of the Chief Appraiser in coordination with the Washington Office FOIA Coordinator. Responses that include redacted information may only be released by the Chief, Associate Chief, or their delegated acting official. Internal, pre-decisional, and deliberative information may be withheld under FOIA exemption 5.

Completed, signed appraisal review reports, appraisal consulting reports, and other valuation work products that have been accepted for Agency use by an Authorized Officer and that are part of the official record may be released by the Washington Office, in whole or in part, after review by the Chief Appraiser.

3. The Regional Office Director of Lands, or equivalent official, is responsible for approving the release of appraisal reports or appraisal information for field units in response to written requests under FOIA. The Regional Office Director of Lands shall consider the Privacy Act, the confidentiality of business information in accordance with 7 CFR 1.11, and the recommendation of the Regional Appraiser in coordination

with the Regional FOIA Coordinator before approving the release of appraisal reports or appraisal information. Responses that include redacted information may only be released by the Regional Forester. Internal, pre-decisional, and deliberative information may be withheld under Exemption 5.

Completed, signed appraisal review reports, appraisal consulting reports, and other valuation products that have been accepted for Agency use by an Authorized Officer and are part of the official Agency record may be released by the Regional Director of Lands or equivalent official, in whole or in part, after review by the Regional Appraiser.

4. Unapproved, incomplete, or rejected valuation work products and work products not accepted for Agency use by an Authorized Officer that are not part of the official record must be withheld under FOIA exemption 5 as pre-decisional documents.



Barbie Coldwell
Detail - Administrative Operations Specialist (FOIA)

Forest Service
Rocky Mountain Region

barbie.coldwell@usda.gov

PO Box 3857
Page, AZ 86040

www.fs.fed.us



Caring for the land and serving people

“The clearest way into the Universe is through a forest wilderness.” ~John Muir

From: Coldwell, Barbie -FS

Sent: Tuesday, March 30, 2021 1:49 PM

To: Scofield, Margaret - FS <margaret.scofield@usda.gov>

Cc: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>

Subject: FOIA Request 2021-FS-R2-02802-F Question regarding Land Exchange Records

Hi Margaret,

We have FOIA records that we are preparing to release and are a little concerned regarding the use of exemption 5 as it relates to a “Technical Appraisal Review Report” for a proposed land exchange. The land exchange decision has not been finalized yet. I’ve been asked me to consult with you prior to releasing these records.

I’ve redacted the entire appraisal in accordance with FSH 6209.13, 11.6 Exhibit 02, page 24. (below). We discussed the possibility of releasing the photos that are part of the appraisal since

they don't contain any legal descriptions. Is there any portion of the report that you feel can be released?
(un-redacted version attached)

Appreciate any guidance or insight you can provide. Thank you!

LAND SALE, EXCHANGE, AND ACQUISITION			
32	Must be furnished to landowner under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.	5 may not apply (sec. 11.64)	Release
33	Gives appraisal report or appraised value released by Justice Department for condemnation case.	5 may not apply (sec. 11.64)	Release
34	Gives total values and inventory data before approval of appraisal.	5 (sec. 11.64)	Do not release
35	Gives appraisal report on selected land before approval of land exchange.	5 (sec. 11.64)	Do not release
36	Provides approved appraisal report on offered land before consent by exchange proponent.	5 (sec. 11.64)	Do not release
37	Provides approved appraisal report after publication of notices in local newspaper, but prior to issuance of decision.	5 (sec. 11.64)	Do not release
38	Provides approved appraisal report after decision memorandum is signed.	5 may not apply (sec. 11.64)	Release
39	Gives agency approved values and/or approved appraisal reports for land purchases before property owner delivers acceptable option or deed to Government.	5 (sec. 11.64)	Do not release



Barbie Coldwell
Detail - Administrative Operations Specialist (FOIA)

Forest Service
Rocky Mountain Region

p: 406-293-1041
barbie.coldwell@usda.gov

PO Box 3857
Page, AZ 86040

www.fs.fed.us



Caring for the land and serving people

“The clearest way into the Universe is through a forest wilderness.” ~John Muir

From: Brown, Charles - FS
Sent: Wed, 7 Apr 2021 23:12:05 +0000
To: Sidon, Joshua - FS;Robertson, Jason -FS;Collins, Jason - FS;Coldwell, Barbie - FS;Rasor, Aaron - FS
Subject: FW: Question re FOIA 2021-FS-R2-02802-F
Attachments: RE: Question re FOIA 2021-FS-R2-02802-F

As agreed in yesterday's conversation, I followed-up with Jerry Sanchez, Chief Appraiser. Attached is my prior email communication with Jerry in which he laid out his comments regarding valuation product release under FOIA. I wanted Jerry to be aware before I forwarded his comments.

Today he reiterated the Policy is clear that valuation products which have been accepted for Agency use by an Authorized Officer and are part of the official Agency record may be released. He also clarified that while the documents are typically accepted for Agency use when a decision has been made, "accepted for Agency use" is a Regional interpretation. He emphasized there are significant risks to a proposed exchange from the premature, pre-decisional release of documents. Jerry also strongly recommended obtaining OGC advice prior to further release, as these decisions could impact future litigation. He also reminded me that the Regional Appraiser's role in terms of a FOIA release is one of recommendation not decision.

I'll be out most of tomorrow, but available Friday or next week for any follow-up.

Chuck



Charles Brown, MAI
Regional Appraiser (Acting)

Forest Service
Rocky Mountain Region

p: 303-275-5375

(b)(6)

charles.brown@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

From: Sanchez, Jerry- FS
Sent: Wed, 31 Mar 2021 01:15:16 +0000
To: Brown, Charles - FS
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Chuck,

Based on the information in the trailing emails, I offer the following information on the FS policy. I know you have this but want to directly reference it in this response.



5410.74b - External Release of Appraisals [Reserved]

5410.74c - Release of Records under the Freedom of Information Act

The release of valuation products must be conducted in accordance with Title 7, Code of Federal Regulations, Subtitle A, Part 1, Subpart A, and the direction in FSM 6270.42.

Note: Items #1 and #2 refer to Washington Director of Lands

5410.74c.3 The Regional Office Director of Lands, or equivalent official, is responsible for approving the release of appraisal reports or appraisal information for field units in response to written requests under FOIA. The Regional Office Director of Lands shall consider the Privacy Act, the confidentiality of business information in accordance with 7 CFR 1.11, and the recommendation of the Regional Appraiser in coordination with the Regional FOIA Coordinator before approving the release of appraisal reports or appraisal information. Responses that include redacted information may only be released by the Regional Forester. Internal, pre-decisional, and deliberative information may be withheld under Exemption 5.

Completed, signed appraisal review reports, appraisal consulting reports, and other valuation products that have been accepted for Agency use by an Authorized Officer and are part of the official Agency record may be released by the Regional Director of Lands or equivalent official, in whole or in part, after review by the Regional Appraiser.

COMMENTS: There are several things happening here:

1. The Regional Director or equivalent official must consider the release only after receiving written request under FOIA.

2. Items considered include the Privacy, confidentiality, and the recommendation of the Regional Appraiser are key. (I would recommend that you provide in writing your recommendation to withhold or release, and the reasons). The courts have supported us on withholding Appraisal Reviews prepared by a FS Review Appraiser as internal documents since they are developed within the agency.
3. A point that should not be overlooked is; that prior to releasing the information, the valuation products have been accepted for Agency use by an Authorized Officer and are part of the official Agency record. (This is the key to whether the documents should be released. If they have not be accepted for Agency use, by policy we cannot release).
4. Based on the information I have reviewed, it appears that the appraisals have been reviewed, approved, but NOT accepted for Agency use at this point in time.
5. The documents are pre-decisional and deliberative, and HAVE NOT been accepted for Agency use by an Authorized Officer. The documents are typically accepted for Agency use when a decision has been made. At that point, the Appraisal Review becomes part of the Official Record.

Hope this helps. Please contact me if you have questions or wish to discuss. Thanks –
Jerry



Jerry Sanchez, RPRA
Chief Appraiser
Forest Service
Washington Office Lands & Realty

p: 505-842-3154

(b)(6)

gerald.sanchez@usda.gov

333 Broadway SE Rm 333
Albuquerque, NM 87102

www.fs.fed.us



Caring for the land and serving people

Sent from my FS iPhone

From: Brown, Charles - FS <charles.brown@usda.gov>
Sent: Tuesday, March 30, 2021 5:42 PM
To: Sanchez, Jerry- FS <Gerald.Sanchez@usda.gov>
Subject: FW: Question re FOIA 2021-FS-R2-02802-F

Jerry,

FYI

This relates to a FOIA request for Valle Seco. I will have additional discussion with Jason Robertson and make a recommendation to him when he returns next week from leave. Let me know please if you have any thoughts on this.

Thanks - Chuck



Charles Brown, MAI
Regional Appraiser (Acting)

Forest Service
Rocky Mountain Region

p: 303-275-5375

(b)(6)

charles.brown@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

From: Brown, Charles - FS

Sent: Tuesday, March 30, 2021 5:33 PM

To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>

Cc: Hesch, Patricia -FS <patricia.hesch@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>; Sloan, Jenna - FS <jenna.sloan@usda.gov>

Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Hi Joshua,

While appraisals and appraisal reviews do reference factual information, they are by definition "opinions".

I'll have further follow-up with Jason R.

Chuck



Charles Brown, MAI
Regional Appraiser (Acting)

Forest Service
Rocky Mountain Region

p: 303-275-5375

(b)(6)

charles.brown@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

From: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Sent: Monday, March 29, 2021 2:38 PM
To: Robertson, Jason -FS <jason.d.robertson@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Hesch, Patricia -FS <patricia.hesch@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>; Sloan, Jenna - FS <jenna.sloan@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Hey all,

I'm not sure I'm on the same page here. I took a spin through the documents. Just because we have not issued a decision on Valle Seco does not automatically mean that the deliberative process privilege applies here. Tell me if I'm wrong, but much of the information in these reports is just factual and related to parcels the public is already aware are being considered for exchange. Is there anything in these appraisal reports that meet the criteria in the attached document? Ones that *might* apply are:

- Will the premature disclosure of the document negatively impact a final policy or decision?
- Could public confusion result from the disclosure of reasons or rationale that were not ultimately the basis of the agency's action?

Chuck – you might be the best equipped to respond. Do you have any thoughts? I personally don't feel like these appraisals "include opinions, advice or recommendations to the decision maker." They seem pretty factual to me. Maybe we could apply exemption 4 (disclosure of trade secrets and commercial or financial information) to the appraisal amount?

Jason C. – I'm happy to discuss more with you or loop in OGC.

Thanks,

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region
p: 303-275-5152
(b)(6)
joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401
www.fs.fed.us



Caring for the land and serving
people

From: Robertson, Jason -FS <jason.d.robertson@usda.gov>
Sent: Wednesday, March 24, 2021 9:07 AM
To: Collins, Jason - FS <Jason.Collins2@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Hesch, Patricia -FS <patricia.hesch@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>; Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Sloan, Jenna - FS <jenna.sloan@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Looks good – this is really helpful and the redactions address the concerns I had. I will go in and concur.

Jason



Jason Robertson
Director
Forest Service Rocky Mountain Region
Recreation, Lands, Minerals, & Volunteers

p: 303-275-5470

(b)(6)

Jason.D.Robertson@usda.gov

1617 Cole Blvd, Bldg 17
Golden, CO 80401
www.fs.fed.us

Caring for the land and serving people

From: Collins, Jason - FS <Jason.Collins2@usda.gov>
Sent: Wednesday, March 24, 2021 8:57 AM
To: Robertson, Jason -FS <jason.d.robertson@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Hesch, Patricia -FS <patricia.hesch@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>; Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Good morning,

I just sent you a link to the records that are being released in this letter. Most of the material is being withheld under exemption 5 due to it being in the predecisional stage. Let me know if you have any further questions or if you would like to discuss over a teams meeting. Below is a direct link to the files.

<https://usfs.box.com/s/ebzbczddzsj6pejhbgt2el25v19buj8c>



Jason Collins
Region 2 FOIA Coordinator

Forest Service
Rocky Mountain Region

p: 303-275-5194
jason.collins2@usda.gov

1617 Cole Blvd
Lakewood, CO 80401
www.fs.fed.us



Caring for the land and serving people

From: Robertson, Jason -FS <jason.d.robertson@usda.gov>
Sent: Wednesday, March 24, 2021 8:45 AM
To: Brown, Charles - FS <charles.brown@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>
Cc: Hesch, Patricia -FS <patricia.hesch@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>; Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Subject: Question re FOIA 2021-FS-R2-02802-F

Chuck and Jason C,

I'm playing armchair quarterback here, and don't know what I don't know. Am looking for advice before concurring on the referenced FOIA.

This FOIA requests "the technical appraisal review report [for the Valle Seco land exchange] to COWPL". As the exchange is still in a deliberative stage and has not been completed, I'm not sure whether the records are protected from disclosure by any of the FOIA exemptions?

If it is protected, 1) Do we want to share this report; 2) Do we have to share this report; and 3) do we have to share this report now?

Jason



Jason Robertson
Director

Forest Service Rocky Mountain Region
Recreation, Lands, Minerals, & Volunteers

p: 303-275-5470
(b)(6)
Jason.D.Robertson@usda.gov

1617 Cole Blvd, Bldg 17
Golden, CO 80401
www.fs.fed.us

Caring for the land and serving people

From: Sidon, Joshua - FS
Sent: Thu, 15 Apr 2021 14:39:16 +0000
To: Coldwell, Barbie -FS
Subject: Re: [External Email]Re: RO response for FOIA request #2021-FS-R2-02802-F

Great, thank you!

Get [Outlook for iOS](#)

From: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>
Sent: Thursday, April 15, 2021 8:38:33 AM
To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Subject: RE: [External Email]Re: RO response for FOIA request #2021-FS-R2-02802-F

Hi Josh,

This looks good. I've saved all our communications in the Pinyon folder.



Barbie Coldwell
Program Specialist (FOIA)
Forest Service
Washington Office, Business Operations, Enterprise
barbie.coldwell@usda.gov

PO Box 3857
Page, AZ 86040
www.fs.fed.us



Caring for the land and serving people

"The vast possibilities of our great future will become realities only if we make ourselves responsible for those realities." ~Gifford Pinchot

From: Sidon, Joshua - FS
Sent: Thursday, April 15, 2021 5:56 AM
To: CO Wild Public Lands <coloradowildpubliclands@gmail.com>
Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Fox, Elizabeth - FS <Elizabeth.Fox@usda.gov>;
Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: [External Email]Re: RO response for FOIA request #2021-FS-R2-02802-F

Hello Ms. Jackson,

As communicated in the letter attached to the 4/2/21 email below, the Forest Service has asserted privilege on the requested appraisal reports under Exemption 5 (5 U.S.C. 552(b)(5)) of the FOIA. These reports are part of the agency's deliberations at this stage of the proposed land exchange. This determination is consistent with Forest Service policy including FSM 5400 – Landownership and FSH 6209.13 – Freedom of Information Handbook. The letter also outlined your rights should you want to appeal our response to this request. If you would like to discuss further, please let me know and we can set up a call.

Best,

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17

Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: CO Wild Public Lands <coloradowildpubliclands@gmail.com>

Sent: Friday, April 2, 2021 5:39 PM

To: Rasor, Aaron - FS <aaron.rasor@usda.gov>

Cc: Collins, Jason - FS <Jason.Collins2@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>;

Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Fox, Elizabeth - FS <Elizabeth.Fox@usda.gov>

Subject: [External Email]Re: RO response for FOIA request #2021-FS-R2-02802-F

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;

Use caution before clicking links or opening attachments.

Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

Good day,

We have received the referenced information you sent via email. Thank you. However, it appears to be almost all redacted and therefore not readable. We request a non-redacted version as well as the actual appraisal report, via FOIA, at your earliest convenience.

Thank you

On Fri, 2 Apr 2021 at 15:14, Rasor, Aaron - FS <aaron.rasor@usda.gov> wrote:

Good afternoon,

I have attached the Formal Notification Letter and responsive records in response to your FOIA request #2021-FS-R2-02802-F.

Let me know if you have any questions or any issues with the files.

Sincerely,



Aaron Rasor
Data Services Specialist, FOIA
Forest Service
Rocky Mountain Regional Office

p: 303-275-5050
aaron.rasor@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401
www.fs.fed.us



Caring for the land and serving people

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

--

Colorado Wild Public Lands
PO Box 1772, Basalt, CO 81621
www.coloradowildpubliclands.org

From: Robertson, Jason -FS
Sent: Wed, 14 Apr 2021 23:05:32 +0000
To: Brown, Charles - FS;Sidon, Joshua - FS;Coldwell, Barbie -FS;Rasor, Aaron - FS
Subject: RE: FOIA counsel - appraisal report

Thanks for coordinating on this Josh. The draft response looks good to me.

Jason

From: Brown, Charles - FS <charles.brown@usda.gov>
Sent: Wednesday, April 14, 2021 4:55 PM
To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: FOIA counsel - appraisal report

I agree Josh. It seems to me that depending on the decision, it is possible the reports might never be accepted or eligible for release.



Charles Brown, MAI
Regional Appraiser (Acting)

Forest Service
Rocky Mountain Region

p: 303-275-5375

(b)(6)

charles.brown@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

From: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Sent: Wednesday, April 14, 2021 4:40 PM
To: Robertson, Jason -FS <jason.d.robertson@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: FW: FOIA counsel - appraisal report

Hey team,

I sent a referral over to OGC yesterday (bottom of this email). Art Kleven (Deputy Regional Attorney) already reviewed the material, and we spoke earlier today. (b)(5); Attorney-Client Privilege

(b)(5); Attorney-Client Privilege

(b)(5); Attorney-Client Privilege

I intend to email Colorado Wild Public Lands. Below is a draft. My

intent was to be factual, brief, and concise. One additional point we could communicate to them is whether these reports will be available to the public once a decision is made on the land exchange. Based on my read of the policy, it still seems like we have some discretion so I'm not sure if we should commit to that one way or the other. Jason/Chuck?

Please also let me know if you have any suggestions on the draft email. Thanks!

Josh

Draft email:

Ms. Jackson,

As communicated in the letter attached to the 4/2/21 email below, the Forest Service has asserted privilege on the requested appraisal reports under Exemption 5 (5 U.S.C. 552(b)(5)) of the FOIA. These reports are part of the agency's deliberations at this stage of the proposed land exchange. This is consistent with Forest Service policy including FSM 5400 – Landownership and FSH 6209.13 – Freedom of Information Handbook. The letter also outlined your rights should you want to appeal our response to this request. If you would like to discuss further, please let me know and we can set up a call.



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17

Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Sidon, Joshua - FS

Sent: Tuesday, April 13, 2021 2:58 PM

To: USDA-OGC-DENVER - OGC <USDAOGCDenver@usda.gov>

Subject: FOIA counsel - appraisal report

Hi Art,

(b)(5), Attorney-Client Privilege

(b)(5); Attorney-Client Privilege

Thanks!

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Robertson, Jason -FS
Sent: Tue, 13 Apr 2021 19:37:05 +0000
To: Sidon, Joshua - FS;Brown, Charles - FS
Cc: Coldwell, Barbie -FS;Rasor, Aaron - FS
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Thanks – appreciate you making the connection with OGC

From: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Sent: Tuesday, April 13, 2021 1:20 PM
To: Robertson, Jason -FS <jason.d.robertson@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Hi Jason,

I appreciate the response and thought you and Chuck have put into this FOIA request. I will put together a referral email to OGC and loop you in once it gets assigned to an attorney.

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Robertson, Jason -FS <jason.d.robertson@usda.gov>
Sent: Tuesday, April 13, 2021 12:36 PM
To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Thanks Josh,

At a minimum, I recommend the appraised values and other valuation information in the appraisal not be shared until the Agency has made a planning decision on the land exchange.

Further, Chuck Brown, as acting Regional Appraiser has recommended in the attached file not to release other components of the appraisal until the Agency has made a planning decision on the land exchange. I am inclined to support this recommendation, based on agency precedent, the possibility release could compromise the appraised value of the estate due to competitive or other actions, and the fact that the Agency has not yet made a decision on the proposed land exchange.

Could you carry forward to OGC, the second matter re whether we must release the rest (non-valuation elements) of the report? The other (non-valuation) elements of the report inform and are integral to the appraised value. While much of this information may be available from other sources, the manner in which we rely on and use this for informing the decision are not. Sharing appraisal components and supporting information before making a decision on the land exchange has the potential to result in changes to the valuation of the property, which could moot the appraisal or result in termination of the land exchange project altogether. The agency direction and guidance you cited also imply we need not share this information from the appraisal. However, I would like OGC advice on interpretation of this guidance.

Thanks,
Jason



Jason Robertson
Director

Forest Service Rocky Mountain Region
Recreation, Lands, Minerals, & Volunteers

p: 303-275-5470

(b)(6)

Jason.D.Robertson@usda.gov

1617 Cole Blvd, Bldg 17

Golden, CO 80401

www.fs.fed.us

Caring for the land and serving people

From: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>

Sent: Tuesday, April 13, 2021 9:05 AM

To: Brown, Charles - FS <charles.brown@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>

Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>

Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Hey Chuck and Jason,

I'm just following up on the below. Does this plan work for you two and can we move forward on it as soon as possible? Thanks!

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Sidon, Joshua - FS

Sent: Thursday, April 8, 2021 9:06 AM

To: Brown, Charles - FS <charles.brown@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>

Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Chuck – much appreciation on the quick follow up and documentation.

Below is a summary of the guidance we should consider:

- FSM 5400 – Landownership. Specifically 5410.74c
- FSM 6270.42b – Availability of Records, Regional Office, Director of Lands (Appraisals Only) (Barbie dug this one up)
- FSH 6209.13 – FOIA Handbook. Specifically, 11.6 - Exhibit 02 35-37
- Email from Jerry Sanchez, FS Chief Appraiser on 3/30/2021 and Chuck's follow up email on 4/7/2021

Based on all this information, my recommendation for next steps is:

- Chuck provides, in writing, his recommendation to withhold or release and the reasons (consistent with FSM 5400 and recommended by Jerry).
- Jason R makes a decision, in writing, on whether to release or withhold the reports based on Chuck's recommendation and consideration of FS guidance. Couple notes from Jerry's guidance: (1) while the documents are typically accepted for Agency use when a decision has been made, **"accepted for Agency use" is a Regional interpretation.** (2) Jerry also strongly recommended obtaining OGC advice prior to further release. Jason – I'll leave it up to you if you want to engage

OGC. I'd be happy to put the referral email together and submit it to the OGC inbox. In my opinion, if you decide to withhold, we have plenty of guidance to refer to.

- I will respond to the requestor based on this decision. I will share that language with the team prior to sending.

Please let me know your thoughts. It would be great to get this done next week. Thanks,

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Brown, Charles - FS <charles.brown@usda.gov>

Sent: Wednesday, April 7, 2021 5:12 PM

To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Robertson, Jason - FS <jason.d.robertson@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>; Coldwell, Barbie - FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>

Subject: FW: Question re FOIA 2021-FS-R2-02802-F

As agreed in yesterday's conversation, I followed-up with Jerry Sanchez, Chief Appraiser. Attached is my prior email communication with Jerry in which he laid out his comments regarding valuation product release under FOIA. I wanted Jerry to be aware before I forwarded his comments.

Today he reiterated the Policy is clear that valuation products which have been accepted for Agency use by an Authorized Officer and are part of the official Agency record may be released. He also clarified that while the documents are typically accepted for Agency use when a decision has been made, "accepted for Agency use" is a Regional interpretation. He emphasized there are significant risks to a proposed exchange from the premature, pre-decisional release of documents. Jerry also strongly recommended obtaining OGC advice prior to further release, as these decisions could impact future litigation. He also reminded me that the Regional Appraiser's role in terms of a FOIA release is one of recommendation not decision.

I'll be out most of tomorrow, but available Friday or next week for any follow-up.

Chuck



Charles Brown, MAI
Regional Appraiser (Acting)

Forest Service
Rocky Mountain Region

p: 303-275-5375-

(b)(6)

charles.brown@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

From: [Sidon, Joshua - FS](#)
To: [Coldwell, Barbie -FS](#)
Cc: [Collins, Jason - FS](#)
Subject: RE: FOIA Request 2021-FS-R2-02802-F Question regarding Land Exchange Records
Date: Wednesday, April 7, 2021 7:42:46 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)

I appreciate you passing this along for completeness. I'm looking forward to seeing what we get back from the chief appraiser in terms of guidance. Thanks,

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5452
(b)(6)
joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401



**Caring for the land and serving
people**

From: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>
Sent: Wednesday, April 7, 2021 8:39 AM
To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Cc: Collins, Jason - FS <Jason.Collins2@usda.gov>
Subject: FW: FOIA Request 2021-FS-R2-02802-F Question regarding Land Exchange Records

Good morning Josh,

As I was reading through FSM 5410 yesterday it references FSM 6270.42 (Availability of Records). The FSM 6270 was effective 8/2020.

FSM 6270.42 directs responsibilities for FOIA requests. Basically says the same thing as FSM 5410 but thought I would share.

6270.42b - Regional Office, Director of Lands (Appraisals Only)

The Regional Office, Director of Lands, or equivalent official, is responsible for approving the release of appraisal reports or appraisal information for field units in response to written requests under FOIA (FSM 5412, Requests for appraisal or appraisal information under Freedom of Information Act).



Barbie Coldwell
Detail - Administrative Operations Specialist (FOIA)
Forest Service
Rocky Mountain Region
barbie.coldwell@usda.gov
PO Box 3857
Page, AZ 86040
www.fs.fed.us















LAND SALE, EXCHANGE, AND ACQUISITION

32	Must be furnished to landowner under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.	5 may not apply (sec. 11.64)	Release
33	Gives appraisal report or appraised value released by Justice Department for condemnation case.	5 may not apply (sec. 11.64)	Release
34	Gives total values and inventory data before approval of appraisal.	5 (sec. 11.64)	Do not release
35	Gives appraisal report on selected land before approval of land exchange.	5 (sec. 11.64)	Do not release
36	Provides approved appraisal report on offered land before consent by exchange proponent.	5 (sec. 11.64)	Do not release
37	Provides approved appraisal report after publication of notices in local newspaper, but prior to issuance of decision.	5 (sec. 11.64)	Do not release
38	Provides approved appraisal report after decision memorandum is signed.	5 may not apply (sec. 11.64)	Release
39	Gives agency approved values and/or approved appraisal reports for land purchases before property owner delivers acceptable option or deed to Government.	5 (sec. 11.64)	Do not release



Caring for the land and serving people

"The clearest way into the Universe is through a forest wilderness." ~John Muir

From: Robertson, Jason -FS
Sent: Monday, April 5, 2021 5:12 PM
To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>; Hesch, Patricia -FS <patricia.hesch@usda.gov>
Subject: RE: FOIA Request 2021-FS-R2-02802-F Question regarding Land Exchange Records

Interesting. Look forward to the discussion



Jason Robertson
Director
Forest Service Rocky Mountain Region
Recreation, Lands, Minerals, & Volunteers
p: 303-275-5470
Jason.D.Robertson@usda.gov
1617 Cole Blvd, Bldg 17
Golden, CO 80401
www.fs.fed.us
Caring for the land and serving people

From: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Sent: Friday, April 2, 2021 4:20 PM
To: Robertson, Jason -FS <jason.d.robertson@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>; Hesch, Patricia -FS <patricia.hesch@usda.gov>
Subject: FW: FOIA Request 2021-FS-R2-02802-F Question regarding Land Exchange Records

Hey Jason and Chuck,

We ended up moving forward with the heavy redactions of the appraisal reports based on exemption 5 of the FOIA since there has been no decision made on Valle Seco. However, we also engaged the WO FOIA program to ensure that was the right call. Based on that engagement, it looks like FSM 5410 does encourage release of completed and signed reports (see below). However, we do have discretion to withhold some information (confidentiality of business information). Lets regroup on this early next week. If we are going to change course, we should get in touch with the requestor as soon as possible since we already send them the redacted versions.

Jason R. – since you'll be digging out from leave, I'll connect with you to see when we can fit this conversation in.

Thanks!

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17

Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving
people

From: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>

Sent: Friday, April 2, 2021 3:57 PM

To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>

Cc: Collins, Jason - FS <Jason.Collins2@usda.gov>

Subject: FW: FOIA Request 2021-FS-R2-02802-F Question regarding Land Exchange Records

Josh,

Had a lengthy conversation with Meg Scofield regarding Land Exchange records and after reading through the cover letter to the Forest Supervisor (**Below**) it looks like we need to go through Jason Robertson (I think) and because these documents are signed and completed they can be released with approval from the Regional Appraiser. We can discuss Monday if you would like. Have a good weekend!

In accordance with FSM 5410, the appraisal report will be made available when requested; however, copies are not to be retained in Regional, Forest, or District landownership adjustment files. The Valuation Services staff, in accordance with the Appraisal and Records Management handbooks, will maintain them.

FSM 5410

5410.74c - Release of Records under the Freedom of Information Act

The release of valuation products must be conducted in accordance with Title 7, Code of Federal Regulations, Subtitle A, Part 1, Subpart A, and the direction in FSM 6270.42.

1. The Chief Appraiser has custody of valuation work products for the Washington Office and the Regional Appraiser has custody of valuation work products for the Regional Office.
2. The Washington Office Director of Lands is responsible for approving the release of appraisal reports or appraisal information for the Washington Office in response to written requests under the FOIA. The Washington Office Director of Lands shall consider the Privacy Act, the confidentiality of business information in accordance with 7 CFR 1.11, and the recommendation of the Chief Appraiser in coordination with the Washington Office FOIA Coordinator. Responses that include redacted information may only be released by the Chief, Associate Chief, or their delegated acting official. Internal, pre-decisional, and deliberative information may be withheld under FOIA exemption 5.

Completed, signed appraisal review reports, appraisal consulting reports, and other valuation work products that have been accepted for Agency use by an Authorized Officer and that are part of the official record may be released by the Washington Office, in whole or in part, after review by the Chief Appraiser.

3. The Regional Office Director of Lands, or equivalent official, is responsible for approving the release of appraisal reports or appraisal information for field units in response to written requests under FOIA. The Regional Office Director of Lands shall consider the Privacy Act, the confidentiality of business information in accordance with 7 CFR 1.11, and the recommendation of the Regional Appraiser in coordination with the Regional FOIA Coordinator before approving the release of appraisal reports or appraisal information. Responses that include redacted information may only be released by the

Regional Forester. Internal, pre-decisional, and deliberative information may be withheld under Exemption 5.

Completed, signed appraisal review reports, appraisal consulting reports, and other valuation products that have been accepted for Agency use by an Authorized Officer and are part of the official Agency record may be released by the Regional Director of Lands or equivalent official, in whole or in part, after review by the Regional Appraiser.

4. Unapproved, incomplete, or rejected valuation work products and work products not accepted for Agency use by an Authorized Officer that are not part of the official record must be withheld under FOIA exemption 5 as pre-decisional documents.



Barbie Coldwell
Detail - Administrative Operations Specialist (FOIA)
Forest Service
Rocky Mountain Region
barbie.coldwell@usda.gov

PO Box 3857
Page, AZ 86040
www.fs.fed.us



Caring for the land and serving people

"The clearest way into the Universe is through a forest wilderness." ~John Muir

From: Coldwell, Barbie -FS

Sent: Tuesday, March 30, 2021 1:49 PM

To: Scofield, Margaret - FS <margaret.scofield@usda.gov>

Cc: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>

Subject: FOIA Request 2021-FS-R2-02802-F Question regarding Land Exchange Records

Hi Margaret,

We have FOIA records that we are preparing to release and are a little concerned regarding the use of exemption 5 as it relates to a "Technical Appraisal Review Report" for a proposed land exchange. The land exchange decision has not been finalized yet. I've been asked me to consult with you prior to releasing these records.

I've redacted the entire appraisal in accordance with FSH 6209.13, 11.6 Exhibit 02, page 24. (below). We discussed the possibility of releasing the photos that are part of the appraisal since they don't contain any legal descriptions. Is there any portion of the report that you feel can be released? (un-redacted version attached)

Appreciate any guidance or insight you can provide. Thank you!

LAND SALE, EXCHANGE, AND ACQUISITION			
32	Must be furnished to landowner under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.	5 may not apply (sec. 11.64)	Release
33	Gives appraisal report or appraised value released by Justice Department for condemnation case.	5 may not apply (sec. 11.64)	Release
34	Gives total values and inventory data before approval of appraisal.	5 (sec. 11.64)	Do not release
35	Gives appraisal report on selected land before approval of land exchange.	5 (sec. 11.64)	Do not release
36	Provides approved appraisal report on offered land before consent by exchange proponent.	5 (sec. 11.64)	Do not release
37	Provides approved appraisal report after publication of notices in local newspaper, but prior to issuance of decision.	5 (sec. 11.64)	Do not release
38	Provides approved appraisal report after decision memorandum is signed.	5 may not apply (sec. 11.64)	Release
39	Gives agency approved values and/or approved appraisal reports for land purchases before property owner delivers acceptable option or deed to Government.	5 (sec. 11.64)	Do not release



Barbie Coldwell
 Detail - Administrative Operations Specialist (FOIA)
 Forest Service
 Rocky Mountain Region
 p: 406-293-1041
barbie.coldwell@usda.gov

PO Box 3857
 Page, AZ 86040
www.fs.fed.us



Caring for the land and serving people

"The clearest way into the Universe is through a forest wilderness." ~ John Muir

From: Robertson, Jason -FS
Sent: Tue, 13 Apr 2021 18:35:34 +0000
To: Sidon, Joshua - FS;Brown, Charles - FS
Cc: Coldwell, Barbie -FS;Rasor, Aaron - FS
Subject: RE: Question re FOIA 2021-FS-R2-02802-F
Attachments: FOIA release request recommendation.pdf

Thanks Josh,

At a minimum, I recommend the appraised values and other valuation information in the appraisal not be shared until the Agency has made a planning decision on the land exchange.

Further, Chuck Brown, as acting Regional Appraiser has recommended in the attached file not to release other components of the appraisal until the Agency has made a planning decision on the land exchange. I am inclined to support this recommendation, based on agency precedent, the possibility release could compromise the appraised value of the estate due to competitive or other actions, and the fact that the Agency has not yet made a decision on the proposed land exchange.

Could you carry forward to OGC, the second matter re whether we must release the rest (non-valuation elements) of the report? The other (non-valuation) elements of the report inform and are integral to the appraised value. While much of this information may be available from other sources, the manner in which we rely on and use this for informing the decision are not. Sharing appraisal components and supporting information before making a decision on the land exchange has the potential to result in changes to the valuation of the property, which could moot the appraisal or result in termination of the land exchange project altogether. The agency direction and guidance you cited also imply we need not share this information from the appraisal. However, I would like OGC advice on interpretation of this guidance.

Thanks,
Jason



Jason Robertson
Director

Forest Service Rocky Mountain Region
Recreation, Lands, Minerals, & Volunteers

p: 303-275-5470

(b)(6)

Jason.D.Robertson@usda.gov

1617 Cole Blvd, Bldg 17
Golden, CO 80401

www.fs.fed.us

Caring for the land and serving people

From: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Sent: Tuesday, April 13, 2021 9:05 AM
To: Brown, Charles - FS <charles.brown@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>
Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Hey Chuck and Jason,

I'm just following up on the below. Does this plan work for you two and can we move forward on it as soon as possible? Thanks!

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Sidon, Joshua - FS
Sent: Thursday, April 8, 2021 9:06 AM
To: Brown, Charles - FS <charles.brown@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Chuck – much appreciation on the quick follow up and documentation.

Below is a summary of the guidance we should consider:

- FSM 5400 – Landownership. Specifically 5410.74c
- FSM 6270.42b – Availability of Records, Regional Office, Director of Lands (Appraisals Only) (Barbie dug this one up)
- FSH 6209.13 – FOIA Handbook. Specifically, 11.6 - Exhibit 02 35-37
- Email from Jerry Sanchez, FS Chief Appraiser on 3/30/2021 and Chuck's follow up email on 4/7/2021

Based on all this information, my recommendation for next steps is:

- Chuck provides, in writing, his recommendation to withhold or release and the reasons (consistent with FSM 5400 and recommended by Jerry).
- Jason R makes a decision, in writing, on whether to release or withhold the reports based on Chuck's recommendation and consideration of FS guidance. Couple notes from Jerry's guidance: (1) while the documents are typically accepted for Agency use when a decision has been made, **"accepted for Agency use" is a Regional interpretation.** (2) Jerry also strongly recommended obtaining OGC advice prior to further release. Jason – I'll leave it up to you if you want to engage OGC. I'd be happy to put the referral email together and submit it to the OGC inbox. In my opinion, if you decide to withhold, we have plenty of guidance to refer to.
- I will respond to the requestor based on this decision. I will share that language with the team prior to sending.

Please let me know your thoughts. It would be great to get this done next week. Thanks,

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Brown, Charles - FS <charles.brown@usda.gov>

Sent: Wednesday, April 7, 2021 5:12 PM

To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>

Subject: FW: Question re FOIA 2021-FS-R2-02802-F

As agreed in yesterday's conversation, I followed-up with Jerry Sanchez, Chief Appraiser. Attached is my prior email communication with Jerry in which he laid out his comments regarding valuation product release under FOIA. I wanted Jerry to be aware before I forwarded his comments.

Today he reiterated the Policy is clear that valuation products which have been accepted for Agency use by an Authorized Officer and are part of the official Agency record may be released. He also clarified

that while the documents are typically accepted for Agency use when a decision has been made, "accepted for Agency use" is a Regional interpretation. He emphasized there are significant risks to a proposed exchange from the premature, pre-decisional release of documents. Jerry also strongly recommended obtaining OGC advice prior to further release, as these decisions could impact future litigation. He also reminded me that the Regional Appraiser's role in terms of a FOIA release is one of recommendation not decision.

I'll be out most of tomorrow, but available Friday or next week for any follow-up.

Chuck



Charles Brown, MAI
Regional Appraiser (Acting)

Forest Service
Rocky Mountain Region

p: 303-275-5375

(b)(6)

charles.brown@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people



Forest
Service

Rocky Mountain Region
Recreation, Lands, Minerals, and Volunteers
Valuation Services

1617 Cole Boulevard, Building 17
Lakewood, CO 80401
Voice (303) 275-5375
Mobile (720) 614-4037

Date: April 8, 2021

Subject: FOIA 2021-FS-R2-02802-F

To: Jason Robertson, Director
Forest Service Rocky Mountain Region
Recreation, Lands, Minerals, & Volunteers

PRE-DECISIONAL INTERNAL WORKING DOCUMENT – NOT FOR PUBLIC RELEASE

(b)(5), Deliberative Process Privilege

Respectfully submitted,

Charles Brown, MAI
Regional Appraiser (Acting), Rocky Mountain Region

From: [Robertson, Jason -FS](#)
To: [Sidon, Joshua - FS](#); [Brown, Charles - FS](#)
Cc: [Coldwell, Barbie -FS](#); [Rasor, Aaron - FS](#)
Subject: RE: Question re FOIA 2021-FS-R2-02802-F
Date: Tuesday, April 13, 2021 12:37:07 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Thanks – appreciate you making the connection with OGC

From: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>
Sent: Tuesday, April 13, 2021 1:20 PM
To: Robertson, Jason -FS <jason.d.robertson@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Hi Jason,

I appreciate the response and thought you and Chuck have put into this FOIA request. I will put together a referral email to OGC and loop you in once it gets assigned to an attorney.

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Robertson, Jason -FS <jason.d.robertson@usda.gov>
Sent: Tuesday, April 13, 2021 12:36 PM
To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Brown, Charles - FS <charles.brown@usda.gov>
Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F









Thanks Josh,

At a minimum, I recommend the appraised values and other valuation information in the appraisal not be shared until the Agency has made a planning decision on the land exchange.

Further, Chuck Brown, as acting Regional Appraiser has recommended in the attached file not to release other components of the appraisal until the Agency has made a planning decision on the land exchange. I am inclined to support this recommendation, based on agency precedent, the possibility release could compromise the appraised value of the estate due to competitive or other actions, and the fact that the Agency has not yet made a decision on the proposed land exchange.

Could you carry forward to OGC, the second matter re whether we must release the rest (non-valuation elements) of the report? The other (non-valuation) elements of the report inform and are integral to the appraised value. While much of this information may be available from other sources, the manner in which we rely on and use this for informing the decision are not. Sharing appraisal components and supporting information before making a decision on the land exchange has the potential to result in changes to the valuation of the property, which could moot the appraisal or result in termination of the land exchange project altogether. The agency direction and guidance you cited also imply we need not share this information from the appraisal. However, I would like OGC advice on interpretation of this guidance.

Thanks,
Jason



Jason Robertson
Director

Forest Service Rocky Mountain Region
Recreation, Lands, Minerals, & Volunteers

p: 303-275-5470

(b)(6)

Jason.D.Robertson@usda.gov

1617 Cole Blvd, Bldg 17
Golden, CO 80401

www.fs.fed.us

Caring for the land and serving people

From: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>

Sent: Tuesday, April 13, 2021 9:05 AM

To: Brown, Charles - FS <charles.brown@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>

Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Hey Chuck and Jason,

I'm just following up on the below. Does this plan work for you two and can we move forward on it as soon as possible? Thanks!

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Sidon, Joshua - FS

Sent: Thursday, April 8, 2021 9:06 AM

To: Brown, Charles - FS <charles.brown@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>

Subject: RE: Question re FOIA 2021-FS-R2-02802-F

Chuck – much appreciation on the quick follow up and documentation.

Below is a summary of the guidance we should consider:

- FSM 5400 – Landownership. Specifically 5410.74c
- FSM 6270.42b – Availability of Records, Regional Office, Director of Lands (Appraisals Only) (Barbie dug this one up)
- FSH 6209.13 – FOIA Handbook. Specifically, 11.6 - Exhibit 02 35-37
- Email from Jerry Sanchez, FS Chief Appraiser on 3/30/2021 and Chuck's follow up email on 4/7/2021

Based on all this information, my recommendation for next steps is:

- Chuck provides, in writing, his recommendation to withhold or release and the reasons (consistent with FSM 5400 and recommended by Jerry).
- Jason R makes a decision, in writing, on whether to release or withhold the reports based on Chuck's recommendation and consideration of FS guidance. Couple notes from Jerry's guidance: (1) while the documents are typically accepted for Agency use when a decision has been made, **"accepted for Agency use" is a Regional interpretation.** (2) Jerry also strongly recommended obtaining OGC advice prior to further release. Jason – I'll leave it up to you if you want to engage OGC. I'd be happy to put the referral email together and submit it to the OGC inbox. In my opinion, if you decide to withhold, we have plenty of guidance to refer to.
- I will respond to the requestor based on this decision. I will share that language with the team prior to sending.

Please let me know your thoughts. It would be great to get this done next week. Thanks,

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Brown, Charles - FS <charles.brown@usda.gov>

Sent: Wednesday, April 7, 2021 5:12 PM

To: Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Robertson, Jason -FS <jason.d.robertson@usda.gov>; Collins, Jason - FS <Jason.Collins2@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>

Subject: FW: Question re FOIA 2021-FS-R2-02802-F

As agreed in yesterday's conversation, I followed-up with Jerry Sanchez, Chief Appraiser. Attached is my prior email communication with Jerry in which he laid out his comments regarding valuation product release under FOIA. I wanted Jerry to be aware before I forwarded his comments.

Today he reiterated the Policy is clear that valuation products which have been accepted for Agency

use by an Authorized Officer and are part of the official Agency record may be released. He also clarified that while the documents are typically accepted for Agency use when a decision has been made, "accepted for Agency use" is a Regional interpretation. He emphasized there are significant risks to a proposed exchange from the premature, pre-decisional release of documents. Jerry also strongly recommended obtaining OGC advice prior to further release, as these decisions could impact future litigation. He also reminded me that the Regional Appraiser's role in terms of a FOIA release is one of recommendation not decision.

I'll be out most of tomorrow, but available Friday or next week for any follow-up.

Chuck



Charles Brown, MAI
Regional Appraiser (Acting)

Forest Service
Rocky Mountain Region

p: 303-275-5375

(b)(6)

charles.brown@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

Fox, Elizabeth - FS

From: Smith, Rebecca -FS
Sent: Friday, March 5, 2021 12:16 PM
To: Fox, Elizabeth - FS
Subject: FW: [External Email]Re: Valle Seco Appraisals
Attachments: Federal parcels_review report.pdf; Non-Federal parcel_review report.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Beth, please consider this a FOIA request. Attached are the Technical Appraisal Review Reports that they are requesting. However according to 11.6 – Exhibit 02 on page 24 of FSH 6209.13 it seems to me that we wouldn't release these documents since a decision has not yet been made on the land exchange.

The Forest does not have the appraisals. They are kept at the regional office. I have let Suzanne know that.



Becca Smith
Acting District Ranger
Forest Service
Pagosa Ranger District, San Juan National Forest

p: 970-264-1520
(b)(6)
f: 970-264-1538
rebecca.smith@usda.gov

P.O. Box 310
Pagosa Springs, CO 81147
www.fs.fed.us



Caring for the land and serving people

From: CO Wild Public Lands <coloradowildpubliclands@gmail.com>
Sent: Friday, March 5, 2021 10:58 AM
To: Smith, Rebecca -FS <rebecca.smith@usda.gov>
Cc: Anne Rickenbaugh <rickenbaugh@yahoo.com>
Subject: [External Email]Re: Valle Seco Appraisals

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;
Use caution before clicking links or opening attachments.
Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

Hi Becca,

Thank you.

If you have received the technical appraisal review report, please would you send COWPL a copy?
Could you let COWPL know where at the Forest Service the appraisals are kept? May we have a contact there so that COWPL can request the appraisals?

Thank you and hope you are enjoying the spring-like weather!

Suzanne

On Wed, 10 Feb 2021 at 16:27, Smith, Rebecca -FS <rebecca.smith@usda.gov> wrote:

We have not.

From: CO Wild Public Lands [mailto:coloradowildpubliclands@gmail.com]

Sent: Wednesday, February 10, 2021 3:00 PM

To: Smith, Rebecca -FS <rebecca.smith@usda.gov>

Subject: Re: Valle Seco Appraisals

Thank you. Could you clarify if you've already sent the technical appraisal review report to COWPL?

On Wed, 10 Feb 2021 at 14:57, Smith, Rebecca -FS <rebecca.smith@usda.gov> wrote:

Hello Suzanne,

The appraisal has been completed. As I have mentioned to you previously, the Forest does not have and will not receive the appraisal. The Forest only receives the Technical Appraisal Review Report.

Becca



Becca Smith
Acting District Ranger
Forest Service

Pagosa Ranger District, San Juan National Forest
p: 970-264-1520

(b)(6)

f: 970-264-1538
rebecca.smith@usda.gov

P.O. Box 310
Pagosa Springs, CO 81147
www.fs.fed.us



Caring for the land and serving people

From: CO Wild Public Lands [mailto:coloradowildpubliclands@gmail.com]
Sent: Wednesday, February 10, 2021 2:42 PM
To: Smith, Rebecca -FS <rebecca.smith@usda.gov>
Subject: Valle Seco Appraisals

Hello Becca,

I hope you are having a good winter. Do you have any updates on the Valle Seco appraisals?

Thanks,

Suzanne Jackson

--

Colorado Wild Public Lands

PO Box 1772, Basalt, CO 81621

www.coloradowildpubliclands.org

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

--

Colorado Wild Public Lands

PO Box 1772, Basalt, CO 81621

www.coloradowildpubliclands.org

--

Colorado Wild Public Lands

PO Box 1772, Basalt, CO 81621

www.coloradowildpubliclands.org

Fox, Elizabeth - FS

From: Sidon, Joshua - FS
Sent: Thursday, April 15, 2021 7:02 AM
To: Chadwick, Kara -FS; Smith, Rebecca -FS
Cc: Fox, Elizabeth - FS; Sloan, Jenna - FS; Robertson, Jason -FS
Subject: FW: [External Email]Re: RO response for FOIA request #2021-FS-R2-02802-F

Hey Kara and Becca,

I wanted to make you were aware of this additional correspondence that I just sent to CO Wild Public Lands regarding their FOIA request for the appraisal reports. Our determination on withholding was coordinated between our FOIA team, RLMV, and OGC. I'd be happy to provide additional detail if interested.

Thanks!

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: Sidon, Joshua - FS
Sent: Thursday, April 15, 2021 6:56 AM
To: CO Wild Public Lands <coloradowildpubliclands@gmail.com>
Cc: Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Fox, Elizabeth - FS <Elizabeth.Fox@usda.gov>; Rasor, Aaron - FS <aaron.rasor@usda.gov>
Subject: RE: [External Email]Re: RO response for FOIA request #2021-FS-R2-02802-F

Hello Ms. Jackson,

As communicated in the letter attached to the 4/2/21 email below, the Forest Service has asserted privilege on the requested appraisal reports under Exemption 5 (5 U.S.C. 552(b)(5)) of the FOIA. These reports are part of the agency's deliberations at this stage of the proposed land exchange. This determination is consistent with Forest Service policy including FSM 5400 – Landownership and FSH 6209.13 – Freedom of Information Handbook. The letter also outlined your rights should you want to appeal our response to this request. If you would like to discuss further, please let me know and we can set up a call.

Best,

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)

joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: CO Wild Public Lands <coloradowildpubliclands@gmail.com>

Sent: Friday, April 2, 2021 5:39 PM

To: Rasor, Aaron - FS <aaron.rasor@usda.gov>

Cc: Collins, Jason - FS <Jason.Collins2@usda.gov>; Coldwell, Barbie -FS <barbie.coldwell@usda.gov>; Sidon, Joshua - FS <Joshua.Sidon@usda.gov>; Fox, Elizabeth - FS <Elizabeth.Fox@usda.gov>

Subject: [External Email]Re: RO response for FOIA request #2021-FS-R2-02802-F

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;

Use caution before clicking links or opening attachments.

Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

Good day,

We have received the referenced information you sent via email. Thank you. However, it appears to be almost all redacted and therefore not readable. We request a non-redacted version as well as the actual appraisal report, via FOIA, at your earliest convenience.

Thank you

On Fri, 2 Apr 2021 at 15:14, Rasor, Aaron - FS <aaron.rasor@usda.gov> wrote:

Good afternoon,

I have attached the Formal Notification Letter and responsive records in response to your FOIA request #2021-FS-R2-02802-F.

Let me know if you have any questions or any issues with the files.

Sincerely,



Aaron Rasor

**Data Services Specialist, FOIA
Forest Service**

Rocky Mountain Regional Office

p: 303-275-5050

aaron.rasor@usda.gov

1617 Cole Boulevard, Building 17
Lakewood, CO 80401

www.fs.fed.us



Caring for the land and serving people

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

--
Colorado Wild Public Lands
PO Box 1772, Basalt, CO 81621
www.coloradowildpubliclands.org

Fox, Elizabeth - FS

From: FS-R2 RO e-FOIA
Sent: Friday, May 14, 2021 2:34 PM
To: Fox, Elizabeth - FS; Smith, Rebecca -FS
Subject: FW: [External Email]FOIA request
Attachments: FOIA Appeal 2021-FS-R2-02802-F.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Attached is the appeal. As my other email indicated, we will process another FOIA out of the RO for the appraisal reports. Thanks,

Josh



Josh Sidon
Deputy Director
Strategic Planning
Forest Service
Rocky Mountain Region

p: 303-275-5152

(b)(6)
joshua.sidon@usda.gov

1617 Cole Blvd., Bldg. 17
Lakewood, CO 80401

www.fs.fed.us



**Caring for the land and serving
people**

From: mattkenna@gmail.com <mattkenna@gmail.com>
Sent: Friday, May 14, 2021 11:19 AM
To: FS-R2 RO e-FOIA <SM.FS.R2FOIA@usda.gov>
Subject: [External Email]FOIA request

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;

Use caution before clicking links or opening attachments.

Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

Hello Forest Service Region 2 FOIA office. On behalf of Colorado Wild Public Lands (COWPL), under FOIA I request a copy of the appraisal report(s), aka appraisals, for the Valle Seco Land Exchange (these are the appraisals themselves, not the "Technical Appraisal Review Report," which has been separately requested). COWPL has already requested the appraisals multiple times and they are the subject of a FOIA appeal filed today (see attached), and providing them can be dealt with in the context of that appeal assuming that the Forest Service does not deny that they were properly requested in those previous requests. However, to the extent the Forest Service might otherwise claim that they were not properly requested previously, the request is now made to avoid any ambiguity.

Fee waiver: These documents should be provided free of charge because they will be of no private or commercial interest to COWPL or its members or staff. Further, releasing them is likely to contribute significantly to public understanding of the operations and activities of the government by shedding light on the propriety of the Valle Seco public land exchange, and COWPL will make the documents publicly available through its website (<https://coloradowildpubliclands.org/>) and otherwise inform the public about the documents and the larger public issue through its website, publications, press releases, and through other public outreach efforts. It will further allow COWPL to effectively advocate for its point of view with the Forest Service and other public agencies.

Thank you, and please do not hesitate to contact me if you have any further questions.

Matt Kenna
Public Interest Environmental Law and
of Counsel, Western Environmental Law Center
679 E. 2nd Ave., Suite 11B
Durango, CO 81301
(970) 749-9149
matt@kenna.net
www.mattkenna.com

Fox, Elizabeth - FS

From: Smith, Rebecca -FS
Sent: Friday, March 5, 2021 12:16 PM
To: Fox, Elizabeth - FS
Subject: FW: [External Email]Re: Valle Seco Appraisals
Attachments: Federal parcels_review report.pdf; Non-Federal parcel_review report.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Beth, please consider this a FOIA request. Attached are the Technical Appraisal Review Reports that they are requesting. However according to 11.6 – Exhibit 02 on page 24 of FSH 6209.13 it seems to me that we wouldn't release these documents since a decision has not yet been made on the land exchange.

The Forest does not have the appraisals. They are kept at the regional office. I have let Suzanne know that.



Becca Smith
Acting District Ranger
Forest Service
Pagosa Ranger District, San Juan National Forest

p: 970-264-1520
(b)(6)
f: 970-264-1538
rebecca.smith@usda.gov

P.O. Box 310
Pagosa Springs, CO 81147
www.fs.fed.us



Caring for the land and serving people

From: CO Wild Public Lands <coloradowildpubliclands@gmail.com>
Sent: Friday, March 5, 2021 10:58 AM
To: Smith, Rebecca -FS <rebecca.smith@usda.gov>
Cc: Anne Rickenbaugh <rickenbaugh@yahoo.com>
Subject: [External Email]Re: Valle Seco Appraisals

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;
Use caution before clicking links or opening attachments.
Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

Hi Becca,

Thank you.

If you have received the technical appraisal review report, please would you send COWPL a copy?
Could you let COWPL know where at the Forest Service the appraisals are kept? May we have a contact there so that COWPL can request the appraisals?

Thank you and hope you are enjoying the spring-like weather!

Suzanne

On Wed, 10 Feb 2021 at 16:27, Smith, Rebecca -FS <rebecca.smith@usda.gov> wrote:

We have not.

From: CO Wild Public Lands [mailto:coloradowildpubliclands@gmail.com]

Sent: Wednesday, February 10, 2021 3:00 PM

To: Smith, Rebecca -FS <rebecca.smith@usda.gov>

Subject: Re: Valle Seco Appraisals

Thank you. Could you clarify if you've already sent the technical appraisal review report to COWPL?

On Wed, 10 Feb 2021 at 14:57, Smith, Rebecca -FS <rebecca.smith@usda.gov> wrote:

Hello Suzanne,

The appraisal has been completed. As I have mentioned to you previously, the Forest does not have and will not receive the appraisal. The Forest only receives the Technical Appraisal Review Report.

Becca



Becca Smith
Acting District Ranger
Forest Service

Pagosa Ranger District, San Juan National Forest

p: 970-264-1520

(b)(6)

f: 970-264-1538

rebecca.smith@usda.gov

P.O. Box 310

Pagosa Springs, CO 81147

www.fs.fed.us



Caring for the land and serving people

From: CO Wild Public Lands [mailto:coloradowildpubliclands@gmail.com]
Sent: Wednesday, February 10, 2021 2:42 PM
To: Smith, Rebecca -FS <rebecca.smith@usda.gov>
Subject: Valle Seco Appraisals

Hello Becca,

I hope you are having a good winter. Do you have any updates on the Valle Seco appraisals?

Thanks,

Suzanne Jackson

--

Colorado Wild Public Lands

PO Box 1772, Basalt, CO 81621

www.coloradowildpubliclands.org

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

--

Colorado Wild Public Lands

PO Box 1772, Basalt, CO 81621

www.coloradowildpubliclands.org

--

Colorado Wild Public Lands

PO Box 1772, Basalt, CO 81621

www.coloradowildpubliclands.org