

## ATTACHMENT 1

### ***FOIA and “Need to Know” Implementation Procedure***

Regarding, Instruction Memorandum No. ID-2019-014 dated March 19, 2019 which provides direction for the release of fire related records under the Freedom of Information Act (FOIA) and also allows for the release of records under what is called “Need to Know” (NTK). The following procedures have been agreed upon between Idaho BLM Fire and Aviation, Idaho State Office FOIA staff and the Idaho Field Solicitor.

This guidance is generally related to the Fire Trespass program but may apply, on a case-by-case basis to other types of record requests to the fire program.

The “Need to Know” category is designed to allow for settlement of fire trespass cases by providing information including but not limited to, weather data, photos, cost documentation to individuals who are involved in the settlement.

When deciding whether a request is a FOIA or a NTK the process will usually begin with the District Fire Trespass Coordinator in conjunction with the District FOIA Coordinator (see attachment for a list of District FOIA Coordinators).

The District Fire Trespass Coordinator will assess the request using the following criteria:

**Is the Investigation complete?** A wildfire investigation is NOT complete until it has been closed or a Final Trespass Decision has been issued. Thus, information related to an open or pending investigation is generally exempt. All FOIA requests for information related to a pending investigation will generally receive a blanket response invoking Exemption 7A.

However, in special circumstances the BLM may provide a discretionary release of information under a NTK request before an investigation is complete. Parties with an interest in the incident should request information under a NTK request if the investigation is still open.

**Who is requesting the information and what is their interest?** In general, people who are eligible under the NTK request process should be directly involved in the settlement of the case. The individuals, or in some cases businesses or companies, would typically be, but are not limited to, the suspected trespasser or responsible party for the fire or their Insurance Agent or hired legal counsel. Local law enforcement and fire departments, as well as state agencies may also have an interest in the incident.

Other people not in this category would be assessed on a case-by-case basis and a decision will be made as to whether they may receive information under the NTK or if they would be required to file a more formal request under the FOIA. A “third party” request from any individual that is NOT suspected of starting the wildfire will receive a letter stating the fire is “under investigation” until the District Fire Investigator completes their portion of the investigation, and to contact State Fire Trespass Coordinator Jennifer Myslivy for updates on the investigation.

The District Fire Trespass Coordinator should also be able to verify the requesting parties and obtain their contact information (name, address, email, and phone number of the individuals they are talking to and either their insurance company or attorney contact information and the fire name and number). This information must be passed on to the District FOIA Coordinator, who will then pass it on to the State FOIA office.

**What information is being requested?** Requests processed under the NTK should generally be limited to factual information. This includes, but is not limited to, the WildCAD Incident Card, maps, weather data and basic cost summary information. More detailed or complex information requests would typically be processed under a FOIA request. The following information should NOT be released under a NTK:

- *Origin and Cause Reports*
- *Lightning data*
- *Initial Report of Unauthorized Use*
- *Fire Report*
- *Witness statements*
- *Conversation logs*
- *Internal correspondence*

If the District Fire Trespass Coordinator determines that the criteria is met to proceed under a NTK request, they will make the request on behalf of the requesting party and forward it to the State Fire Trespass Coordinator for concurrence. This can normally be done by email.

If the State Fire Trespass Coordinator concurs that the request should be processed under a NTK, the request is then forwarded to the Field Solicitor for additional review and concurrence also via email.

At any step in the process, District or State Fire Trespass Coordinators or the Field Solicitor may determine that the request does not meet the criteria for a NTK request, and the person requesting the information will be notified that they will be required to file a request under FOIA.

If the State Fire Trespass Coordinator and the Field Solicitor concur that the records request meets the criteria of a NTK, they will share the entire email chain showing concurrence among all of the reviewers to the FOIA staff.

The FOIA staff will email the District Fire Trespass Coordinators a link to where the documents are uploaded (Q:\pub\admin\FOIA). In these types of cases, the request will be expedited. If it is determined that the request is a FOIA opposed to a NTK, the timeline for a FOIA request does not begin until the request is perfected by the FOIA staff. A FOIA is perfected once the FOIA staff:

1. Inputs the request into their electronic FOIA tracking system, which initiates a FOIA request number, and
2. Clarified any questions they have for the requester regarding the request, and
3. Addressed any fee issues.

From the perfected date, the state FOIA staff has 20 workdays to provide a record or a response that includes the date when records will be released, taking into consideration the requirement to review all documents for redactions of Personal Identifiable Information (PII) or other exempt information required by FOIA regulations. The state FOIA staff will share all responsive records and response letter with the Field Solicitor prior to releasing the information to the requesting party. The Idaho State Office will populate the appropriate District FOIA folder when documents provided as NTK or FOIA are processed.

Information that should AND should not be provided to the FOIA group for release under the Need to Know process, is the following:

<b>Should be provided</b>	<b>Should not be provided</b>
Dispatch items – fire map(s), and dispatch logs (Wild Cad logs)	Initial “Unauthorized” Report
Weather Info –Weather data	Fire Trespass Case Summary
Photos – if there is no PII in the photo (work with FOIA staff to determine)	Origin and Cause Report
Cost Summary Documents – include that they are subject to change with additional cost information	Conversation Records, questions or Interviews – draft or final
Official response document from the responsible party on submitted questions from the BLM. (i.e. questions to ABC Company concerning a trespass case)	Incident Organizers or Incident Commander Initial Attack Size Up or Aircraft Reports/Data, WFMI Fire Report
Fire Trespass Case Summary (ONLY if the case has had a legal determination by the Solicitor and a Letter of Suspected Trespass has been sent)	Scene Sketches
Fire Trespass Handbook (National or State), NFPA 921 or 1033, Incident Business Orange Book, or Guide to Wildland Fire Cause and Origin Determination.	Developed or written questions for the party that are NOT part of a response document
	Lightning data and maps

Once a Fire Investigation is complete (closed or trespass decision issued), requests for incident information will be processed as a FOIA. Local offices will provide the State FOIA Office all relevant and responsive documents. Typical responsive documents include those listed on the Need to Know Table in the "Should be Provided" column as well as the following records. Please note there may be additional responsive records and this list should be used a guide rather than an inclusive list.

<b>Should be provided</b>
Initial "Unauthorized" Report
Fire Trespass Case Summary
Origin and Cause Report
Conversation Records, questions or Interviews – draft or final
Incident Organizers or Incident Commander Initial Attack Size Up or Aircraft Reports/Data
Scene Sketches
Official response documents from previous correspondence (i.e. ABC Company letters)

## Idaho FOIA Coordinators by Office

Office & Code	Name	*P A	Phone	Fax
<b>State Office</b>	Kris King	*P	(208) 373-3947	(208) 373-3915
	Karen Jackson	*P	(208) 373-3931	(208) 373-3915
	Brian Bonner	A	(208) 373-3913	(208) 373-3915
<b>Boise District</b>	Marsha Buchanan	*P	(208) 384-3364	(208) 384-3326
	Troy Hendrickson	A	(208) 384-3300	(208) 384-3326
Four Rivers Field Office	Lisa Baldwin	*P	(208) 384-3352	(208) 384-3326
	Marsha Buchanan	A	(208) 384-3364	(208) 384-3326
Bruneau Field Office	(Vacant)	*P		
	Marsha Buchanan	A	(208) 384-3364	(208) 384-3326
Owyhee Field Office	Thi Markwell	*P	(208) 896-5920	(208) 896-5940
	Marsha Buchanan	A	(208) 384-3364	(208) 384-3326
<b>Coeur d'Alene District</b> Coeur d' Alene Field Office	Connie Curtis	*P	(208) 769-5011	(208) 769-5050
	Suzanne Endsley	A	(208) 769-5029	(208) 769-5050
Cottonwood Field Office	Karen Hendren	*P	(208) 962-3791	(208) 962-3275
	Barbara King	A	(208) 962-3684	(208) 962-3275
<b>Idaho Falls District</b> Upper Snake Field Office	Sheila McCall	*P	(208) 524-7567	(208) 524-7588
	Kimberly Mathews	A	(208) 524-7511	(208) 524-7610
Challis Field Office	Brenda Johnson	*P	(208) 879-6200	(208) 879-6219
	Jean Ann Dalton	A	(208) 879-6202	(208) 879-6219
Salmon Field Office	Nance Garcia	*P	(208) 756-5425	(208) 756-5436
	Vincent Guyer	A	(208) 756-5403	(208) 756-5436
Pocatello Field Office	Dianna Mecham	*P	(208) 478-6342	(208) 478-6376
<b>Twin Falls District</b> Jarbidge Field Office	Shirley Schaeffer	*P	(208) 735-2060	(208) 735-2076
	Jeryl McRill	A	(208) 735-2060	(208) 735-2076
Burley Field Office	Rosemary Crawford	*P	(208) 677-6600	(208) 677-6699
	Shirley Schaeffer	A	(208) 735-2060	(208) 735-2076
Shoshone Field Office	Dustin Vaughn	*P	(208) 732-7264	(208) 732-7317
	Amber Lannon	A	(208) 732-7200	(208) 732-7317

## Idaho Fire Trespass Coordinators by Office

Office & Code	Name	*P A	Phone	Email
<b>State Office</b>	Jennifer Myslivy	*P	(208) 373-3963	<a href="mailto:jmyslivy@blm.gov">jmyslivy@blm.gov</a>
<b>Boise District</b>				
	Josh Renz Bob Stroud	*P A	(208) 384-3444 (208) 384-3482	<a href="mailto:jrenz@blm.gov">jrenz@blm.gov</a> <a href="mailto:bstroud@blm.gov">bstroud@blm.gov</a>
<b>Idaho Falls District</b>				
	Kevin Conran Ryan Hoffer	*P A	(208) 524-7602 (208) 524-7620	<a href="mailto:kconran@blm.gov">kconran@blm.gov</a> <a href="mailto:rhoffer@blm.gov">rhoffer@blm.gov</a>
<b>Twin Falls District</b>				
	Ryan Berlin Bryan Barney	*P A	(208) 677-6714 (208) 732-7260	<a href="mailto:rberlin@blm.gov">rberlin@blm.gov</a> <a href="mailto:bbarney@blm.gov">bbarney@blm.gov</a>
<b>Boise Solicitor's Office</b>	Mel Meier		(208) 334-1906	<a href="mailto:melody.meier@sol.doi.gov">melody.meier@sol.doi.gov</a>