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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

October 31, 2013

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The Honorable Tom Tidwell
Chief
USDA Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250

Dear Chief Tidwell:

The Committee on Natural Resources (“Committee”) is conducting oversight of how the U.S. Forest Service exercised its discretion in preparing for and responding to the lapse in appropriations that occurred beginning on October 1, 2013. On October 11, 2013, a letter was sent directing Forest Service to preserve documents potentials responsive to the Committee’s oversight interests and indicating additional oversight could be expected.

Among the issues of most concern is the Forest Service’s treatment of campground operators, concessionaires, and special-use permit holders who were ordered to close during this lapse in appropriations, even though they had been allowed to continue operating during previous government shutdowns. Similarly, some private businesses that operate on Forest Service land were treated differently and allowed to stay open while others were closed. No explanation has been offered for the apparently arbitrary change in policy and disparate treatment of businesses that operate on Forest Service land.

Under Rule X of the House of Representatives, the Committee has jurisdiction over forest reserves and national parks created from the public domain as well as public lands generally, including entry, easements, and grazing thereon.

In order to better understand the Forest Service’s actions, it is requested that the Forest Service provide the following information and documents by close of business on November 21, 2013, so that the Committee can fulfill its oversight responsibilities:

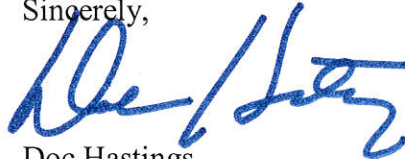
1. When did the Forest Service begin updating their 2013 plan for operations in the absence of appropriations consistent with Section 124.2 of OMB Circular A-11?

2. Copies of the final plan for operations in the absence of appropriations and all drafts created in preparation of that document.
3. All communications with the White House, including the Office of Management and Budget, about the preparation, planning, and implementation of shut-down procedures, concerning the potential lapse in appropriations in 2011 and the lapse in appropriations that did occur in 2013.
4. All internal Forest Service communications related to the preparation, planning, and implementation of shut-down procedures concerning the potential lapse in appropriations in 2011 and the lapse in appropriations in 2013.
5. All documentation related to the internal deliberations or legal analysis used to decide how concessionaires and special use permit holders would be managed during the 2013 lapse in appropriations.
6. When were special use permit holders and concessionaires notified of the Forest Service plan for operations in the absence of appropriations?
7. Copies of all communications to concessionaires, special use permit holders, or any other private company operating on Forest Service land that received a shut down or closure notice from the Forest Service as a result in the lapse of appropriations.
8. How did the Forest Service determine which private companies operating on Forest Service land would be allowed to continue to operation during the lapse in appropriations?
9. What criteria were used to determine which employees were to exempt from furlough and who made that determination?
10. A list of all Forest Service employees and summary of job duties for such employees who were identified as exempt from the furlough, organized by Forest Service organizational unit.
11. A list of all Forest Service personnel who were recalled from furlough status during the lapse, as well as the legal basis and period of time for their recall.
12. Please provide all documentation related to the determinations of exempt status made in preparation of the lapse in appropriations as well as during the lapse.
13. Any documents or communications concerning the operation, updating, or maintenance of the Forest Service website during the lapse in appropriations.

14. What discretion does the Forest Service have in the expenditure of non-appropriated funds, including those received from concessionaires, special use permit holders, and other private companies authorized to conduct business on Forest Service land, including permit application fees, permit fees (including those based on percentage of gross revenue) and late payments and penalties? Please describe the availability of such funds to continue certain operations by the Forest Service or on Forest Service land during a lapse in appropriations.

Enclosed with this letter are instructions and definitions to be used in complying with this request. Please have your staff contact Machalagh Carr in the Office of Oversight and Investigations at 225-2761 with any questions.

Sincerely,



Doc Hastings
Chairman

Enclosure

Responding to Committee Document Requests

A. Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), instant message, notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.
4. As used herein, “referring” or “relating” means and includes “constituting,” “pertaining,” “evidencing,” “reflecting,” “describing,” or “having anything to do with,” and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

B. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.
3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.
4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.
6. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.
8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author, and any recipients; and (e) the relationship of the author and recipients to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are recognized only at the discretion of the Committee.
9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or

is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

12. Production materials should be delivered to:

Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington D.C. 20515