



File Code: 1560 (7650859)

Date: MAY 3 2013

Ms. Micheline G. Miglis  
Superintendent  
Plumas County Office of Education  
50 Church Street  
Quincy, California 95971

Dear Superintendent Miglis:

Thank you for your letter of January 17, 2013, regarding receiving a percentage of the settlement monies received by the U.S. Department of Agriculture's (USDA) Forest Service for resource damages caused by the Moonlight and Rich fires paid to your organizations. I apologize for the delayed response.

I understand that you previously expressed similar concerns regarding monies that were received by the Forest Service in 2008, for the Storrie Fire. In response to that request, our USDA Office of General Counsel sent the enclosed letter, dated April 8, 2009. That response outlined the use of settlement monies and a position that denies your entitlement to settlement funds under the Twenty-Five Percent Fund Act of 1908, 16 USC § 500. My response to your current request is the same.

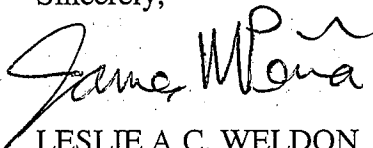
As outlined in the 2009 letter, distribution of money received for resource damage is a matter of law and governed by Title 16 USC Section 579c. This Section requires that monies received in these cases be expended to improve, protect or rehabilitate the National Forest System lands involved in the legal action. The Twenty-Five Percent Fund Act of 1908 does not address the use of money received as the result of a legal settlement but instead contemplates the distribution of funds received from the uses of, or the sale of products from National Forests.

I realize there are social and economic impacts to your community as a result of these fires. In developing the restoration strategy for the Storrie Fire, a number of cooperative projects and programs were developed by the Plumas National Forest and your community that emphasize education and the connection between public lands and the surrounding communities.

I expect that the Plumas National Forest will continue to work with you on a restoration strategy for the Moonlight and Rich fires.

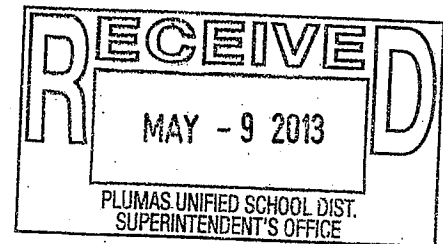
Again, thank you for writing.

Sincerely,



LESLIE A.C. WELDON  
Deputy Chief, National Forest System

Enclosure





United States Department of Agriculture  
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April 8, 2009

Glenn R. Harris, Superintendent  
Plumas County Office of Education  
Plumas Unified School District  
50 Church Street  
Quincy, CA 95971-6009

Re: Storrie Fire Settlement Funds

Dear Mr. Harris,

This office serves as legal counsel to the Forest Service, an agency within the United States Department of Agriculture. I am writing in response to your March 16, 2009 correspondence to Alice Carlton and Kathleen Morris requesting payment from the Storrie Fire legal settlement under the Twenty-Five Percent Fund Act of 1908, 16 USC § 500.

As a matter of law, distribution of money received for resource damages by the United States in settlement of affirmative fire claims is governed by Title 16, United States Code, Section 579c. This Section requires that these monies be expended to improve, protect or rehabilitate the National Forest System lands involved in the legal action. Section 579c provides, in part:

*Any moneys received by the United States with respect to lands under the administration of the Forest Service . . . as a result of a judgment, compromise, or settlement of any claim, involving present or potential damage to lands or improvements, shall be covered into the Treasury and are hereby appropriated and made available until expended to cover the cost to the United States of any improvement, protection, or rehabilitation work on lands under the administration of the Forest Service rendered necessary by the action which led to the forfeiture, judgment, compromise, or settlement. Provided, That any portion of the moneys so received in excess of the amount expended in performing the work necessitated by the action which led to their receipt shall be transferred to miscellaneous receipts.*

(Emphasis added). With regard to the Storrie Fire, 16 USC § 579c requires the Forest Service to use the settlement funds to improve, protect, and rehabilitate the areas burned by the Fire on the Plumas and Lassen National Forests. Any other use of the funds would violate the statutory mandate.

By contrast, the Twenty-Five Percent Fund Act does not address the use of money received as the result of a legal settlement, but instead contemplates the distribution of funds received from the uses of, or the sale of products from, National Forests, including receipts from the sale of timber

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and other forest products, minerals, grazing, and recreational and land uses. Specifically, the Twenty-Five Percent Fund Act provides, in part:

On and after May 23, 1908, an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such national forest is situated . . .

\* \* \*

In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract.

16 U.S.C. § 500. Consistent with longstanding agency practice and Congressional intent, except as otherwise provided by law, these funds are deposited in the National Forest Fund, a special account in the U.S. Treasury from which payments required by the Twenty-Five Percent Fund Act are made. Congress has expanded the receipts that are covered by Section 500 to include deposits into collections under the Knutson-Vandenberg Act (Act of June 9, 1930), purchaser road credits, and deposits to the Salvage Sale Fund.

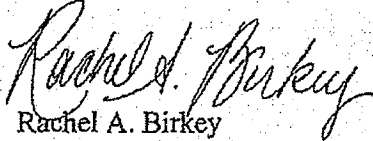
Unlike the funds contemplated by the Twenty-Five Percent Fund Act, the Storrie Fire recovery was a legal settlement intended to reimburse the Forest Service for costs incurred while suppressing the Fire and for resource damages caused by the Fire, a small portion of which represented lost merchantable timber. Consequently, the Twenty-Five Percent Fund Act and 16 U.S.C. § 579c prohibit the Forest Service from including Storrie Fire proceeds in the receipts calculated under the Twenty-Five Percent Fund Act.

In addition, I note that in 2008, each county in California was provided with the option of receiving either its share of the State's 25-percent rolling average payment or its share of the State payment as calculated in the Secure Rural Schools and Community Self-Determination Act of 2000, as amended in 2008. At that time, seven California counties elected to receive a share of the State's 25-percent rolling average payment. Plumas County did not elect to do so. Instead, Plumas County elected to receive a share of the State payment through fiscal year 2011. As a result, even if the Storrie Fire settlement could legally be included in receipts allocated to the Twenty-Five Percent Fund, which it cannot, Plumas County would not be a recipient of the payment.

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I hope this clarifies the issues raised in your March 16, 2009 correspondence. Please feel free to contact me if you have any additional questions.

Cordially,



Rachel A. Birkey  
Attorney

cc: Randy Moore  
Beth Pendleton  
Chris Nota  
John De La Torre  
Alice Carlton  
Kathleen Morse  
Tom Millet  
Lori Monfort