

Wildfire-Related Forest Closures



BACKCOUNTRY
HUNTERS & ANGLERS
CALIFORNIA



Pacific Southwest Region

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- National river conservation organization
- Founded 1954
- Over 6,750 dues-paying members & 50,000 supporters
- Over 100 affiliate clubs (Redding, Chico, Sacramento, ...)

“To protect and restore America’s whitewater resources and to enhance opportunities to enjoy them safely.”

Core to this mission is our belief that the public have access to their rivers and lands for recreation and other purposes.

- Leader in whitewater accident analysis and safety education
- Unique expertise in river safety, coupled with in-depth knowledge of R5's whitewater resources → considerable help to management efforts

*The Voice for Our Wild
Public Lands, Waters,
and Wildlife*



BHA is a 501 (c)(3) non-profit organization dedicated to our wild public lands, waters and wildlife. With over 350,000 supporters distributed across North America, BHA seeks to ensure North America's outdoor heritage of hunting and fishing in a natural setting through education and work on behalf of fish, wildlife and wild places.

- BHA has established chapters in 48 states, 2 Canadian provinces and one territory, and Washington, D.C.
- BHA & USFS have an MOU with the stated purpose:

“to document the cooperation between the parties to develop and expand the collaborative engagement of the broad and diverse communities of interest in recreation, scenic, wildlife, heritage and other affected resources to sustain and enhance their health and vitality and promote shared stewardship through volunteerism and service on the National Forests and Grasslands in accordance with the following provisions and any incorporated supplemental project agreements.”

Presentation Organization

1. The issues of wildfire-related closures
2. Regulatory and policy framework
3. Lack of consistency
4. Improving the situation

#1

The Issues of Wildfire- Related Closures

Three general types

1. Pre-emptive (local and regional levels)
2. During an active wildfire incident
3. **After the incident (post-containment)**

Case studies in closure orders

1. North Complex (2020; PNF)
2. Slater-Devil Fire (2020; KNF)
3. Red Salmon Complex (2020 STNF)
4. Red Salmon Complex (2020; KNF)

Public Information Challenges



1. North Complex Closure Plumas NF

Forest Order 05-11-00-21-06

Closure Info

- Closure area defined as 25 feet each side of Middle Fork Feather River
- Entry and floating upon river prohibited
- Boating & fishing ban
- Closed for 2 years
- Purpose: “to provide for public safety”
- Enacted March 10, 2021, over 3 months after fire containment



1. North Complex Closure Plumas NF

Forest Order 05-11-00-21-06

Issues

- Enacted without public notice or scoping
- Unjustified: no known hazards or specific public safety concerns
- Did not adhere to regulation or policy:
 - NEPA
 - FSM 2354.41(b) Water Safety
 - Wild & Scenic plan
 - Forest plan
 - APA
 - 2019 fishing closure law
- Closed Wild & Scenic river w/ world-class whitewater & fishing



1. North Complex Closure Plumas NF

Forest Order 05-11-00-21-06

Our Engagement

- Performed RAVG fire severity analysis for closure area
- Collected information on river corridor condition
- Presented to Forest leadership & district staff
 - June 8, 2021
 - [[download presentation](#)]
- “Plumas will evaluate this closure and be in touch.”
 - USFS action: None
 - 8 months: calls, emails not returned



March 21, 2022

Christopher Carlton, Forest Supervisor
Plumas National Forest
159 Lawrence Street
Quincy, CA 95971-6025

Cc: Dave Brillenz, District Ranger, Feather River Ranger District
Lori Cayo, Public Services Staff Officer, Feather River Ranger District

Sent electronically and by postal mail

Re: Middle Fork Feather River Closure (Forest Order 05-11-00-21-06)

Dear Supervisor Carlton,

We write to you with significant concerns about the Plumas National Forest's two-year closure of the Middle Fork Feather River and its banks via Forest Order 05-11-00-21-06, which you signed on March 10, 2021. The closure order is problematic for reasons which we detail below, and we respectfully request that you immediately rescind the order and restore public access to the river.

This order is unique because the Forest Service has prohibited all public access to a long, narrow area defined as 25 feet each side of the river for a 20.7-mile-long reach, including the river itself, while it has ~~recently re-opened~~ ²¹ 05-11-00-21-06 public access to the surrounding 218,000 acres of

Our Engagement

- March 21, 2022: Detailed letter from 7 groups outlining four significant legal and policy issues with closure [[download letter](#)]
- Members sent nearly 1,000 emails to Forest Supervisor & staff in 6 days

Plumas Response

- Letter never acknowledged
- Closure rescinded March 31; no communication
- Contrast w/ engagement from Eldorado, Shasta-T



2. Slater-Devil Fire Closure Klamath NF

Forest Order 20-05-07

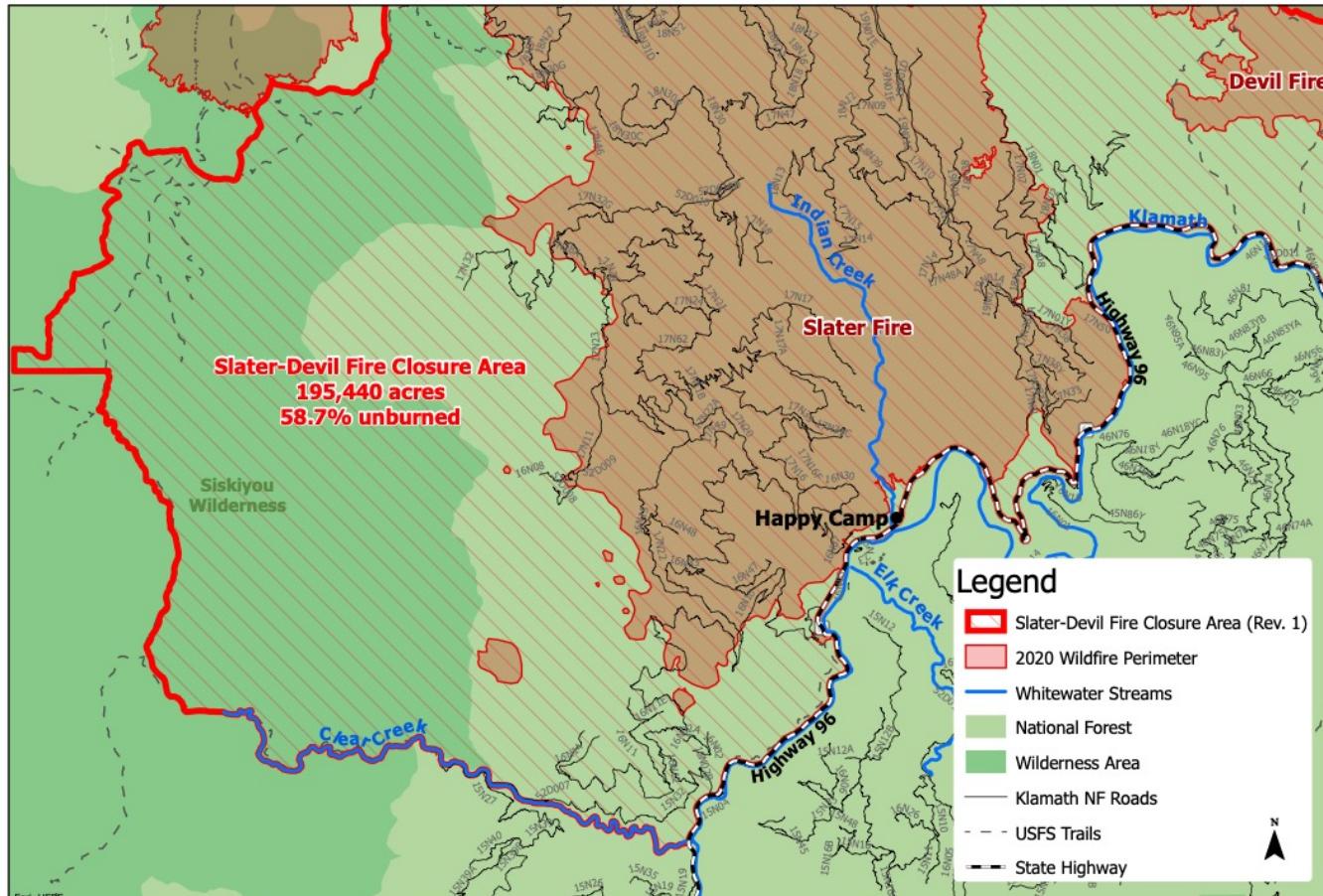
Closure Info

- 195,440-acre closure area
- Enacted Jan. 6, 2021, nearly 2 months after containment

Issues

- Enacted without public notice or scoping
- Almost 60% of closure area was outside burn footprint: unjustified
- Closed Clear Creek, firewood cutting areas, hunting areas, tribal gathering and spiritual use areas
- Closure persisted for months after fire was out

Slater-Devil Fire Closure Order 20-05-07 Affecting Access to Whitewater Streams





3. Red Salmon Complex Closure Shasta-Trinity NF

Forest Order 14-20-11

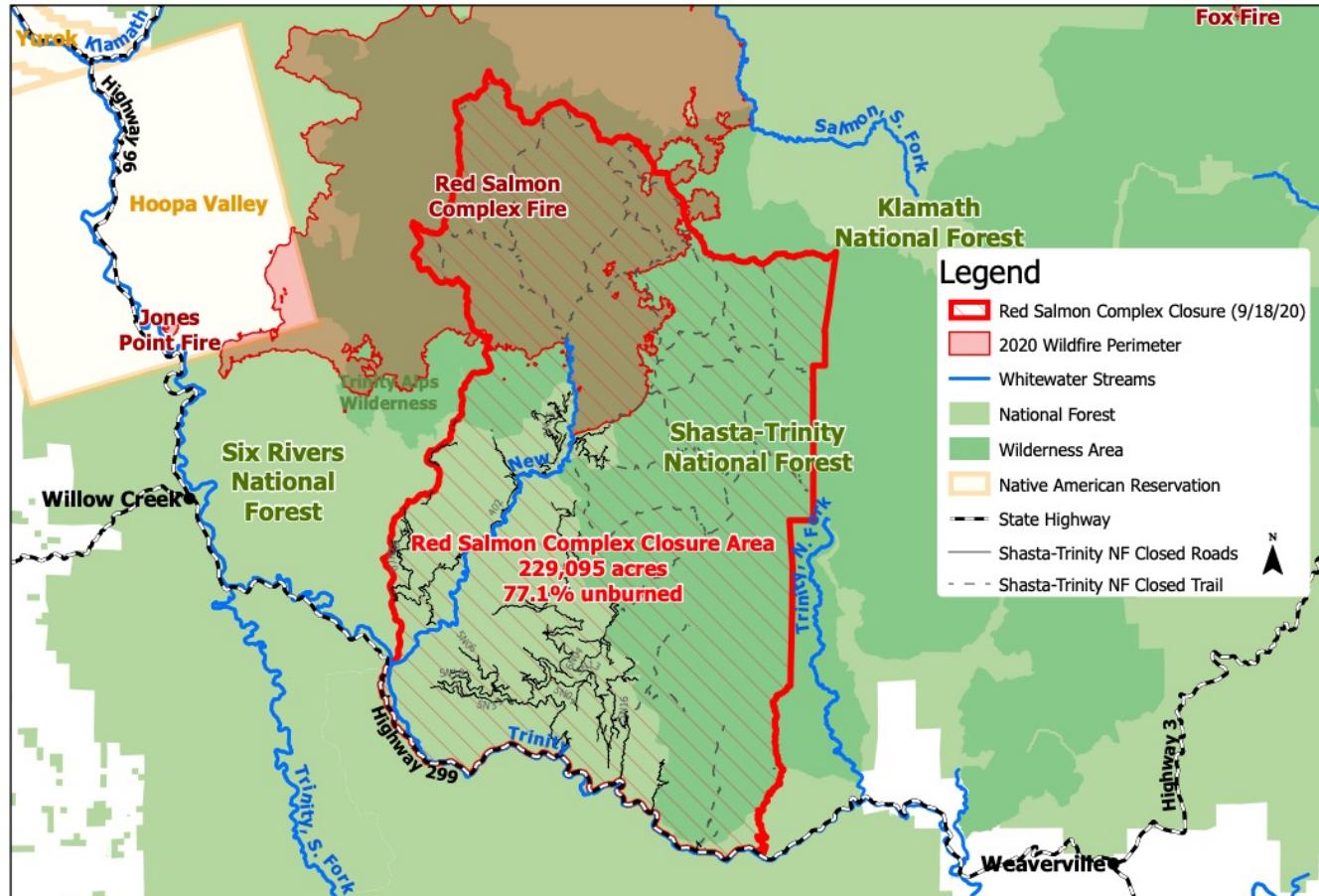
Closure Info

- 229,095-acre closure area
- Enacted in waning days of fire suppression effort

Issues

- Enacted without public notice or scoping
- Over 77% of closure area was outside burn footprint: unjustified & overly broad
- Closed two rivers, hunting areas, tribal gathering & spiritual use areas: up to 13 miles outside burn area
- Closure persisted months after fire was out

Red Salmon Complex Closure Order 14-20-11 Affecting Access to Whitewater Streams





4. Red Salmon Complex Closure Klamath NF

Forest Order 21-05-02

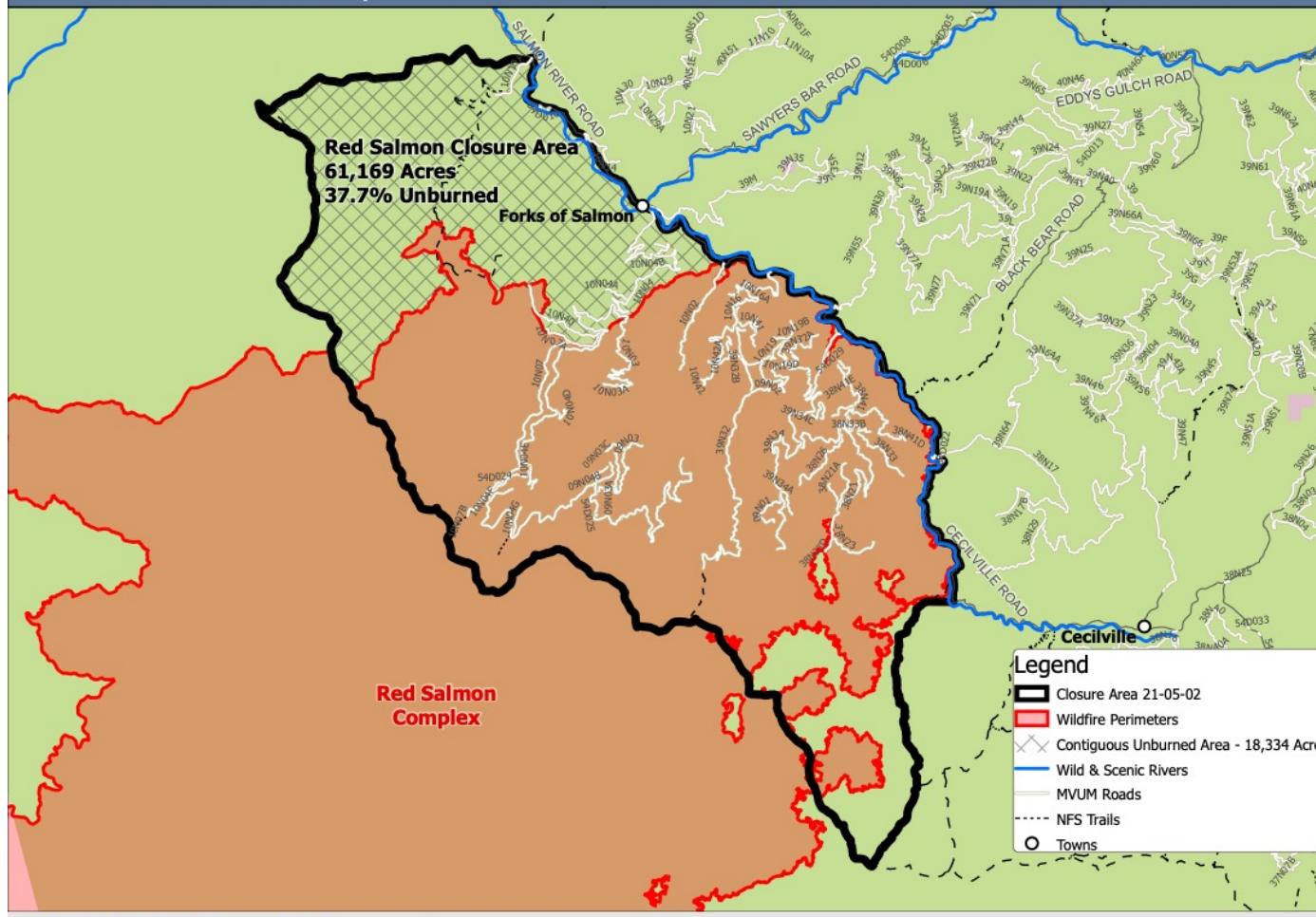
Closure Info

- 66,169-acre closure area
- Enacted April 23, 2021, 6 months after fire was out & original fire closure had ended

Issues

- Enacted without public notice or scoping
- Nearly 40% of closure area was outside burn footprint: unjustified and overly broad
- Closed two rivers, land within and around Forks of Salmon community, up to 6 miles outside burn area
- Closure caused significant hardship for community members
- Took 2+ months for USFS to amend closure order to reduce harm to community

Red Salmon Complex Closure 21-05-02 & Fire Perimeter



Road Access to Homes: CLOSED

UPS, Amazon, propane deliveries, & visitors prohibited

Community Swimming Hole: CLOSED

Record 115° heat wave for 2 weeks; no A/C in community

**61,169 Acres
37.7% Unt**

Elementary School: CLOSED

On closed National Forest land

Essential Firewood Cutting Areas: **CLOSED**

**100% wood-heated homes
in this area**

Forks of Salmon

Post Office: CLOSED

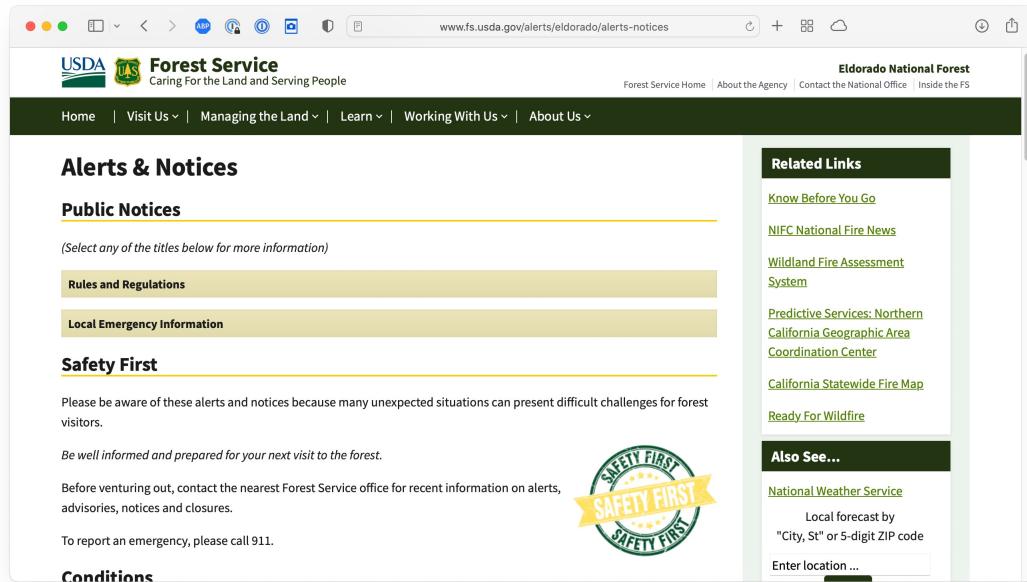
On closed National Forest land

Residential Water System Access: CLOSED

Nearly all domestic water originates on National Forest land

Crazy Closure! What Was Really Going On Here?

- KNF management desire: close 12 miles of open road in high severity burn area in advance of *planning and implementing* roadside tree removal
- KNF management action: close 61,169 acres of land in order to close 12 miles of road (area closure instead of road closure)
- Impact: significantly affected local community, generated anger and loss of trust
- Response: After public outcry, KNF agreed to replace area closure with specific road closures: took over 2 months to enact → further anger and loss of trust; then immediately re-closed entire area for a new wildfire over 15 miles away.
- Final outcome: the 12-mile road closure order expired, no tree removal project was planned, no hazard mitigation took place, and the roads and area are open to public: all of this literally for nothing



The screenshot shows a web browser window for the USDA Forest Service Eldorado National Forest website. The top navigation bar includes links for Home, Visit Us, Managing the Land, Learn, Working With Us, and About Us. The main content area is titled 'Alerts & Notices' and 'Public Notices'. A sub-section titled 'Safety First' contains text about being aware of alerts and notices, and a 'SAFETY FIRST' logo. To the right, a sidebar titled 'Related Links' lists 'Know Before You Go', 'NIFC National Fire News', 'Wildland Fire Assessment System', 'Predictive Services: Northern California Geographic Area Coordination Center', 'California Statewide Fire Map', and 'Ready For Wildfire'. Another sidebar titled 'Also See...' lists 'National Weather Service' and a search field for 'Local forecast by "City, St" or 5-digit ZIP code'.

Public Information Challenges Region 5

Issues

- Closure information is inconsistently presented
- No single source
- Orders and maps are often very difficult to read
- Information often outdated, disorganized
- Digital map data is unavailable
- Public doesn't know what is open or closed
- Long-planned changes to closures are published day before enactment

Region 6 Fire Closure Online Map

USDA  Forest Service
Caring For The Land and Serving People

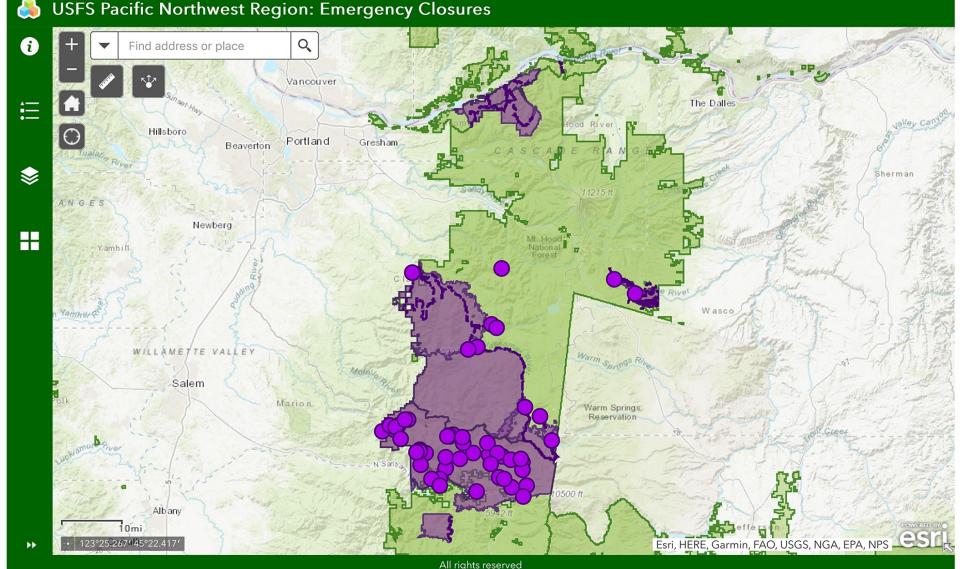
Pacific Northwest Region
Forest Service Home | About the Agency | Contact the National Office | Inside the FS

Home | Visit Us | Managing the Land | Learn | Working With Us | About Us

Pacific Northwest Regional Fire Closures

The map below shows current fire closures.

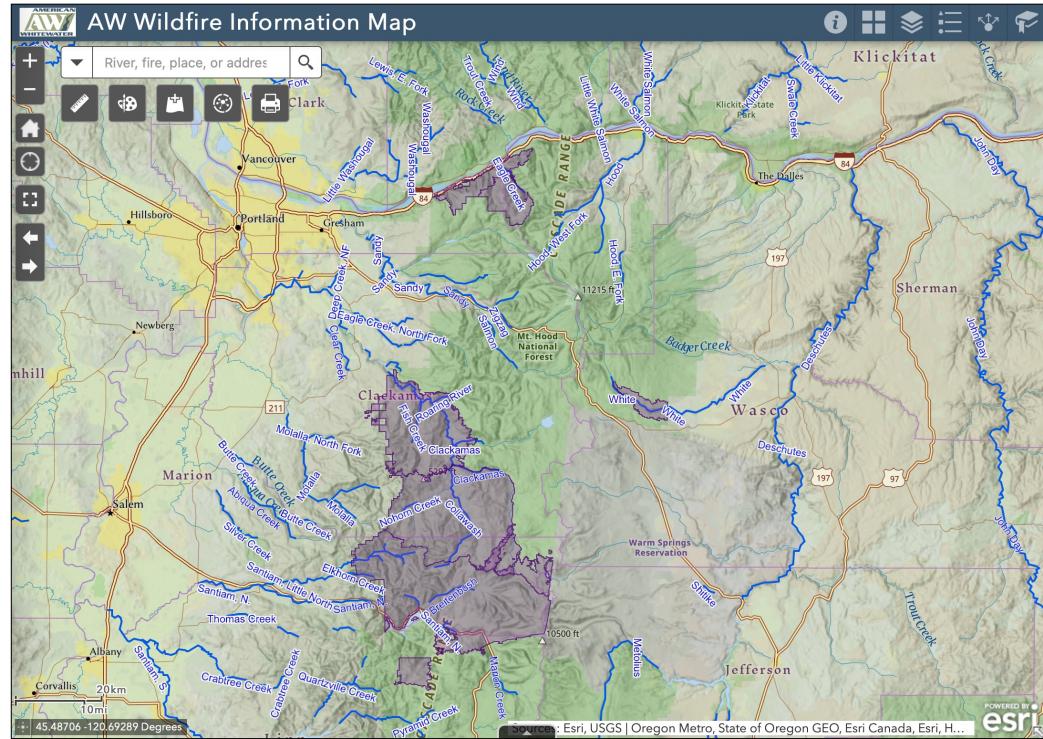
USFS Pacific Northwest Region: Emergency Closures



Please review the table below for detailed updates on fire closures at specific forests across the Pacific Northwest. For information regarding current wildfire burning on Forest Service lands in the Region, [please visit our Fire Tracker page](#). And for information regarding current fire restrictions, [please visit our Fire Restrictions page](#).

American Whitewater Wildfire Information Map

Automatically displays R6 closure map data with whitewater river info



- Over 1,000 views daily during wildfire seasons
- Spans Forest boundaries, eliminates need to research
- Mobile-friendly, being used by non-whitewater public
- Doesn't include any closures info from Region 5

Wildfire Closure Themes

- No public notice or scoping, even when enacted after immediate fire emergency is over
- Long duration, left in place even when known to be unnecessary
- Negatively impact forest users & local communities
- Lack of connection between circumstances and closure decision: overly broad and unjustified
- Closure information is not clearly presented to the public

WO AMENDMENT 2300-2009-2

EFFECTIVE DATE: 11/04/2009

DURATION: This amendment is effective until superseded or removed.

2350

Page 51 of 77

**FSM 2300 – RECREATION, WILDERNESS, AND RELATED RESOURCE MANAGEMENT
CHAPTER 2350 – TRAIL, RIVER, AND SIMILAR RECREATION OPPORTUNITIES**

2354.41b - Water Safety

The manager's role in safety is advisory and informational. Provide opportunities for the river recreation user to become informed of current river flows, equipment and experience minimums and hazards. The user must make the final decision about whether or not to engage in the recreation activity.

The enforcement of State boating laws, U.S. Coast Guard regulations, and other applicable State and Federal regulations shall remain with the appropriate agency.

NEPA Compliance

- Closure orders must comply with NEPA
- Categorical exclusion (CE) may be applied to closures enacted under 36 CFR 261
 - CE exempts documentation in an EA or EIS - 36 CFR § 220.6(d)(1)
 - All other NEPA compliance requirements still apply - 36 CFR 220.6(a)



- Public notice and scoping are *always required* for closure orders
 - USFS must “invite the participation of likely affected Federal, State, Tribal, and local agencies and governments, the proponent of the action, and other likely affected or interested persons...” - 40 CFR § 1501.9(b) and (c)
- Must determine whether extraordinary circumstances are present
 - Scoping is “the means to identify the presence or absence of any extraordinary circumstances.” - FSH 1909.15 Chapter 30 (31.3)
 - Wild & Scenic rivers are a resource condition that must be evaluated for extraordinary circumstances - 36 CFR 220.6(b)(1)(iii)

USFS Policy

- Various chapters of FSM & FSH provide direction for closures
 - NEPA compliance, enactment, enforcement, etc.
- For example, FSM 2300 provides direction for water safety: USFS role is advisory and informational, does not direct to close rivers for perceived risk factors:

WO AMENDMENT 2300-2009-2

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Administrative Procedures Act

- A closure is an agency action subject to the APA (5 USC § 500 et seq.)
- Forest Supervisor must use a rational basis for the closure decision
- Must be a substantial basis in a supporting administrative record
- Must be documented, rational connection between the facts found and the action taken
- Every case study presented here fails the rational basis requirement of the APA

3

Lack of Consistency

- No definition of “public safety”
- Each determination is subjective and standardless; typically undocumented
- No protocol for determining when to enact a closure
- No protocol for determining when to rescind a closure enacted
- Closures are handled differently at each forest, and even differently within the same forest
- Combined with omission of public engagement, this inconsistency leads to an erosion of trust in the decision made and the agency

4

Improving the Situation

- How can we ensure the the law, regulations, and agency policies will be followed?
- How do we work together?
- How can we get current, updated closure map data to enable us to communicate to our constituencies?
- Who are the USFS staff contacts at each forest (and the region) and how do we contact them?
- What is the process for a continued dialog?
- What else can be done to facilitate better engagement of the public and interested parties?