

CUI

Report of Investigation (ROI)

United States
Department of
Agriculture

Forest Service



Case #: 23-04-MBIL083

Case Name: Elkhorn Fire

Investigating Office: 04

Investigator: (b)(6), (b)(7)(c)

Report Type: Investigation Closed

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CUI



USDA FOREST SERVICE

Intermountain Regional Office
324 25th Street, Suite 1104
Ogden, UT 84401

Report of Investigation

CASE NUMBER: 23-04-MBIL083
CASE TITLE: Elkhorn Fire
DATE OF REPORT: 10/31/2023
CASE TYPE: FIRE
PERIOD OF REPORT: 08/30/2023 - 10/31/2023
STATUS: Investigation Closed
REPORTED BY: (b)(6), (b)(7)(c)

STATUTE(S) INVESTIGATED:
36 CFR 261.5D - LEAVING A FIRE

PREPARED BY / DATE:
(b)(6), (b)(7)(c) / 10/31/2023

REVIEWED BY / DATE:
(b)(6), (b)(7)(c) / 11/02/2023

APPROVED BY / DATE:
(b)(6), (b)(7)(c) / 11/02/2023

SYNOPSIS OF INVESTIGATION

On July 24, 2023, the Elkhorn fire was reported by the Sheepeater Lookout on the Payette National Forest, within the boundary of the Frank Church River of No Return Wilderness. Due to the fire being reported within the boundary of the Frank Church River of No Return Wilderness, it was initially staffed by smoke jumpers out of McCall Idaho. The fire burned an estimated 26,048 acers, and multiple structures, both government and private owned.

Forest Service Law Enforcement Officers (LEO) (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) conducted an Origin and Cause (O&C) investigation on July 26, 2023. Based on the finding of LEO (b)(6), (b)(7)(c) O&C investigation, it was determined that the fire most likely started from an abandoned cooking/campfire that was not sufficiently extinguished prior to the users leaving the area. Additional investigation by LEO (b)(6), (b)(7)(c) showed that from the time period immediately preceding the fire being reported, the only individuals in the area of the fire's origin were a Forest Service Wilderness Trail Maintenance crew lead by (b)(6), (b)(7)(c), Wilderness Trail Crew Lead for the Payette National Forest.

NARRATIVE

INTRODUCTION

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DETAILS

18 U.S.C. § 1856 – Whoever, having kindled or caused to be kindled, a fire in or near any forest, timber or other inflammable material upon any lands owned, controlled or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States, leaves said fire without totally extinguishing the same, or permits or suffers said fire to burn or spread beyond his control, or leaves or suffers said fire to burn unattended.

36 C.F.R. § 261.5(c) – Causing timber, trees, slash, brush or grass to burn except as authorized by permit.

36 C.F.R. § 261.5(d) – Leaving a fire without completely extinguishing it.

36 C.F.R. § 261.5(e) – Causing and failing to maintain control of a fire that is not a prescribed fire that damages the National Forest System.

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On October 18, 2023, SA (b)(6), (b)(7)(c) spoke with Assistant United States Attorney (AUSA) (b)(6), (b)(7)(c), assigned to the District of Idaho, Boise Office. AUSA (b)(6), (b)(7)(c) agreed to review the case and make a determination on potential criminal charges. On October 31, 2023, AUSA (b)(6), (b)(7)(c) sent an email informing SA (b)(6), (b)(7)(c) that the United States Attorney's Office for the District of Idaho was declining the case and would not be seeking criminal prosecution. A copy of the email has been attached as a supporting document.

Similar conversation with the United States Department of Agriculture (USDA) Office of General Counsel (OGC) and the USFS Office of Professional Responsibility (OPR) have taken place. Both agencies have expressed similar thoughts and see no need for further investigation into the Elkhorn Fire.

Based on the decision of AUSA (b)(6), (b)(7)(c) USDA OGC, and USFS OPR, the investigation into the Elkhorn Fire is CLOSED. It is recommended that the case be turned over to the USFS Albuquerque Service Center (ASC) and the Payette National Forest.

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End of Report

PARTICIPATING INVESTIGATORS:

(b)(6), (b)(7)(c)
(b)(6), (b)(7)(c)