

DF Distribution

**MINUTES
EMERGENCY FIRE COST COMMITTEE
January 06, 2015**

In accordance with the provisions of ORS 477.455, a meeting of the Emergency Fire Cost Committee (EFCC) was held at the State Forester's Headquarters, 2600 State Street, Salem, Oregon.

Committee Members Present:

Ken Cummings, Chair
Lee Fledderjohann
Steve Cafferata
Pete Sikora

Others Present:

Tim Keith, OFLPF Administrator, (On Conference Line)
Doug Decker, State Forester
Nancy Hirsch, Division Chief, Fire Protection Program
Nick Yonker, Meteorology Manager, Fire Protection Program
Charlie Stone, Policy Analyst, Fire Protection Program
Tracy Guenther, Administrative Support, Fire Protection Program
Whitney Lanham, Administrative Support, Fire Protection Program
Colleen Conlee, Emergency Fund Finance Coordinator
Jeff Bonebrake, Investigation & Cost Recovery Coordinator, Fire Protection Program
Jeff Friesen, Willis of Oregon
Mike Dykzeul, Oregon Forest Industries Council
Marlena Standley, DAS Risk Management
Todd Scharff, DAS Risk Management
Karen Swearingen, Fire Operations Manager, Fire Protection Program
Rod Nichols, Public Affairs
Satish Upadhyay, Administrative Services Division Chief
Dan Postrel, Public Affairs
Paul Bell, Deputy State Forester
Jim James, Oregon Small Woodlands Association
Gary Springer, Board of Forestry
Randy Hereford, Starker Forests, Inc.

ITEM 1: CALL TO ORDER

Chair Cummings called the meeting to order at 10:01 a.m. Introductions were made around the table. He outlined the meeting agenda briefly, pointing out that additional time was being set-aside for discussion regarding procuring an insurance policy for the 2015-16 policy year.

ITEM 2: APPROVAL OF THE MINUTES OF THE SEPTEMBER 02, 2014 COMMITTEE MEETING [Decision Item]

The minutes of the September 02, 2014 meeting were approved unanimously by the committee.

ITEM 3: FINANCIAL STATUS OF THE OREGON FOREST LAND PROTECTION FUND [Informational Item]

Below is an updated summary of the financial status of the Oregon Forest Land Protection Fund (OFLPF) prepared and reported by Colleen Conlee:

Balance as of 7/1/2014	\$ 25,826,051
Estimated revenue (including Balance)	\$ 37,244,371
Less estimated expenditures	\$ (15,891,102)
Projected Fund Ending Balance 6/30/2015	\$ 21,353,269

Colleen reported that the balance sheet has been populated with fiscal year 2015 (FY 15) assessment and surcharge figures provided by Salem in November; estimated revenue increased by \$56,059 with the FY15 data.

She said that the November harvest tax turnover was \$29,214 less than what had previously been estimated. Cost collection for the Redwood Hwy Fire was \$300,000; it is estimated that \$72,539 will be distributed to the fund and \$227,461 will be returned to FEMA to reimburse them for their prior payment on the fire.

Douglas Forest Protective Association's (DFPA) FY13 claim has been finalized. Based on fire cost estimates, more funds were advanced from the OFLPF to DFPA for their FY13 claim than was needed to meet final claim costs. DFPA has been asked to refund the excess advance – \$230,216.

Revenue from fire cost collection for South Cascade District's FY 13 Raisor Road Fire has been finalized - \$17,687.81 was received and the funds were returned to the district since their claim had not been finalized. With this recovery, the district no longer has a claim for FY13.

Chair Cummings inquired about the status of 2013 fires, will they be completed soon? Colleen responded yes, districts are reviewing and finalizing federal bills that they've just received; progress continues to be good toward finalizing claims from the 2013 season in the next few months. Central Oregon is finishing up payments for the 2012 season and may be finalizing their claim for that fiscal year soon.

ITEM 4: WEATHER UPDATE [*Informational Item*]

Nick Yonker began his weather update describing that El Niño neutral conditions have given way to a modest El Niño starting the fall of 2014. This is expected to continue through the summer of 2015. El Niño usually produces milder winter temperatures in the Pacific Northwest.

Nick showed slides describing how the recent conditions and future forecasts would affect elements for determining a severe fire season. Currently, there is low snowpack in most of western and central Oregon with eastern and southeastern Oregon near normal. The forecast shows above normal temperatures for the rest of winter with no clear signal on whether winter moisture will be above or below normal. Consequently, it is expected that snowpack will remain below normal through the winter. Spring forecasts show a weak signal toward a warmer season but Nick feels it will likely be near average. This will bring a potential of an early snow melt, primarily due to the lack of snow.

Drought continues throughout much of Oregon, although it has eased somewhat. Drought will likely remain through this year even while it slowly eases. Summer precipitation and temperatures show no clear signal and potentially could be near average.

Overall, the winter to date doesn't bode well for the upcoming fire season with the likely below normal snowpack. However, the lack of a signal toward above normal temperatures and below normal precipitation provides some hope for good news. Nick estimated that while fire season may be above average, it will likely not be as severe as the 2013 or 2014 seasons.

ITEM 5: UPDATE ON STATUS OF LARGE FIRE COST COLLECTION EFFORTS [*Informational Item*]

Jeff Bonebrake, ODF Investigation and Cost Recovery Coordinator, presented the committee with a brief overview and status update for on-going fire cost recovery cases, focusing on significant fire cost collections.

Jeff reported that in the last quarter they have made progress in some of the fire cost collection cases; a number of them are now at the Department of Justice. He feels they've made great strides and efficiencies in the last quarter in part due to additional capacity at DOJ with the addition of DOJ attorney Tim Smith. Jeff reports that he is a real 'go-getter'. Jeff addressed that they are in the negotiating phase of many cases, working to whittle down the old case list depending on the willingness of parties to negotiate.

Jeff stated that since September 2014, they've had significant cost collections totaling nearly \$500,000. One example is the MP 66 fire in Central Oregon District, where \$155,000 was collected after negotiations with the railroad. The collection on this particular fire was due to new DOJ attorney Tim Smith. Tim encouraged negotiations with the railroad, showing them significant evidence that led to their willingness to settle this case even before the final investigation was completed.

The 2007 Wilt Fire had one person of interest. This person wouldn't come in for depositions following the fire and pleaded the 5th Amendment. DOJ and the department waited and held out for the statute of limitations to run out. Once that occurred, the person's insurance company was contacted and we were able to settle in the amount of \$95,000.

Other fires that have been paid in full since September 2014 include Lone Mt. 1111 -- \$150,000, Sparrow Park -- \$64,634.52, Raisor Road -- \$17,687.81, and Evans Creek 5686 -- \$6,888.46.

Jeff reported that this past season was busy, with 14 or 15 new significant fire investigations, compared to two to four investigations in an average season. They were able to utilize contract investigators, retirees and several trainees. Significant progress was made on a number of these new investigations which are being finalized at this time.

Jeff said we have significant firefighting costs on a number of these cases, but assets are limited in several cases. He stated that our best chance for significant recoveries are with Lost Hubcap, Chip Ross, Mt. Harris, Euchre Creek and Pacifica.

Jeff reported that the Rowena and Two Bulls Fires may be incendiary with little potential for recovery. Rowena is part of a larger task force in the Columbia Gorge where a number of fires started on the Washington side. Two Bulls is a complex investigation and had significant resources that worked on it. Currently it is in a holding pattern until more information is developed but remains open. Scoggins Creek and Yellow Point currently have no responsible parties identified at this time – they may likely be incendiary fires. Jeff added that it looks like we will be getting good recoveries on the 123 Complex and Gates Complex.

Chair Cummings inquired about cost collection fires that appear on the Balance Sheet, yet others do not appear. Colleen Conlee responded that some fires such as Coos' Euchre Fire become a credit to the district that results in a lower claim, or no claim at all. Pete Sikora inquired about the cause of the Yellow Pine Fire; is it possibly a Tannerite [exploding target] start? Jeff responded that it wasn't Tannerite, the fire came from a large slash pile. Gary Springer said he was familiar with a Linn County fire listed here; he stated that it is interesting to see that after 12 years ODF is still collecting on it. Jeff responded that when there are limited assets, often a payment plan is developed with the responsible party. Chair Cummings concluded the discussion by stating that significant progress had indeed been made on the backlog of cost collection cases, and it was encouraging to receive the additional DOJ assistance.

ITEM 6: INSURANCE POLICY FOR 2015 FIRE SEASON [Decision Item]

Chair Cummings stated out that the decision to purchase an insurance policy is the State Forester's, but that the committee would be making a recommendation on that purchase since the OFLPF pays for 50% of the policy. He pointed out that the committee is an appointed body that represents landowners in the administration of their fire protection fund. To that end, he asked that landowner stakeholders engage and let the committee know what their thoughts are regarding renewal as we move forward.

Chair Cummings asked Jeff Friesen to report on the potential for renewing the firefighting policy. Jeff stated that after two consecutive full policy year claims, conversations with carriers made it clear that securing a new policy would be a challenge. Consequently the process began early, knowing that the current structure was no longer viable for underwriters. A two-fold approach is being taken: advance a deductible higher than this season's firefighting costs – something in the line of \$45 million; and expect a higher premium cost. At this point in time, it's unknown whether the suggested deductible and premium will be acceptable to the department. Jeff reported that a first draft of the policy submittal is nearly finished and will be sent to the market when complete. In addition, a presentation is being developed that will be given to potential underwriters in London in the first week of February. The broader market is being also being approached: Bermuda will be contacted remotely, and North America has new capacity that will be contacted and brought to Oregon if they have sufficient interest. Jeff believes that coverage will be found; it may not be all of the same underwriters and pricing may be higher than we anticipate, but Willis will go out and secure the best policy terms and cost.

Chair Cummings asked that if insurance is available at a reasonable but higher cost, should it be purchased. Jeff responded yes, if it is reasonable it should be, otherwise the insurance markets may never be interested in Oregon's unique policy again. Chair Cummings reiterated the need to stay engaged if there is a desire to keep insurance in the long run – if we walk away from it, we will walk away from insurance possibly forever.

Steve Cafferata stated that there have been two years in the past that insurance wasn't purchased, yet policies were available in succeeding years. Charlie Stone pointed out that those were different scenarios: firefighting funds were adequate and the fire seasons projected to be mild. Jeff Friesen agreed and pointed out that at the time, cost-loss ratios were significantly different and didn't work against the department.

Pete Sikora noted that this first phase is going out to the market, determining what structures would be palatable, and focusing on deductible and premium amounts. He asked whether other mechanisms have been considered such as layering. Jeff responded that yes, one item being considered is some form of co-insurance – sharing in the cost of a claim. In a good year co-insurance can be used in negotiation for the amount of retention, or the cost of a policy. Pete asked if this is being floated; Jeff responded that they are leading with a 5% co-insurance component. Nancy Hirsch asked for a clarification of the 5% -- would it be in the policy itself? Jeff said that was correct, the 5% would be in the policy and that every dollar of a claim would be a 5% cost to the department.

Jeff stated that insurance capacity is there – they are awash in capital, but that capacity will have a price. Willis plans to debrief one of the underwriters that is opting out, seeking to determine if there is an option that would bring them back into the market. One of the syndicates last year brought up the co-insurance notion that is now being considered. Lee Fledderjohann asked if those dropping coverage were looking for a reason to drop the policy. Jeff

stated no, one of the larger markets the previous year – Bermuda – didn't participate this past year; underwriters can and do leave at any time.

Pete Sikora asked if there might be an opportunity to find another underwriter other than London that would participate at a lower deductible than \$45 million – perhaps \$30 to \$40 million. Jeff responded that Munich and Zurich Re and others that operate out of North America do sophisticated modeling (more so than London) and as such may come in with a different approach. That's one reason why Willis is interested in seeing them in play this year. Pete asked if underwriters were interested in our type of policy. Jeff responded that most of London is tied up in earthquake coverage. Our policy is characterized as property and therefore doesn't compete with tightening earthquake coverage capacity. Consequently, they have traditionally liked underwriting our policy.

Chair Cummings stated that this is a fascinating year. We've had a traditional policy and now we may be moving to a more complex type structure. Timing will be critical – securing the policy on April 1 will be difficult, probably impossible. Pete asked if a conversation will occur with underwriters about the policy period. Jeff said that these discussions have occurred; waiting until July 1st may be a problem because underwriters know by then how the season is shaping up.

State Forester Decker pointed out that a small group has been meeting every two weeks since early December to strategize the policy procurement process. He and Nancy Hirsch started running a trap line at the OFIC Annual Meeting and at the December Legislative meetings. The key question is: how far are landowners, the Legislature and the Governor willing to go to secure a policy for the 2015 season? He said this must be determined even before the agency has an approved budget. Part of today's meeting is to start determining what are acceptable parameters – it is important to get everyone on the same page as we work with the London market to secure an acceptable policy.

State Forester Decker noted that what hasn't been discussed yet today was the insurance amount. Assuming that a policy is a band of coverage at the upper level that provides a portion of the revenue needed to pay for fire suppression costs, is the amount of coverage a variable that will enter into the discussion? Should we ask for more coverage (\$30 million), or for less (perhaps \$10 million)? Jeff responded that London said that this would not be a good year to ask for more capacity, but that less coverage could be an option.

State Forester Decker noted that there is a high level of support and interest from Legislative leadership, in both the complete and coordinated system and in maintaining insurance coverage for Oregon. The sky isn't the limit, but there is a strong level of interest. He said they are hearing more suggestions for self-insurance – there is a desire to study that concept as an option down-the-road. He stated that there are two paths of thinking: what will we do for fire season 2015, and what options do we have in the long-run – three to five years out. How do we position the program now for the short term as well as the longer term?

Gary Springer asked how the conversation has been going with landowners. Nancy Hirsch responded that they had engaged with a number of landowners in various venues and had yet to receive a lot of feedback. One party stated that they did not want to see OFLPF revenue sources increased. The primary questions have been: if the deductible is higher, who pays for that; and if the premium is much higher, who pays for that? State Forester Decker said that this is the time to give the agency and the EFCC feedback – before the trip to London. Chair Cummings stated that he has received feedback from a number of folks, and Jake Gibbs has provided written email feedback. In addition he has had conversations with Mike Dykzeul and Christina McNitt. He stated that it is important for folks to be thinking about this now – the need to make a decision on securing a policy is coming up. State Forester Decker said that developing principles for coverage and how to pay for that coverage would be helpful.

Pete asked what type of process is envisioned after returning from the London visit. What would be the time frame? Will legislative concepts need to be developed to change limits for EFCC and OFLPF spending? State Forester Decker pointed out that the legislative concept that removes insurance policy payments and administrative costs from the \$13.5 million OFLPF annual expenditure ceiling provides a possible vehicle for any statutory changes needed. He asked whether a workshop that includes representatives from the Legislature, Governor's office, landowner community, Board of Forestry and the EFCC could work to sit down and hammer out a proposed solution. Nancy responded that the workshop concept would be helpful, particularly if public comment was received. Paul Bell suggested that a stakeholder workshop co-hosted by the department and EFCC be put together, and at a minimum involve one of the Ways & Means Co-Chairs. Pete Sikora pointed out that the Wildfire Protection Act committee was functional and effective, and received broad buy-in; it may be a good model to go forward to reach consensus. State Forester Decker stated that he and agency leadership will be fully engaged to assure that complete alignment occur with the interested parties – both for 2015 and beyond. Nancy asked that folks that help with the short-term 2015 decision also help determine who needs to come together for a long-term look at insurance and alternatives to insurance.

Mike Dykzeul stated that it has been a great discussion, but that the level of engagement does need to improve. A budget note that mandates the long-term look at insurance would have value. He pointed out that it may be

embarrassing to go to London without principles with which to negotiate. He stated that it is our responsibility to help send the delegation off with principles. Mike said that an insurance policy primarily benefits the General Fund; is the landowner community willing to pay more? Jeff Friesen responded that the team going to London will be building support for the program; policy terms will be negotiated with underwriters after the team returns. Any non-starter concepts for stakeholders would be important to know before traveling to London. State Forester Decker agreed that principles would be helpful; he reiterated that the primary purpose of the trip is to reestablish London's confidence in Oregon's firefighting program.

Lee Fledderjohann asked if OFIC and OSWA landowner lists could help get the word out for the need for stakeholder input. Jim James stated that OSWA has been wrestling with the topic – the comments they were receiving are that no one wants their taxes to go up. They prefer that additional costs be borne by the General Fund.

Pete Sikora asked if the difference in how Oregon performs and pays for fire suppression compared to other states has entered into the discussion with Legislators. He noted that Oregon's system is very unusual. Nancy responded that it is her sense that there is fairly good Legislative understanding of Oregon's unique system and its high level of landowner support – in-kind and financial – for the system. She has heard feedback that we have come so far to get to 50-50, will this still be in play with a new policy. She asked if there is a willingness by landowners to maintain insurance premium payments at 50-50 and arrive at a different formula to pay deductible costs, particularly those costs above the current \$20 million threshold. Mike Dykzeul stated that the Wildfire Protection Act (WPA) was to bring equity to firefighting, particularly in average fire seasons. There is still value-added to Oregon's system that is not reflected in firefighting costs: landowners' in-kind contributions. Is there a way to leverage landowner losses into the equity concept? State Forester Decker reflected that Legislators may likely remember the discussions that led to the WPA and 50-50. He noted that it is a complex argument to bring in-kind contributions and fire losses into the conversation. To ask the Legislature to pick up the difference factoring in costs that aren't actual revenue, particularly in a time when revenue challenges face them, will be difficult at best. Mike pointed out that losses are indeed real costs absorbed by landowners.

Nancy Hirsch stated that average fire season costs over the past 10 years have gone up significantly, to \$30 million/year. If a traditional policy is secured, there will be a significant gap between the current \$20 million retention and wherever the retention lands for 2015 and beyond. Who will carry this risk? She believes that the current trend will not continue – history tells us that. Chair Cummings asked what the average number is that we think will be spent over time suppressing fires. This number is critical to help determine the needed levels/band of insurance coverage. Should we change the insurance policy coverage downward? What will motivate underwriters to insure us, will lower coverage levels help? State Forester Decker asked what is the role of insurance, and what are we willing to pay for it? Jeff Friesen pointed out that a key question is: should the policy reflect average seasons, or just severe seasons.

Pete Sikora noted that there are two different tasks in front of us: 1) what do we do in the short-run; and 2) how do we reduce risk in the long run. How do we make the current system better? Do we mitigate high risk areas through a fee structure? He would like to visit this topic in the future. Pete suggested that a small concentrated group would be an effective way to address these long run needs.

Steve Cafferata pointed out that it wasn't too long ago that we had a \$43 million policy with a smaller deductible. His concern is that a broad range of alternatives be considered. Jeff answered that Willis, after the London trip, will consider a number of approaches. We are not in a strong negotiation position, but are open to multiple alternatives. Steve responded that he hoped Willis was being really creative. Chair Cummings stated that the London group of Willis is very impressive – they'll do everything they can to secure a policy that will work for us; he trusts what we will end up with. State Forester Decker said that there may be a deal-breaker out there, but that we need to explore all the options to ensure that we get a desirable outcome. If an insurance policy isn't possible, we need to be very transparent as to why we weren't able to secure one.

Mike Dykzeul asked what the agency plans to do differently this year to sell underwriters on our system. Nancy responded that 2014 did bring forward successes compared to 2013 and those successes will be highlighted, along with new technology on the horizon such as UAV's. The growth in the protection system over the last several decades is also being illustrated, as well as how in-kind resources and assets are utilized in the system.

Steve Cafferata pointed out how costly human-caused fires were this year. Nancy responded that ironically the overall number of human-caused fires was not above average; work will continue through KOG and department prevention efforts to minimize these costly, damaging fires. Overall fire conditions during the 2014 season were the primary factor in so many fires escaping initial attack. Pete suggested that analysis be done to determine what happened to allow fires to escape – what were the top two or three causal factors leading to large fires. What should we do to address these factors and reduce the risk of occurring? Nancy responded that districts are doing after-action reviews to determine how to improve the system. The agency is also looking at the base level of protection to determine if there are weaknesses. She feels that she has a pretty good idea what worked and what didn't, with an

eye to improving the system in the future. Pete said that portions of the WPA will be important in identifying opportunities and providing capital to make or pilot some of those efforts.

Nancy said that she had asked Tim and Colleen earlier to identify how many fires are contributing to large fire costs. The annual average has been approximately 30, but these last two years we have had 50-55 fires contributing to total suppression costs. Why were there 20+ more? That's the question that needs to be answered. Steve Cafferata asked if the USFS was also looking at the reasons for fires escaping initial attack. Nancy responded that they are an important suppression partner and that they also do this type of analysis.

Chair Cummings wrapped up, asking Tim Keith to work with Nancy Hirsch and set-up a one-day workshop for mid-February, and include EFCC members, key landowner partners (OSWA and OFIC) and stakeholders in the meeting. This ad hoc work session should help provide further direction. Chair Cummings pointed out that the fund in its current state can take on more financial obligations for one to three years with annual revenue over \$11 million. It is the long-term impact of structural changes that might be needed to support an insurance policy that is of concern. Chair Cummings then distributed a few copies of Jake Gibbs' input. He encouraged those in attendance to write down their thoughts and share them with the committee or provide them to Tim Keith who can distribute them to the committee and staff. State Forester Decker added that in the next 15 to 45 days, the task of securing insurance for Oregon is job #1 for him, Nancy and Paul Bell.

ITEM 7: SET DISTRICT DEDUCTIBLE RATES FOR 2015-16 FISCAL YEAR [*Decision Item*]

Tim Keith explained that each year the committee by administrative rule is required to set the upcoming fiscal year deductible rates. He recommended that if the committee wants to increase deductible rates, that they make this request well in advance to allow the department to place the increase in their biennial budget proposal. The committee unanimously approved district firefighting deductibles rates be kept at \$0.10/acre for timber lands and \$0.05/acre for grazing lands for fiscal year 2015-2016 (fire season 2015).

ITEM 8: EFCC ADMINISTRATOR REPORT [*Informational Item*]

Tim Keith noted that the strategic investment concept will be brought to the committee at their March meeting for deliberation and approval.

ITEM 9: PUBLIC COMMENT/GOOD OF THE ORDER

There being no further business before the committee, Chair Cummings adjourned the meeting at 11:45 a.m.

The next regular meeting of the committee will be held on Tuesday, March 03, 2015, at 10:00 a.m. in the Tillamook Room of the State Forester's Headquarters in Salem.