

DF Distribution

**MINUTES
EMERGENCY FIRE COST COMMITTEE
March 8, 2016**

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
Steve Cafferata
Pete Sikora
Lee Fledderjohann (Absent)

Others Present:

Tim Keith, EFCC Administrator
Doug Decker, State Forester
Nancy Hirsch, Deputy State Forester
Travis Medema, Area Director, Eastern Oregon Area
Ron Graham, Deputy Chief, Fire Protection Program
Karen Swearingen, Fire Operations Manager, Fire Protection Program
Mark Hubbard, Finance Director, Administrative Services
Bob Young, Prevention and Policy Manager, Fire Protection Program
Nick Yonker, Meteorology Manager, Fire Protection Program
Charlie Stone, Policy Analyst, Fire Protection Program
Tracy Guenther, Administrative Support, Fire Protection Program
Colleen Conlee, Emergency Fund Finance Coordinator
Seth Barnes, Oregon Forest & Industries Council
Todd Scharff, DAS Risk Management
Randy Hereford, Starker Forests

ITEM 1: CALL TO ORDER

Chair Cummings called the meeting to order at 10:04 a.m. Introductions were made around the table.

ITEM 2: APPROVAL OF THE MINUTES OF THE JANUARY 5, 2016 COMMITTEE MEETING [Decision Item]

The minutes of the January 05, 2016 meeting were approved unanimously by the committee after accepting suggested changes from Charlie Stone, the date on item 2 was incorrect and should have been September 08, 2015. Steve Cafferata also pointed out grammatical changes that he suggested. Steve also asked of the possibility of defining simulcast regarding that strategic investment option. Tim Keith reached out to the radio folks and was provided the following definition: 'simulcast is a spectrally efficient technology used to cover wide geographic areas with a limited number of channels. A person can talk to an entire district with one transmission. It's easy to use but technically demanding and moderately costly to implement. The committee approved the minutes with the anticipated changes to be emailed by Tim and approved by the committee. [Administrator Note: the committee approved changes to the minutes by email; the minutes were subsequently distributed to interested parties and posted on the committee's web page.]

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. For the purpose of this report, the current year's insurance premium was used as the estimated expense for the 2016-17 policy year.

<i>Balance as of FY16</i>	<i>\$ 21,307,368</i>
<i>Estimated revenue (including Balance)</i>	<i>\$ 33,468,834</i>
<i>Less estimated expenditures</i>	<i>\$ (13,873,572)</i>
<i>Projected Fund Ending Balance for FY16</i>	<i>\$ 19,595,262</i>

Colleen reported that the February Harvest Tax turnover was \$23,965 less than what had previously been estimated.

Revenue for two fire cost collection efforts occurring from the 2011 fire season have been finalized and included in this report:

- \$268,000 was collected for the Elephant Rock fire which occurred in Northeast Oregon; \$208,322 will be distributed to the fund and \$59,678 will be returned to the district.
- \$100,000 was collected for the Little Butte fire which occurred in Southwest Oregon district; all revenue was returned to the fund.

Tim handed out the Cost Recovery Revenue Distribution Report which Colleen developed at Steve Cafferata's request made during the committee's January meeting – it includes revenues received during the current fiscal year (2015-16). The report details how the revenues were distributed; if claims are not closed, the revenues are credited back to the district and will reduce the final claim from the district. He stated that they will continue to produce this report for committee members' review.

Chair Cummings asked why the Report showed expenditures in excess of the \$13.5 million cap. Colleen responded that there were previous fiscal years' costs included that were paid this fiscal year. Pete asked whether previous fiscal year costs could be displayed by fiscal year in order that directors could see how close the fund was to the cap. Tim Keith and Colleen agreed to modify the report to provide that detail.

ITEM 4: WEATHER UPDATE [*Informational Item*]

Nick began the briefing describing that a strong El Niño has been affecting the winter weather but this will rapidly shift to El Niño neutral or La Niña late in the fall or next winter. Usually, this type of pattern leads to a cold and wet winter with frequent low elevation snow for late 2016 to early 2017.

Nick compared snowpack, early January showed much above normal snowpack but that has transitioned to current conditions where much of the snowpack has melted and is now near normal or below normal in some areas. This is fairly common for an El Niño winter. Despite the retreating snowpack, a comparison shows current conditions much improved over the extremely below normal snowpack of last March. Continuing El Niño will likely lead to warmer than normal spring conditions with average rainfall, and likely lead to a quicker than normal snowmelt through May.

Nick compared drought conditions from last March to this March. The moderate to extreme drought has moderated with the increased moisture and snowpack this past winter. Going into the summer, temperatures are forecasted to be above normal again with no clear signal on rainfall amounts. Nick's research of the past 18 months revealed that it has been very warm with temperatures in most months above and a few much above normal; only four months experienced near normal temperatures, and no months significantly below normal temperatures.

The bottom line is that with the snowpack likely decreasing quicker than usual, and drought waning but remaining through the summer east of the Cascades, its likely Oregon will experience at least a normal fire season, but not likely a significantly above normal season as seen the past three fire seasons.

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

Tim Keith reported that Jeff Bonebrake, ODF Investigation and Cost Recovery Coordinator was unable to attend due to a family medical issue. He presented the committee with a brief overview and status update for on-going fire cost recovery cases, focusing on significant fire cost collections using information provided by Jeff.

Tim reported the most significant activity had been reported to the committee in January. Since then, there has been progress in some of the fire cost collection cases. North Cascade District's Niagara fire is awaiting results from the State Crime Lab on finger print results and potentially DNA testing. DFPA's Cable Crossing fire will be closed due to no responsible parties identified. A demand letter is being prepared on DFPA's Stouts fire, however the ability to pay is going to be a challenge; the homeowner does have a minor home policy. Central Oregon District's Jerry's Draw fire has no responsible party; Jeff believes it's doubtful one will be identified. West Oregon District's Willamina Creek fire has had some change; the sheriff's office has identified one or two people as potential responsible parties. This is a \$1.2 million fire without FEMA support. Central Oregon District's Cove fire is an interagency fire involving another state agency that is being invoiced for \$171,000. The Dry Gulch fire in Northeast Oregon was due to a rollover vehicle crash, with the driver possibly driving too fast for the conditions. It is in active investigation with forensic analysis and has a good chance for follow-up; we do not expect any significant dollars from the responsible party. The Krauss Lane fire in Southwest Oregon District was a FEMA fire despite its small size because of the number of houses that were threatened. A demand letter has been prepared and a settlement is expected. Astoria District's South Jetty fire is the responsibility of the Corps of Engineers; we will be invoicing them for the cost, although there is no guarantee of payment. The Whiskey Run fire in Coos FPA is being settled; we do not have a claim for CFPA, so the collection will be all district money.

Tim also noted that just yesterday Jeff, Tim Smith and he met with insurance adjusters in Portland regarding Central Oregon District's Lost Hubcap fire. Negotiations continue with the responsible party's counsel – details are not available for public dissemination at this point in time. Chair Cummings asked who ultimately makes the decision whether or not to settle. Tim responded that the Protection Division Chief – Doug Grafe – on behalf of the public's interest and he on behalf of the EFCC and the OLFPP make that decision. Chair Cummings agreed that in many situations a settlement is in everyone's best interest. Steve Cafferata noted that significant progress is continuing on a number of fire cases.

Chair Cummings asked if fire cost collections and returns to FEMA improve credibility with that agency for the work the agency does. Nancy Hirsch responded that their regional leadership probably appreciates the work but that there are bigger ticket items out there costing millions of dollars.

ITEM 6: 2016 FIRE SEASON INSURANCE POLICY [Decision Item]

Todd Scharff reported that the renewal visit to London was very productive. He noted that the discussions moved to talking about the future with underwriters, including possibilities such as multi-year policies. Oregon requested that the deductible be reduced from \$50 to \$45 million. The market responded strongly to the \$50 million retention and should be over-subscribed. The underwriters are reluctant to reduce the deductible to \$45 million yet after the back-to-back claims. They did respond with an 8% lower premium – down \$300,000. The premium will be \$3.45 million before taxes and fees. They did propose a second option to increase coverage from \$25 to \$30 million with a flat premium (\$3.75 million before taxes and fees). Todd noted that these are two really good options, and that he expects that the policy can be bound easily whichever option is selected. Willis is verifying term sheets currently, Jeff Friesen feels that we are in very good shape.

Steve Cafferata said that he read that the state of Washington has been directed by their legislature to obtain firefighting insurance. He asked what impact that might have on our policy. Todd responded that California is also possibly approaching the London market. He isn't sure what London would do with those inquiries; they are not as interested in those possibilities as they are with Oregon's policy. The personal visits have given them confidence in Oregon's protection program. Oregon's ability to respond to fires quickly and successfully is important to them. There are 10-15 syndicates that sign on to our policy. If the syndicates sign on all three states and there were claims down-the-road, there is risk that the syndicates could decide that these types of policies offer more risk than they're willing to take on. Some of these syndicates are being purchased by different international insurance programs who may have different underwriting philosophies. Our policy is unique since it isn't based on property – this could be a liability with newer underwriters. Chair Cummings concurred, noting that the cost-loss numbers in Washington and California are significant. Consequently they would have difficulty receiving the same kind of policy terms that Oregon enjoys.

Chair Cummings asked State Forester Decker if he had any words for the committee. State Forester Decker reiterated the interest in considering a multi-year policy structure in the future. Chair Cummings said that it will likely take three years with no claims before any changes would be seriously discussed. Todd said that he was struck by an underwriter in London that told him that they (the underwriters) really want to know if the policy has value for Oregon. That illustrates the partnership that has developed. Pete Sikora asked about the retention levels going forward – will it stay there or be open for adjustment? Chair Cummings responded that he believed that at least three positive years would be needed before those changes could be discussed. State Forester Decker noted that Oregon's willingness to assume a \$50 million retention bought the state respect and recognition from underwriters of the value Oregon places on the policy. Todd Scharff noted that the Sustainable Large Fire Funding Committee's work was of interest in London. Underwriters are impressed with Oregon's annual investment in the base fire protection program including severity investments.

The committee unanimously approved a recommendation that the State Forester purchase a \$25 million policy with a \$50 million retention. State Forester Decker noted that the recommendation has been received, and that he agrees with the committee's decision.

ITEM 7: PROGRESS OF DEVELOPING VIABLE WEATHER PARAMETRIC POLICY [Informational Item]

Todd Scharff provided an overview. The process started with an attempt to tie a weather index with a potential financial pay-out, known as a derivative or a weather parametric. The initial attempt was to link the pay-out to the US Drought Index. Would a pay-out be available for an affordable, reasonable premium? The initial indications are that yes, it would be available. A \$20 million pay-out would be available for a \$3.5 million annual premium. The challenge is agreeing upon what weather index should be used; underwriters are not comfortable using the US Drought Index. They suggested that Palmer Drought Index be used. We had concerns with using Palmer in Oregon. There are significant carriers interested in partnering with us. Swiss Re, one of the largest insurers in the world, suggested that a per acres burned trigger would be better than a weather trigger – it provides money when the need is there. Drought years do not always result in heavy firefighting costs and as such is not a perfect index. Swiss Re proposes

using satellite imagery to track those acres burned. That would probably not work, as many of those acres that burned and appeared on satellite images were those burning on other jurisdictions in Oregon – primarily the USFS or the BLM in eastern Oregon. They are open to working with us to determine a mutually acceptable method of determining acres burned. There are a number of questions to be answered: does this apply to all fires or just those over a size threshold, should there be an eastside and westside differentiation of acres burned, etc. A drought index could still be pursued but at a much lower pay-out, which would help fund additional severity resources in those challenging, dry years. There is a need to re-huddle and look at the acres-burned option, and to present what is developed to the other four markets. State Forester Decker added that if agreement for metrics can be reached, markets are willing to do business this year if we could find a way to pay for it. Chair Cummings agreed that an acreage metric works well – it could provide additional funding for that problematic fire that becomes very large but is in an isolated area and does not qualify for FEMA reimbursement. The prime example is the Big Windy Fire.

Travis Medema noted that there has been significant effort invested by markets to find the ‘silver bullet’ indicator. To date, they don’t have a good answer either. Todd concluded that a parametric might be a good method by which the \$30 million funding gap is at least partially filled. State Forester Decker asked where the analysis resides in developing the final framework for a parametric policy. Todd responded that they need to huddle up and determine what measurements that we would like to use. He noted that there is pressure to move quickly to develop this framework given Oregon’s possible interest in a policy this season. Pete Sikora noted that there are two different tracks: one is a severity approach, bringing modest additional funding to bear during a season, and the other is after the season concludes, assisting with paying the firefighting bills. Steve Cafferata asked about up-front drought indices, is it practical in June or July to purchase additional firefighting resources? Travis responded that it would allow us to roll additional financial resources into the severity program. Tim Keith noted that Dustin Gustaveson, who created the US Drought Monitor concept, suggested that May, June, July and August drought monitor milestones be used, with a 25% pay-out at each milestone. Tim agreed that it would be too late to secure helicopter contracts, but that there are call-when-needed resources still available that could be locked up. Todd concluded the discussion by noting that once again, we are the first in the world to try something like a weather or acres burned parametric.

ITEM 8: DETERMINE UNENCUMBERED BALANCE OF OFLPP AS OF FEBRUARY 16, 2016 [Decision Item]

Tim Keith handed out a one-page balance sheet projecting the balance of the OFLPP on February 16, 2016.

He stated that by statute, the committee is to certify the unencumbered balance of the fund on or before February 16 each year. The purpose for this is to determine whether the fund balance limits will be reached by fiscal year end, necessitating a reduction in revenue that the OFLPP collects. At a balance of \$22.5 million and less than \$30 million, revenue sources are reduced 50%. At a balance of \$30 million or more, revenue is completely shut-off for the succeeding fiscal/calendar year.

With the passage of HB 2050A, the OFLPP is limited to a \$13,500,000 expenditure ceiling in a fiscal year. Estimated costs for FY 2016 total \$13,500,000 (\$10,000,000 for suppression, \$3,000,000 for severity (without estimated FEMA reimbursements), \$410,000 for insurance, and \$90,000 for administration. Fiscal year 2016 severity costs will be paid in full. That does, however, limit the amount of money available for expenditure of an insurance policy premium to an estimated \$410,000 (last year’s OFLPP portion was \$1,916,408). It is important to recognize that any FEMA pre-placement reimbursement for severity resources will increase the amount available to pay toward the insurance premium.

\$10,000,000 has already been paid for 2013, 2014 and 2015 fire season costs through advances; final claims for those districts receiving advances will reflect those moneys already paid.

The committee unanimously approved the February 16, 2016 OFLPP unencumbered balance of \$17,475,235. This total reflects a February 12, 2016 balance of the fund of \$20,823,937, reduced by anticipated demands upon the fund due to unpaid emergency firefighting expenditures. The committee directed Tim Keith to notify the Oregon Department of Revenue as required to continue collecting harvest taxes in 2016 at the full OFLPP rate of 62.5 cents per MBF.

ITEM 9: EFCC AUTHORITY [Informational Item]

At Chair Cummings request to review statutes and rules that give the EFCC authority to provide oversight for the OFLPP, Charlie Stone handed out a seven-page document listing all statutes pertinent to the EFCC and the OFLPP. Charlie noted that at one of the recent Sustainable Fire Funding work group meetings, Roger Beyer referenced a discussion with Legislative Fiscal Office that called into question some of the authorities of the EFCC. Charlie had not had time to get to the bottom of the issues, but discussions Tim Keith had with Matt Stayner surfaced technicalities in the statutes around the continuous appropriation of OFLPP moneys to the EFCC. Charlie is quite confident that there is not anything of a serious nature calling in question the committee’s authority, but that staff and

the committee be alert to the possibility of changes in statutes that may be necessary in the future. Charlie then reviewed the highlighted language in 477.445, 477.460, and 477.755 (2). The latter contains the technicalities most likely referenced in LFO's interpretation of this section – the continuous appropriation of moneys. Finally, 477.770 gives the committee the authority to promulgate rules relating to the disposition of money from the OFLPF.

Charlie noted that there is history that may be pertinent. The EFCC used to be a committee made up of Board of Forestry members and did business in a fashion as a separate agency. The committee hired and paid its own administrator. That changed in 1985 when the EFCC budget was combined with the agency's budget for efficiency reasons. The administrator was paid by ODF and refunded by the OFLPF. He didn't see anything in that history that changed the authority of the EFCC, but cautioned that he is not an attorney and therefore was offering his conclusions based on his reading and interpretation of the law. Tim Keith stated that this issue was brought up in a discussion he had with Cathy Connolly and Matt Stayner. Matt stated that his comments were taken out of context; that it was just a technicality that he and his boss had discussed should be cleaned up because it could be a problem if someone challenged the flow of the money. We believe he was referring to Ken Rocco. Tim stated that they still need to circle back with Matt to understand fully what the potential problem is. Charlie pointed out that Ken Rocco had Matt's job back in the 1980's and shouldn't have any confusion about these authorities.

Chair Cummings thanked Charlie for his efforts and asked that the summary of statutes be made a part of the minutes of the meeting. He stated that if someone questioned what the committee was doing managing funds of the OFLPF, he would hope that they would approach the committee or its administrator and let them know those concerns. He is very concerned that this issue surfaced – there should be no lingering concerns. He asked State Forester Decker to pass on any concerns he might hear – to which State Forester Decker responded that he had heard no concerns whatsoever. Pete Sikora asked that Tim and Charlie close the loop with Matt as well as with Roger Beyer. Charlie did send an email to Matt expressing his interpretation of the statutes; he had not heard back yet.

ITEM 10: FIRE PROGRAM REVIEW UPDATE *[Informational Item]*

Deputy Chief Ron Graham reported on behalf of Doug Grafe who is away at a conference participating on a panel. He noted that a number of committee members and members of the audience are heavily involved in the review. Rather than go into too much detail, he will just hit the highlights of the work to date:

- The Sustainable Large Fire Funding work group has had three meetings to date where they have focused on insurance, OFLPF, General Fund and expenditure limits. They are looking at alternatives including creation of a Trust Fund to cover the \$30 million 'gap', and the parametric insurance option, to list a few. The work group is meeting next on April 8.
- The Sustainable Fire Organization work group has met twice to date, looking at greater effectiveness in the protection system as well as strategic investments. They are focused on five categories so far: 1) work force capacity (including the militia & industry resources), 2) equipment and technology (statewide camera detection system, an initial attack ready reserve concept, technology innovations such as vehicle location, etc. – these concepts were included in the strategic investments query this past winter), 3) training and readiness (coordinators, use of the OR National Guard as well as other agency personnel, etc.), 4) contracting (aviation resources, crews, engines, tenders, other personnel needs), and 5) prevention (public outreach opportunities and potential ties with the Wildfire Policy work group).
- The Wildfire Policy working group has had two meetings so far. They are looking at hazardous fuels, the wildland urban interface as well as the federal land interface, and prevention and regulated use policies to date.

Ron reported that the steering committee meets again on March 14 in Bend to consider the draft recommendations from the three working groups. The working groups continue to meet and work to finalize their respective recommendation. The Division will be providing this update to the Board of Forestry tomorrow, and will be seeking their approval of a revision to the Fire Program Review Charter which adds the third working group, the Wildfire Policy work group.

Pete Sikora pointed out the issues identified in the report regarding the federal land interface focus on fuels. He reminded the group that access to these lands is also a critical component in providing adequate fire protection.

ITEM 11: PROTECTION DIVISION REPORT

a. Strategic Investment Update *[Informational Item]*

Deputy Chief Ron Graham reported that the committee received a list of the projects submitted during the application phase. Those projects were submitted the day after the January EFCC meeting to the Headquarters'

Service Committee. They were pleased to see the list, despite the lack of funding. He reported that the timeline for applications will need to be modified to accommodate busy fire seasons. They will repeat the process this next year and come back to the committee, and that funding hopefully will be available. An internal committee has been formed to facilitate the process.

b. 2016 Severity Plan [Informational Item]

Karen Swearingen handed out a one page document that tracked the resources acquired for severity from 2012 through present. The only change from 2015 to 2016 is that one type 2 helicopter will be added to the mix. The majority of the helicopters were exclusive use contracts other than the additional money allocated to the Northwest Oregon Area to bring on call-when-needed helicopters when conditions warrant. There also was additional money allocated to all three areas to bolster capability in advance of anticipated critical fire weather. The budget is slightly higher than last year -- \$5.8 million; management of aerial resources was under-budgeted last year so that problem has been resolved. All of the SEAT contractors are coming back this year – five total.

Chair Cummings asked if not having a dedicated air tanker in Redmond was creating relationship concerns there. Travis Medema responded no, if the ODF air tanker reloads there, it simply gets in line with the federal air tankers. Karen pointed out that repairs were made recently in Redmond – dropping the one air tanker there helped with the construction. Travis stated that the state air tanker makes every effort to return to Medford at the end of a working day because its support organization including mechanics is located there.

c. FEMA Status [Informational Item].

Deputy Chief Ron Graham reported on behalf of Toni Chambers who is conducting training in the field. Outstanding revenue in 2013 fire claims is \$1,371,019; 2014 fires \$2,368,373; and 2015 fires \$15,717,091. We just received this week a notification of obligation from FEMA for \$364,093 (Pacifica fire – suppression), \$166,588 (Douglas Complex – pre-positioning), and \$18,253 (Brimstone Fire – pre-positioning). These claims had been submitted nearly a year ago. The Pacific Northwest FEMA region has been strapped with both floods and fires, but they are making more progress. The agency will be meeting with FEMA on April 22 for a pre-season meeting.

Charlie Stone asked if there has been any response from FEMA regarding cost recovery re-payments to them – are they accepting the amounts we are reimbursing them? Ron said that there has been no response yet. He said that they feel good with what was proposed, it's a common sense approach, but that final buy-in from FEMA is needed. Pete Sikora asked if the dollars received are what was expected? Ron said generally yes, but that \$50,000 was denied on Pacifica; this denial may be appealed. Steve Cafferata expressed concern regarding the slow process. Travis agreed, but pointed out that the agency was partly to blame – the heavy fire workload season upon season has slowed the processing of claims to FEMA. Travis Medema noted that improvements in processing FEMA claims has occurred, so there has been a positive outcome. Steve asked about cash flow to cover these fire costs before reimbursements from FEMA. Ron responded that the agency borrowed on a line of credit from the State Treasurer to cover the costs. Travis noted that the legislature has always positively responded to the need to cover the interest costs when borrowing has occurred. Charlie reminded the audience that when bills are delayed from federal agencies, there are no interest costs accruing on costs that have yet to be paid. Travis asked Ron to send a copy of the Emergency Board letter requesting reimbursement of these costs to EFCC members.

d. Division Update [Informational Item]

Deputy Chief Ron Graham gave a brief division update. They currently have three full-time vacancies in their fire finance section. Two will be filled soon, and recruiting is underway for the third. These vacancies have had an impact on fire finance processing. The agency's second airplane pilot, a limited duration employee, is nearing the limit of his work assignment. The division is working to make this position full-time because of the amount of work that needs to be done.

ITEM 12: EFCC ADMINISTRATOR REPORT [Informational Item]

Chair Cummings is being considered for re-appointment to the EFCC; the State Forester is making the recommendation to the Board of Forestry tomorrow that Ken Cummings be re-appointed for another four year term.

ITEM 13: PUBLIC COMMENT/ GOOD OF THE ORDER

There being no further business before the committee, Chair Cummings adjourned the meeting at 12:09 p.m.

The next regular meeting of the committee will be held on Tuesday, June 07, 2016, at 10:00 a.m. in the Santiam Room of the State Forester's Headquarters in Salem.