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EMERGENCY FIRE COST COMMITTEE SPECIAL MEETING June 28, 2018

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 (via conference line)
Steve Cafferata (via conference line)
Jake Gibbs (via conference line)

Others Present:

Tim Keith, EFCC Administrator
Chrystal Bader, Executive Support
Bill Herber, Chief, Administrative Services Division
Kristina McNitt, OF&IC (via conference line)
Kyle Williams, OF&IC (via conference line)
Mike Robison, District Manager, Coos Forest Protective Association (via conference line)
Doug Grafe, Chief, Fire Protection Division (via conference line)
Ron Graham, Deputy Chief, Fire Protection Division (via conference line)

ITEM 1: CALL TO ORDER

Chair Cummings called the special meeting to order at 7:02 AM. Introductions were made around the table and on the phone. Chair Cummings pointed out that Lee Fledderjohann had a family emergency and was unable to join today, however there still is a quorum present.

ITEM 2: FURTHER CONSIDERATION OF COOS FOREST PATROL ASSOCIATION REQUEST FOR REIMBURSEMENT OF EXTRAORDINARY DISTRICT COSTS ASSOCIATED WITH THE 2017 CHETCO BAR FIRE [*Decision Item*]

At the June 5, 2018 EFCC meeting, Mike Robison, District Manager, Coos Forest Protective Association (CFPA) presented a request to the EFCC for reimbursement of extraordinary costs to his district stemming from the Chetco Bar fire last summer. During the incident, CFPA provided additional district resources to aid the suppression effort on the west flank of the Chetco Bar fire; resources that were consequently unavailable for the district's traditional level of protection.

Tim Keith, working with CFPA staff, developed a detailed proposed eligible expenses sheet (handout); the net cost of these expenses was \$111,460.45, or \$55,075.87 after FEMA reimbursement. This proposal was discussed at the June EFCC meeting; the Committee determined that further discussion was needed, specifically with regard to the authority of the EFCC and their responsibility as caretakers of the Oregon Forest Land Protection Fund (OFLPF). Chair Cummings pointed out that there doesn't seem to be any specific language for extraordinary situations/circumstances. The Committee also agreed that there needs to be additional conversation with regard to potential future changes in the wording of the directive for extraordinary circumstances.

Tim reviewed the recommended criteria:

1. Pacific Northwest and National Preparedness Level (PL) are at Level 4 or greater
2. Suppression resources outside of the requesting district were not available
3. The fire and weather outlook is forecasted to be at critical levels
4. The District Forester/Manager must request special dispensation to the EFCC and be prepared to justify that request
5. A cost summary of the requested costs will be compiled and provided to the EFCC Administrator to be audited and certified [to the committee before their review]
6. Pursuant to the Wildfire Protection Act, it is recognized that funding large fire suppression costs in Oregon is a partnership between forest landowners who fund the OFLPF and the Legislature

Chair Cummings noted that if the committee approves the request, a motion for consideration should include language as follows: '...the EFCC feels this situation meets the criteria, however, this is not a guarantee of reimbursement and may be contingent upon Legislative review and approval...' Currently, because the \$10 million suppression cost limit on the OFLPF was reached during the 2017 fire season, this proposal will be 100% General Fund, and therefore the Legislature could still reject the request. In this case, there is nothing more the EFCC can do to assist.

Jake Gibbs asked how the math works out – it's not clear how the amount requested and the potential FEMA reimbursement were arrived at. Tim replied that some of the costs CFPA incurred were within the FEMA period and some were not. If they were within the FEMA period, CFPA would receive 75% reimbursement; if not, they won't receive any FEMA reimbursement. Jake asked that the additional math involved be explained.

Steve Cafferata asked Mike Robison what language in the directive gives the EFCC authority to do this. Mike referred to the language on page 29 of the Directive, section P. General Instructions where it states that 'any deviation or cost not appearing in the foregoing that the District Warden believes to be eligible for emergency funding requires a statement of justification submitted to the Administrator.' Tim agreed, pointing out that specific language is not in the directive; this section is generally used for expenditures on fires outside of 1/8 mile of a protection district where the fire poses a threat to the district. He said that this language does coincide with the statutory authority of the EFCC pursuant to ORS 477.445, which states that 'The committee shall supervise and control the distribution of funds from the [OFLPF] established under ORS 477.750.' Chair Cummings said that it would be helpful to add language to the Directive to clarify and illustrate the authority of the EFCC in provide supervision and control of funds from the OFLPF.

Steve Cafferata also asked what the district responsibility is when resources are unavailable, and where did the three-day standard for that situation come from? Tim responded that districts are expected to use available resources and engage in a fire for at least three days with their resources; beyond that it is reasonable to assume that a large fire should be staffed by additional resources, freeing district resources for new fires. For off-season fires, a district is held accountable for what they would have normally attacked a fire at a high Burning Index (BI); additional resources beyond that high BI response are generally eligible for emergency fire suppression fund reimbursement. Tim pointed out that the three-day standard is not in the directive or rule. Steve commented that this language should also be considered for inclusion in the Directive.

Jake Gibbs commented on the discretionary judgment issue, which is the case here. He noted some will be approved and some won't. The fact that our folks are doing the right thing also needs to be included. He stated that this process is not to be a "rubber stamp" kind of approval. Chair Cummings agreed, noting that this is becoming more of an issue (working outside of district boundaries) until something changes on the federal landscape.

Steve also asked why the PL 4 was selected as the first criteria, rather than PL 5 – specifically with regard to resources. Tim replied that at PL 4, resources are severely constrained and may not be available nationally. He said that if adequate resources are available, this sort of request should not be approved.

Tim read a comment submitted by Dave Lorenz, SOA Director – "for me fundamentally, it boils down to what would have happened if CFPA had not committed so many resources to the Chetco Bar fire? ... I'm convinced that the answer to that question would have been that we would have seen more acres burned and much higher large fire costs. Of course we won't ever be able to quantify what was saved by CFPA committing these resources."

Steve Cafferata asked Mike if he had adequate resources left available for initial attack (IA). Mike replied that they did, but that if a fire had escaped, they would have been in dire straits as the follow-up resources would not have been there. That drawdown plus the administrative work caused by illegal burning when the smoke was so heavy led CFPA to go to a Level 4 shut down for 9 days in a row.

Jake Gibbs called for the question. Chair Cummings summarized the edits that needed to be made to the issue paper and the Directive:

- First paragraph (FEMA reimbursement) – editorial comment to be added noting "some numbers aren't shown."
- Within the 'Authority' section: add in parentheses - (see section P, page 26 of the Directive) and include a high-level summary of what that language should say.
- In the 'Criteria' section, section 2: change language to '...suppression resources were not available nationally to meet incident needs ... fire weather outlook is forecasted to be critical.'

These edits would be made to the issue paper and subsequently made in the next update of the Eligibility Directive.

Jake asked to make friendly amendments; if a bullet could be added to the first paragraph (with regard to the math), striking '...less FEMA reimbursement.' Additionally, under 'Recommended Criteria', he suggested keeping the language consistent by adding the following language to the first bullet: "...suppression resources were not available regionally and nationally..."

Chair Cummings summarized that the recommended action of the committee is to approve the motion, with edits to the criteria, that Coos Forest Protective Association's request for reimbursement of costs meets the exception criteria contained in Directive 1-2-7-001 for eligibility, but that this action does not guarantee reimbursement.

Reimbursement will be contingent on the Oregon Department of Forestry working with the Legislature to garner approval to provide State funds back to CFPA.

All Committee members were in favor, none opposed – motion passed.

ITEM 3: PUBLIC COMMENT / GOOD OF THE ORDER

Kristina McNitt asked Chair Cummings what the timeline will be to move the proposed statutory language forward, asking what the timeline for approval through the Board of Forestry for the 2019 Legislative Session will be. She asked if OF&IC could help to carry this forward. Chair Cummings replied that the committee is editing the Directive with regard to the committee's authority. In the past, the committee has discussed changes with the agency and landowners; consistent with the EFCC's legal responsibility.

There being no further business before the committee, Chair Cummings adjourned the meeting at 7:32 AM. The next regular meeting of the committee will be held at 10:00 a.m. on September 4, 2018 in the Santiam Room of the State Forester's Headquarters in Salem. The EFCC will report back as to the status of this request at that time. Tim added that he will make edits to the issue paper for the committee's review and concurrence.