

EMERGENCY FIRE COST COMMITTEE

September 7, 2021

In accordance with the provisions of ORS 477.455, a meeting of the Emergency Fire Cost Committee (EFCC) was held via Zoom Video Conferencing on Tuesday, September 7, 2021.

Committee Members Present

Brennan Garrelts, Chair
Steve Cafferata
Chris Johnson

Others Present

Tim Keith, Interim EFCC Administrator
Lorna Hobbs, EFCC Finance Coordinator
Chrystal Bader, Executive Support, ODF
Shauna Morris, Administrative Support, ODF
James Short, Deputy Director for Administration, ODF
Doug Grafe, Chief of Fire Protection, ODF
Ron Graham, Deputy Chief, Operations, Fire Protection, ODF
Tim Holschbach, Deputy Chief, Policy & Planning, Fire Protection, ODF
Adam Meyer, Policy & Prevention Manager, ODF
Blake Ellis, Fire Operations Manager, ODF
Neal Miller, Fire Investigations, ODF
Mike Cafferata, Northwest Oregon District Forester, ODF
Joe Hessel, Northeast Oregon District Forester, ODF
Tyler McCarty, Southwest Oregon District Forester, ODF
Matt Thomas, Toledo Unit Forester, ODF
Mark Hubbard, Finance, ODF
Kathy Wells, Fire Finance, ODF
Adam Meyer, Policy Analyst, ODF
Nick Henneman, Public Affairs, ODF
Todd Scharff, DAS Risk Management
Lindsay Cunningham, Willis Towers Watson
Renee Klein, DAS CFO
Matt Stayner, LFO
Kyle Williams, Director of Forest Protection, Oregon Forests & Industries Council (OFIC)
Cindy Robert, Hancock Forest Management
Betsy Earls, Weyerhaeuser
Randy Hereford, Starker Forests
Kylie Grunow, Meriwether
Mike Dykzeul, Retired
Erik Lease, Weyerhaeuser

ITEM 1: CALL TO ORDER

Chair Garrelts called the meeting to order at 10:04 a.m. on Tuesday, September 7, 2021. All Committee members were present via Zoom video conference and there was a quorum.

Chair Garrelts took a moment to recognize the one-year anniversary of the 2020 Labor Day fires.

ITEM 2: APPROVAL OF THE MINUTES OF THE JUNE 8, 2021 EFCC MEETING *[Decision Item]*

No comments were made by committee members or attendees on the June 8, 2021 Emergency Fire Cost Committee meeting minutes. A motion for approval was made by Chris Johnson and seconded by Steve Cafferata. The minutes of the Emergency Fire Cost Committee June 8, 2021 meeting were unanimously approved.

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

The committee reviewed the financial status of the Oregon Forest Land Protection Fund (OFLPF) for FY22.

The beginning balance of the fund on July 1, 2021 was **\$13,362,556**.

On the report under Estimated Revenue/Transfers In:

- Item #1: Estimated total assessments for FY22 are based on 2021 direct bill and county receivables, totaling \$8,910,202. These amounts will be adjusted in November when acreage numbers are updated.
- Item #2: Harvest Tax revenues are estimated at \$2,266,825. This is an increase from last year's estimate of \$1.8M.
- Item #3: Estimated interest earned for FY22 is \$54,725. The earnings interest rate has steadily gone down since the beginning of FY 21 – from 1% in July 2020 to the current rate of 0.55%.
- Item #4: Estimated adjustment for overpayment of FY21 operating expenses at \$6,400.

The estimated total for Estimated Revenues/Transfers In is **\$11,238,153**.

On the report under Expenditures/Transfers Out:

- Item #1: FY22 Payroll and Operating Expenses are estimated at \$185,000.
- Item #2: The Oregon Forest Land Protection Fund's contribution to the insurance premium for fire season 2021 will be \$318,000. The Department of Administrative Services has paid the premiums; however, the Oregon Department of Forestry is waiting for budget appropriation to reimburse DAS for the payments.
- Item #3: The Fund's contribution to the insurance premium for fire season 2022 is estimated at \$315,000.
- Item #4: Severity costs for fire season 2021 are estimated at \$3 million. Current severity costs are at \$6,481,088. Three-fifths is almost \$3.9 million – over the cap of \$3 million.

Total estimated Expenditures/Transfers Out for FY21 to date is **\$8,776,529**

For the 2021 fire season draft claims, the net amount for FY22 claims is currently estimated at \$46.18 million. Emergency fire claim advances are estimated at the \$10 million cap.

Total estimated Expenditures/Transfers Out, including expenditures not yet made for the previous fiscal year total **\$13,818,000**.

Estimated Fund Balance for June 30, 2022 is \$10,782,709.

Steve asked about borrowing money from the Treasury and changing the taxes to reimburse the full amount next fire season. Tim Keith confirmed this process but noted there are another 4 to 5 years before we are in that condition.

Brennan commented that it would be worthwhile to see when that time would be, recognizing past seasons; it would be good to look at the long-term viability of the fund. Tim added that there will be revenues returning to the fund via large fire cost collection, but a majority will go back to the General Fund. Tim will work on the projection for the next meeting.

Lorna said Tina Meyer started working on some forecasting before she left, and she and Tim can pick up that work.

ITEM 4: PREVIOUS FISCAL CLAIMS UPDATE [Information Item]

For fire season 2015 of the 8 claims, 4 have been finalized/closed and 4 claims are pending. Three of those pending claims are waiting for FEMA reimbursement and one is waiting for an invoice from the Forest Service.

For fire season 2016 of the 7 claims that year, 5 have been finalized/closed; 1 claim is ready to finalize (Western Lane) and 1 is waiting for FEMA reimbursement (SWO).

For fire season 2017 of the 10 claims, 3 have been finalized/closed. The others have outstanding costs remaining or are waiting for responsible party or FEMA reimbursement.

For fire season 2018, there were 8 claims; 2 have been finalized/closed and 1 is ready to finalize. One of the pending claims is waiting for FEMA reimbursement and has some outstanding costs to pay. The remaining claims have outstanding costs left to pay or are waiting for reimbursement of some kind.

For fire season 2019, there were only 4 claims in 2019, all of which are still pending. One is waiting for FEMA reimbursement and the others have outstanding costs.

For fire season 2020, there are 11 claims, all of which are still open pending outstanding costs and reimbursements or recoveries.

Steve asked how much is still outstanding from FEMA (estimated remaining amount to be collected). Lorna responded that for all years, there is around \$7M that will be directly reimbursed for costs paid by the OFLPF.

ITEM 5: WEATHER UPDATE [Information Item]

Ron Graham provided the weather update for September 7, 2021 noting that the drought continues to build across the state. The significant fire potential outlook is a little relief to the far corner of southeast Oregon. The 8 to 14 day outlooks are showing slightly below normal temperatures in northwest Oregon, with other parts of the state at normal levels. The precipitation outlook shows an increased chance of above normal precipitation for most of the state. There is a slight chance of thunderstorms with possible lightning in northwest Oregon with breezy winds this week into the weekend. Eastern Oregon will have a chance of thunderstorms later in the

week. Temperatures will be cooling to normal or below normal later in the week. There is a fire weather watch in Central Oregon District (COD) today and a red flag warning in south-central Oregon. There will be a higher significant fire potential along the southern Oregon coast and more in the Klamath area later in the week.

ITEM 6: UPDATE ON STATUS OF LARGE FIRE COST COLLECTION EFFORTS [Information Item]

Neil Miller provided an overview of the status of the Large Fire Cost Collection efforts. He noted that there are eight significant fires being investigated from the 2021 fire season, as well as work ongoing on 2020 fires, particularly the Labor Day fires. He highlighted some of the changes including North Applegate Rd 9244, Haystack, Union Gap, and Carpenterville Road. For the ongoing list of payments status, a few still need to be reviewed and updated. Those under \$10k will be pursued via small claims in local courts.

For closed claims, Neil highlighted School Craft, which settled for 50%. Regarding the Squally Point fire, ODF asked the responsible party for insurance documents to support the lack of negligence claims but noted it will not be cost-effective to continue to seek reimbursement. For the Hwy 20, MP 30 fire, ODF received full reimbursement; and for Rattle Tank, assets were nonexistent and the case subsequently closed.

Jeff Bonebrake is continuing to work with ODF on contract through December 2021, and potentially longer on some of the major fires that he was working on when he retired.

For investigations in progress, some are getting closer to being closed but most still have negotiations and documents to be acquired by ODF and Department of Justice (DOJ). Brennan asked how resources are being prioritized to clear up some of the older outstanding fires. Neil replied that Jeff Bonebrake is still working on those. Neil is prioritizing by costs for the time being. He is trying to get every fire cost collected as expeditiously as possible.

Steve asked if power companies are resisting investigation of the 2020 Labor Day Fires. Neil replied that good discussions are occurring with power companies but many of the documents they have provided are lengthy and reviewing them is taking a lot of time. However, the Hwy 20 MP 30 fire which is listed as paid was a utility-caused fire.

Steve also asked about long-term cost recovery – fires dating back as far as 2001. Neil replied that many of the older fires' responsible parties have been making payments. Where payments are not being made, some have statutes of limitations and are unavailable for collection; others may involve juveniles, and in some cases the suspected responsible parties have pleaded the Fifth Amendment. These are some of the fire cost cases that are being re-examined to ensure that cost collection efforts are still ongoing or if not, should the case(s) be closed.

ITEM 7: INSURANCE POLICY UPDATE – NEXT STEPS [Information Item]

Todd Scharff and Lindsay Cunningham (via phone) provided a brief overview noting two main updates to the insurance policy - current year policy and policy renewal.

For the current fire season, ultimate net costs rose quickly and flattened out at \$50M. When costs started escalating, they started conversations with underwriters to keep them updated on the status of a potential claim. Costs have recently exceeded the \$50M retention threshold and with the help of Willis Towers Watson, a claim has been made with the underwriters involved in the policy. At this point in time, net costs (large fires, after cost share agreements and anticipated FEMA reimbursements) are \$58M. Underwriters have assigned claim adjustment to Crawford – Trevor Arnold will be the lead adjuster; and Baker Tilly (forensic accountants) – Katharyn Thompson will be the lead accountant. Trevor mentored with David Logan, the previous adjuster that worked the 2013 and 2014 fire season claims. Tim Keith and other ODF folks who are knowledgeable about prior year claims are also involved and a meeting has been scheduled with ODF, EFCC, DAS Risk and Crawford for September 14. Timing on the final numbers will determine when auditing can start. Investments (detection, infrared) made played a large role in keeping costs at \$58M this year.

There will be a need to look at adjusting the overall program. Long term partnerships will adjust things for us – how do we present to them is key - always reminding underwriters that they do not insure land, economic loss, structures, but instead insure firefighting net expenses. Todd expects to receive terms, but it will be a strategic process with a market approach.

ITEM 8: AGENCY / FIRE DIVISION REPORT [Information Items / Possible Decision]

- **State Forester / Board of Forestry Update**

Acting State Forester Nancy Hirsch thanked the Committee for their work and provided an update on the outcome of the Legislative Session, noting that ODF received the largest overall investment in their budget to date – 26% increase overall; with 189 positions added, some of which will be seasonal. While there is new money and new personnel, ODF will not be able to hit the ground running. It will take some time to fill all those positions and access the funds allocated to the agency by the Legislature. She looks forward to continuing to build capacity to provide a better, more sustainable future. Nancy then discussed the budget summary for the 21-23 biennium and offered a handout if the committee had not yet received one. Regarding the Board of Forestry, they have been operating as a Board of six members – one short – however, last week the Governor announced the appointment of a seventh Board member, Liz Agpaoa. Liz's background includes a career with the US Forest Service. Confirmation of her appointment will occur during the upcoming September Legislative Days on September 22. Nancy also provided an update on the continuing recruitment for the next State Forester. The recruitment closes September 15 and then the Board of Forestry will be going through the normal process of scoring, interviewing, etc.

After that process, there will be an employee panel and a stakeholder forum with a final selection to be made towards the end of October.

- **Ongoing Fire Policy Updates**

Doug Grafe provided more specific details on the significant investments in the fire protection system. This involves the policy section which has been as busy as the operations section. There is a fundamental change of priorities to advance policies necessary to mitigate the catastrophic risk of wildfire. Tim Holschbach's current workload has revolved around the required implementation of three rules advisory committees (RAC). The first committee is defining and mapping the Wildland Urban Interface (WUI). ODF was given a 100-day timeline and the agency is currently on pace to meet the timeline in partnership with the Board of Forestry and under the guidance of the RAC. The second RAC is risk classification, which is also currently underway. The two RACs will come together within a year to ensure the state has clear intent in law to have a completed wildfire risk map and identification of wildfire risk. The third RAC is the prescribed fire program. This RAC will be supported by additional capacity received in the budget to advance and promote prescribed fire across boundaries to mitigate the risk of catastrophic wildfire. All three RACs are under the authority of the BOF to adopt administrative rules enabled by the passage of SB 762 in the last Legislative session. Beyond the three RACs, additional capacity has been added to the severity program and firefighting response. ODF's aviation capacity doubled with an additional \$5M investment that added a large next-generation air tanker – this air tanker was used heavily this fire season. Also added was fire line leadership and seasonal firefighters. A key investment was an offset of \$15M to subsidize rates for landowners. Implementation of this will occur as budgets are developed in January 2022. Another key investment was made in the establishment of a statewide baseline protection standard for ODF and the Oregon State Fire Marshal (OSFM). The department also received three additional positions to assist rangeland protection associations to expand protection into wheat country. Currently, there are gaps in these under-protected lands. The final program investment is advancing ODF's detection camera system with a target of 30 additional sites. This \$2.5M investment will get half of those detection camera sites set up in year one and will take the entire biennium to complete.

- **Fire Season Update**

Ron Graham provided a PowerPoint presentation on the 2021 fire season noting that the region has been at a Preparedness Level (PL) 5 (highest) for 56 days, which exceeds the 2017 fire season record. For much of the season, the Pacific northwest geographic area had hundreds of UTF resource orders (unable to fill). However, the region is starting to see some relief but there are still five large active incidents in Oregon and Washington. The department had good cooperation with the Oregon Department of Transportation. This resulted in visual reader signs warning of extreme fire danger. ODF also partnered with Keep Oregon Green (KOG), PNWCG (Pacific Northwest Coordination Group), and OSFM to utilize every way possible to ask the public to be cautious. ODF incident management teams (IMT's) deployed 7 times for a total of 92 days. All teams are home now and resting, awaiting future deployments. Currently, there are no large incidents on the landscape with ODF-protection. This fire season, there were 11 positive COVID cases on incidents where ODF IMT's were deployed and engaged. This is an excellent record given the increased risk of COVID exposure. Ron highlighted the success story of the new Fire Boss single engine airtankers provided from the E-Board funding; they were stationed in The Dalles. This fire season, ODF kept 94% of all fires at 10 acres or less; over 193,000 acres burned on ODF-protection. The 10-year average to date is 73,000 acres burned. This year, ODF is above the 10-year average for number of fires and 1.4 times the number of human-caused fires.

Steve Cafferata asked, looking ahead, how Ron feels about the potential of USFS fires on the landscape burning onto private lands if an east wind event were to occur. Ron replied that ODF is heavily engaged with all parties and the federal teams welcome the assistance and coordination. He noted that if there is an east wind event like last year, all bets are off. However, that is not expected this year.

ITEM 9: EFCC ADMINISTRATOR REPORT [Information Item]

Tim Keith provided the EFCC Administrator report, noting successful fire stops on several districts and highlighted Coos Forest Protective Association and Southwest Oregon recent fire stops. He reported that fire line repair on the Bootleg fire will be commencing soon. Finally, he noted that Douglas Forest Protective Association will not be incurring any additional large fire costs on the Devil's Knob complex other than their own staff as the threat to private land is nearly eliminated. They were successful in keeping fire costs low on that complex.

Tim reported that tomorrow's Board of Forestry meeting will include a consent agenda item for the appointment of Erik Lease to replace Ken Cummings on the EFCC. Erik is the Director of Silviculture and Regeneration with Weyerhaeuser. He has been there since 2012. Erik is enthusiastic about joining the committee and brings several strengths to the Committee.

ITEM 10: PUBLIC COMMENT / GOOD OF THE ORDER

Chris Johnson offered a heartfelt thanks to ODF and forest protective associations given the severity of the 2021 fire season. Steve Cafferata echoed Chris' comments and said he hoped for rain soon.

There being no further business before the committee, Chair Garrelts adjourned the meeting at 11:40 a.m. The next regular meeting of the committee will be held at **10:00 a.m.** on **Tuesday, January 4, 2022** either via Zoom Video Conferencing or in-person at ODF Headquarters in Salem, Oregon.

Minutes drafted by: Chrystal Bader
Minutes reviewed by: Tim Keith and Steve Cafferata