

## EMERGENCY FIRE COST COMMITTEE

March 8, 2022

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, March 8, 2022.

### Committee Members Present

Brennan Garrelts, Chair  
Steve Cafferata  
Chris Johnson  
Erik Lease

### Others Present

Nancy Hirsch, EFCC Administrator  
Lorna Hobbs, EFCC Finance Coordinator  
Tim Keith, EFCC 2021 Fire Season Auditor  
Chrystal Bader, Executive Support, ODF  
Shauna Morris, Administrative Support, ODF  
Esmeralda Boies, State Forester's Executive Assistant  
Cal Mukumoto, State Forester  
Kyle Abraham, Deputy State Forester  
Bill Herber, Deputy Director for Administration, ODF  
Mike Shaw, Interim Chief of Fire Protection, ODF  
Ron Graham, Deputy Chief, Operations, Fire Protection, ODF  
Adam Meyer, Interim Policy & Prevention Manager, ODF  
Neil Miller, Fire Investigations, ODF  
Neal Laugle, Aviation Manager, ODF  
Amanda Rau, Prescribed Fire Coordinator, ODF  
Josie Koehne, League of Women Voters  
Kathy Wells, Fire Finance, ODF  
Tanya Halsey, Fire Cost Recovery, ODF  
Stacy Miller, Fire Finance, ODF  
Brian Pew, Eastern Oregon Area Director, ODF  
Matt Howard, Northeast Oregon District Forester, ODF  
Matt Stayner, Legislative Fiscal Office  
Renee Klein, DAS Chief Financial Officer  
Michael Curran, West Oregon District Forester, ODF  
Ed Wallmark, Acting Tillamook District Forester, ODF  
Ole Buch, Western Lane District Forester, ODF  
Carrie Boss, Central Oregon District Business Manager, ODF  
Peggy Lynch, League of Women Voters  
Randy Bailey, Unit Forester, Klamath-Lake District, ODF  
Sherry Rose, Fire Finance, ODF  
Levi Hopkins, Prevention & Policy Manager, Fire Protection, ODF  
Todd Scharff, DAS Risk Management  
Lindsay Cunningham, Willis Towers Watson  
Lee Lockrem, Willis Towers Watson  
Gail Halee, Willis Towers Watson  
Cindy Robert, MANU  
Drenda Howatt, Association of Oregon Loggers  
Jamie Paul, Assistant to the Eastern Oregon Area Director, ODF  
John Westall, Oregon State University  
John Blankfort, The Source Weekly, Bend

### **ITEM 1: CALL TO ORDER, CHAIR COMMENTS AND INTRODUCTIONS**

Chair Garrelts called the meeting to order at 10:01 a.m. on Tuesday, March 8, 2022. All Committee members were present via Zoom video conference and there was a quorum. Brennan provided the meeting logistics noting this will hopefully be the last all-virtual meeting. He added that the meeting materials will be available on the external website after the conclusion of today's meeting.

Brennan then provided an update on the status of the Emergency Fire Funding Task Force, which has met twice already with another three meetings scheduled. The purpose of this task force is to determine ways to build a more robust financial system to address gross fire suppression costs and help the Oregon Department of Forestry (ODF) manage some of their cash flow issues as fire seasons continue to be more costly. There is no signed Non-Disclosure Agreement as all task force members concur that confidentiality and trust is critical among the group. Brennan has appreciated the honest and candid discussions and is optimistic that the task force will produce a proposal to move to the Board of Forestry (BOF) for approval and then on to the Legislature.

### **ITEM 2: APPROVAL OF THE MINUTES OF THE January 4, 2021 EFCC MEETING [Decision Item]**

No comments were made by committee members or attendees on the January 4, 2021 EFCC meeting minutes. A motion for approval was made by Erik Lease and seconded by Chris Johnson. The minutes of the Emergency Fire Cost Committee January 4, 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 through January 31, 2022. The beginning balance of the fund on July 1, 2021 was **\$13,362,556**.

On the report under Revenue and Transfers In:

- **Item #1:** Total amount of assessment revenue received to date is \$8,800,855.
- **Item #2:** Harvest Tax revenues received to date remain at \$1,327,857. Harvest tax revenues received in February will be reflected in the next report in June.
- **Item #3:** Interest earned to date is \$20,316 with an estimated total of \$38,109 at the end of the fiscal year.
- **Item #4:** Estimated adjustment for overpayment of FY21 operating expenses is at \$6,400.

The estimated total revenue to date is **\$10,149,028** and the estimated year-end total is at **\$11,346,817**.

On the report under Expenditures/Transfers Out:

- **Item #1:** Estimated FY22 Payroll and Operating Expenses remain at \$185,000.
- **Item #2:** \$318,000 was spent for the EFCC's portion of the payment to the Department of Administrative Services for the insurance premium for this past fire season.
- **Item #3:** The Fund's contribution to the insurance premium for fire season 2022 is still estimated at \$315,000.
- **Item #4:** \$3M was transferred from the Fund to contribute to severity for the 2021 fire season.

For the 2021 fire season draft claims, the net total for FY22 claims is still estimated at \$57.2M. A \$10M advance was made to the Douglas Forest Protective Association (DFPA) to help cover fire payments.

Total estimated Expenditures and Transfers Out remain at **\$13,818,000**.

**The current balance of the Oregon Forestland Protection Fund as of January 31, 2022 is estimated at \$9,693,585.**

**The estimated fund balance for June 30, 2022 is \$10,891,373. This is a decrease of a little over \$500K since the last report in January.**

### **ITEM 4: INSURANCE POLICY FOR 2022 FIRE SEASON [Decision Item]**

Todd Scharff with DAS Risk Management provided an update on the insurance policy renewal status for the 2022 fire season. He noted that the new team of Mike Shaw, Cal Mukumoto, and Brennan Garrelts did a remarkable job representing ODF, landowners, and the state in their meetings with Lloyd's of London underwriters on the heels of an estimated \$19M claim for the 2021 fire season. Todd reminded the committee of the challenges they faced going into this renewal – the property insurance market is up 25% and there is pressure on underwriters to make a profit. There is also the upward trend on the net costs of firefighting in Oregon.

Lindsay Cunningham and Lee Lockrem with Willis Towers Watson provided a PowerPoint presentation update on the current numbers. Both Lindsay and Lee agreed with Todd regarding the phenomenal job presenting to the Lloyd's underwriters. Key takeaways from the presentation include a deductible increase to \$75M, a reduction in the premium from last year (from \$4M to \$3.9M), and no reduction in participation. Approximately 90% (\$5M) of the program has been put together with another \$20M still needing to be procured/secured. Lee noted the London team is working hard to meet with syndicates to get authorization and she will begin to receive daily updates within the next few weeks. The hope is that there is no change in the terms and 100% investment at the \$3.9M premium. Underwriters have reached out to the US and Bermuda markets; Acceptance initially said they would not renew but are now reconsidering.

Lee continued by showing the history of the policy, highlighting the issue with this product – it is in the “red.” From 1973 to 2021, the premium total was \$71.6M with a claim loss of \$121.5M. From 2001 to 2021, Lloyd's paid \$2.12 for every dollar collected; that is what is driving up the retention. Derek Hansen is a huge advocate of this product and wants to make it work, but the only way he can see to do that is to increase the retention. Lee will keep everyone posted as frequently as possible. There are more calls scheduled for this afternoon to look at the Bermuda and U.S. retail markets. Todd asked if there were any questions, concerns, or thoughts from the committee or ODF.

Chair Garrelts mentioned his only concern was the timeline of approving a policy. He recognizes that Canopus is offering a proposal that will facilitate a renewal of the policy but he also understands it is not set in stone. Lindsay added that there is a huge sense of urgency and priority regarding balancing complexity of the policy with the underwriter's timeline. She recommended constant communication among stakeholders on how the process is going and noted that it would make sense to set the expectations now and discuss any major changes later. Lee Lockrem noted that the date of March 21 was the original target for a final offer but that is not likely now. The 7.5% capacity gap finding new markets will be the challenge; it might get down to the wire – hopefully the first week of April.

Chair Garrelts asked State Forester Mukumoto for his thoughts on the April 1 date and whether it was a reasonable timeline for him. Cal said yes, that will work but agreed it is tight and that he will need to discuss with stakeholders and Legislative leadership. Cal and Brennan will meet to discuss a communication and outreach plan.

Nancy Hirsch added that having a drop-dead date from DAS will help with the planning timeline. Todd replied that coverage binding is a straightforward process and can be done close to April 15, however, he has concerns keeping stakeholders updated. Lee's concern is with

capacity. If some syndicates come back and decide not to invest, it will drive the premium up. She noted that it is not likely that there will be a change in the \$75M retention. She agreed with reaching out to stakeholders now.

Chair Garrelts then asked about a lapse in coverage if there were a delay due to challenges beyond our control. Todd replied that there is a risk of a gap in coverage. If there were to be a fire on April 16<sup>th</sup>, it would not be covered under the policy if it is not renewed by April 15. Lee recommended binding coverage where it is at on April 15<sup>th</sup> and then continue to complete the process. She added that there are options as the renewal date gets closer.

Chair Garrelts thanked Lee, Lindsay, and Todd for their time providing this update. For the committee members, he noted that typically, the committee would make a recommendation on the policy at this meeting, but he believes that may be premature and suggested waiting for Lee to firm up the policy and terms so there is better understanding of the premium and deductible. Chair Garrelts offered to call a special meeting to address this item, hopefully after the first of April.

Steve Cafferata asked if there were likely to be anything more coming from the Emergency Fire Funding Task Force given that it is looking to be another expensive fire season without any financial protection. Chair Garrelts responded by explaining that the net fire costs to the state, insurance, and the task force are all linked, and outside of this insurance policy, there are no other solid options to protect landowners and the state General Fund. Steve then asked about the return on investment to which Chair Garrelts replied that the insurance discussion has been part of the task force but is not a part of the major equation/solution, which is still being built.

#### **ITEM 5: WEATHER UPDATE** *[Information Item]*

Ron Graham provided the weather update and brief fire season outlook via PowerPoint slide graphics. He highlighted that as of March 1, 2022, there is no improvement in drought across the state. Currently, over 90% of the state is in the range of moderate to exceptional drought. Much of the area of the Cascades is still in extreme and even exceptional drought. Nationally, much of the western U.S. remains in drought. The snow-water equivalent is at 82%. Ron noted that he would like to see everything at 100% or above (snowpack and snow/water equivalent).

Looking ahead at temperatures, they are projected to be below normal for March with precipitation remaining above average. Over the next three months, Ron reported that much of the east/southeast will see normal precipitation and normal temperatures. As far as fires so far this year, there have been a normal number of occurrences; ODF runs fires every calendar month of the year – typically human-caused fires outside of fire season. Ron mentioned that districts are reporting very dry fuels but do not see any fire management issues currently. ODF will continue to monitor fuels and drought conditions in the field. The full focus of the division is on fire season preparedness and readiness.

#### **ITEM 6: UPDATE ON ANY CHANGES TO LARGE FIRE COST COLLECTION EFFORTS** *[Information Item]*

Neil Miller provided an update on changes to large fire cost collection efforts noting the full report will be available online following this meeting. He highlighted some key updates since the last EFCC meeting in January. Of the 50 fires listed on the claim status chart, the Southwest Oregon District (SWO) Swede Cabin fire (2021) has been added with a demand cost amount of \$17,944.38. Of that amount, ODF has acquired \$1,668.02 in payment plans.

Looking at the closed fires, ODF settled Douglas Forest Protective Assn's (DFPA) 2015 Stout's Creek fire for insurance policy limits as the responsible party had limited assets. Also settled was the North Cascade District (NCAS) 2019 Santiam Park fire for insurance policy limits. The 2014 Fern Ridge fire in NCAS was also closed.

Fires that the agency has been paid in full on include the West Oregon District (WO) Horton fire and the SWO Water Gulch fire. The WO Harlen Road fire was closed with no assets available.

For the significant fire investigations in progress, the DPFA Marshall Place fire is being finalized for \$300K. Neil expects a case review from the district soon to pursue statutory costs to the responsible party. The investigation for the Central Oregon District (COD) Bull Springs fire was recently finalized for \$84K and removed from the list. The costs are being certified with the district. This should be listed at the next EFCC meeting as a new cost claim demand. The COD Mosier Creek fire at \$4.5M has dropped off the list as the investigation was recently completed and no responsible party was identified. The 2020 Labor Day fires are all still being actively investigated with the help of numerous Dept. of Justice attorneys, investigators, and expert witnesses. The Klamath-Lake District (K-L) Watson Creek fire will be mediated in June. This fire affects USFS, private ownerships, and ODF. If successful, Neil expects only to receive a pro-rata share of the \$3.3M ODF had in suppression costs.

Steve Cafferata asked why the South Cascade District (SCAS) Holiday Farm fire is not listed. Neil replied that ODF does not have any part of the investigation. He asked the U.S. Attorney's office for their investigation but has not been able to get that yet. He added that he has not lost sight of it but is still working through processes.

#### **ITEM 7: DETERMINE UNENCUMBERED BALANCE OF THE OFLPF AS OF FEBRUARY 16, 2022** *[Decision Item]*

Nancy Hirsch provided the report on the OFLPF Unencumbered Balance as of February 16, 2022, noting the document is included in the meeting materials packet which was previously provided to the committee members. Pursuant to statutes and administrative rules, the EFCC approves the balance of the Fund on February 16. Nancy highlighted the cash balance of the Fund as of that date is \$9,551,014.40, which reflects a reduction of \$89,739 in administrative expenses projected through February 16 but not yet paid. Nancy noted that no other

adjustments were necessary, which results in an unencumbered balance of \$9,461,275.40, which is well below the \$22.5M reserve base. Consequently, OFLPP assessments will continue for the coming fiscal/calendar year pursuant to statutes. Nancy recommended that the committee certify the unencumbered balance.

Steve Cafferata asked about the \$142K spent since the earlier financial report, specifically what the difference is between the OFLPP balance versus this report. Nancy responded that the beginning balance dates are different, and the unencumbered report is a snapshot of the ODF cash balance, specifically on February 16<sup>th</sup>. Lorna Hobbs noted that her report considers the operating expenses whereas the unencumbered report only shows the estimation through February 16, 2022. Lorna's report is for the entire fiscal year.

Steve Cafferata then made a motion to certify the unencumbered balance of the Oregon Forestland Protection Fund as of February 16, 2022. Chris Johnson seconded the motion. All were in favor and none were opposed, and the motion was unanimously approved. Nancy noted she will take a closer look at the report for the record, but either way, given the discrepancies, the certification will have full merit.

#### **ITEM 8: SEVERITY RESOURCE PLAN & BUDGET** *[Information Item]*

Neal Laugle, State Aviation Manager for ODF, presented the initial severity resource plan for the 2022 fire season highlighting the renewal of all exclusive use contracts. Additionally, all vendors are returning from last year. He displayed the current aviation map which has been updated with the two new Fire Bosses in The Dalles.

Regarding the severity budget, there has been a 7.7% increase in the consumer price index since last year, which has caused a huge hit on vendors in the renewal process. Neal described that severity contracts are based on a CPI adjustment (see spreadsheet) and now have started to move towards a fixed percentage annual rate of 2% for contracts. He estimates a 4% increase to the contracts not tied to CPI and expects contractors will come back above that. Neal noted there has been close to a \$500K increase in Severity resources over the past few years due to significant increases in insurance costs and CPI. In the future, ODF is moving away from CPI to a fixed annual rate of 2% which will help steady the budget for Severity resources.

Ron Graham added that usually in February, the Division and Area Directors meet weekly to determine the need for additional Severity resources, moving resources, and monitoring finances. He noted that this is a heavy workload and the Division is looking at the need for Severity prior to the normal mid-July contract start dates. He reminded the committee of last year's Eboard allocation of \$5M to ODF for Severity, of which \$3.5M was spent in April, May, and June, which leaves about \$500k left of the \$10M total Severity funds from last year.

#### **ITEM 9: AGENCY / FIRE DIVISION REPORT** *[Information Items]*

Mike Shaw opened this report noting that he will be staying on as the Interim Chief of Fire Protection through the biennium to add stability to the agency and that he is looking forward to the opportunity. There has been staff added in the protection division through SB 762 funding; the division is currently working hard to get fully staffed before fire season.

Mike provided an update on the next steps of implementation of SB 762, informing the committee that the division will propose draft rule language at the Board of Forestry meeting tomorrow to define the criteria for development of the statewide risk and wildland urban interface (WUI) map. If the proposed draft rule language is approved by the Board, other agency work such as building codes can begin. Mike clarified that the agency is looking for Board approval of the next steps of implementation, not adoption of the rules. He hopes for a final rule package by mid-June to bring in front of the Board for approval at their next meeting.

- **ODF Financial Report & Emergency Fire Funding Task Force**

Mike Shaw provided an update on the Emergency Fire Funding Task Force (EFFTF), highlighting that they are working on a concept of a revolving fund of some sort to provide financial liquidity for the state to pay for gross large fire costs. The purpose of the task force is to determine where that money will come from. Given the fire season weather outlook, Mike is concerned that it indicates there is no new normal; this is the new reality of fire seasons in Oregon. ODF will continue to put fires out but needs a funding mechanism to successfully do that.

Bill Herber provided the ODF financial report, noting that revenue and expenditures are low and static, which is typical in the winter months and allows for catching up and housekeeping. He continued with his report on the fire protection General Fund appropriation which is down to \$500K, with half of the biennium still left. Cash balances are low (\$10 to \$20M), which obviously is not ideal. The largest outstanding receivable is from FEMA at \$50M. The recent passage of SB 5502 (State Forestry Repayment Fund) will help to fill the gaps and provide additional funding. There is also the Special Purpose Appropriation (SPA) of \$50M which is also available for cash flow purposes to ODF. Bill added that as soon as the agency starts to feel pressure, they can go to the Emergency Board to start the process for accessing those funds. Adding to the EFFTF update, he reported that agency staff are doing homework behind the scenes to gather information and work out different strategies for the task force. The task force is currently engaging with the Department of Revenue for potential revenue sources for the revolving fund concept to prep for the next meeting on March 28.

- **Legislative Session, E-Board**

Mike Shaw mentioned the recent bill passed in the 2022 short Legislative session which grants media access to fires on public lands. The division is working with Public Affairs and will form a committee (or committees) to determine process and procedure.

- **BLM Western Oregon Agreement**

Ron Graham provided an update on the BLM Agreement noting the agencies are still operating under the Western Oregon Operating Plan (WOOP) through June 30, 2024. Regarding payments, BLM is paid up to date. Ron added that there is a pre-season meeting scheduled next week but so far there is no indication of a reduction in acres from BLM this year. BLM is still seeking eligibility for access to the OFLPP for large fire costs and reduction of their base costs. Along with SB 762, the division will have an information item on the status of the BLM agreement to present to the Board of Forestry tomorrow.

- **ODF Geoboard / IMTs**

Ron also provided an update on the ODF Geoboard recommendations on succession management of incident management teams. The initial study indicated a strong desire from ODF districts to continue to staff and roster three full IMTs. With SB 762 and POP 101, the agency will have extra capacity and is still hiring people. There have been no immediate impacts to rosters this year, however, there is increasing pressure on the agency to carry out all of its missions, not just fire, which would pull folks away from suppression. Inclusion of other state agencies was also reviewed as a potential solution. The Geoboard is currently working on a state interagency agreement to participate on ODF IMTs, as well as working with Doug Grafe in the Governor's Office, and 11 other agencies, to coordinate on SB 762 for additional opportunities. Ron noted that he would like these to be formalized through agreements.

He reported that there is still \$1.5M available for strategic investments. Some proposals include extra funding for the detection camera build out. The division is looking at another POP for that. After final costs come in for SB 762, the agency may only require a modification to the current camera proposal. The division has not opened the opportunity for new proposals as there is still a full catalog. The Protection Division is working to build a long-term strategy for POPs, not just for the 2023-25 biennium, but also looking out 20 years at investments to sustain fire protection into the future.

Chair Garrelts asked when the agency expects to have a strategy on the 20-year outlook. Ron responded that because it is a bigger look, it will be a long-term response and the division has just begun this work. The division has identified this work in the FY23 operating plan and will develop it over the next fiscal year. Chair Garrelts noted that the EFCC would be interested in that report once finalized. Mike Shaw thanked Ron and his staff for the recruitment of interagency IMT members.

- **FEMA update**

Stacy Miller provided a FEMA update. She reported that contracts and materials documentation has been submitted to FEMA for 2020 fires: South Obenchain, Archie Creek, Brattain, Beachie, Riverside, Lionshead, and Alameda. The Environmental and Historic Preservation (EHP) draft memos for Riverside and Lionshead have been submitted. FEMA will let ODF know if sufficient information has been provided to pass EHP review.

ODF recently received \$3.7M for the White River fire in 2020. Outstanding FEMA reimbursements prior to 2020 total only \$1.07M. For 2020, there is \$71.3M outstanding, which is an increase from the last report due to an amendment for Public Assistance (PA) grant that provides 100% of the cost-share for costs between September 11 through October 10, 2020. For 2021, there is \$26M in outstanding FEMA reimbursements.

Chair Garrelts thanked the agency for their extraordinary efforts getting most of the FEMA claims caught up to 2020. Steve Cafferata also expressed his appreciation for the hard work. Steve asked about the status of the Holiday Farm FEMA claim to which Stacy replied the agency is still waiting on documentation for submittal.

## **ITEM 10: EFCC ADMINISTRATOR REPORT** *[Information Item]*

Nancy Hirsch reported that her primary focus for most of January was supporting State Forester Mukumoto setting up the Emergency Fire Funding Task Force but she was able to spend some time with Erik Lease walking through the history of the EFCC and the OFLPP. She noted that Tim Keith is staying on part-time to help work through the 2021 fire season audits which will occur in April and May. Nancy said that a calendar of the audits' schedule will be sent to the committee members soon. She also added that all audits will be virtual this year and due to the draft insurance claim, the insurance adjustor and his forensic accountants will also join the audits virtually with the districts. She thanked everyone for their ongoing efforts with these audits.

## **ITEM 11: PUBLIC COMMENT / GOOD OF THE ORDER**

Nancy reminded the committee that she will be sending out information soon on the EFCC Special Meeting. There being no further business before the committee, Chair Garrelts adjourned the meeting at 11:47 a.m. The next regular meeting of the committee will be held at 10:00 a.m. on Tuesday, June 7, 2022 at ODF Headquarters in Salem, Oregon.

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