

HISTORY OF EMERGENCY FIRE COST FUNDING IN OREGON

1. Background

Organized forest fire protection did not begin to develop in Oregon until about the beginning of the twentieth century... Forest protection in Oregon in 1910 consisted of a number of private patrols scattered over the state, each having for its purpose the protection of some individual or company ownership. Since all of these private patrols had a common purpose, it was logical that there be some central clearing-house where problems common to all could be discussed and concerted action taken toward their solution.

The Western Forestry and Conservation Association, a forest problem clearing-house for the States of California, Oregon, Washington, Idaho, and Montana, was in existence at that time. This five-state organization was instrumental in the 1910 organization of the Oregon Forest Fire Association. Fire patrol districts, each containing a number of private patrols, were defined, and their boundaries established to fix areas of responsibility for each. Based on these districts, with various additions and consolidations through the years, the Forest Protective Associations were formed as they exist today. Each of the districts had a representative on the Board of Trustees of the Oregon Forest Fire Association.

Through the action of ten member associations of OFFA, a fund known as the "Emergency Fire Cost Fund", was established in 1930, with the Oregon Forest Fire Association as its custodian.

The first money placed in this fund came from federal Clarke-McNary appropriations, a federal allotment established to assist in protection of forest lands in recognition of the public's responsibility in such lands. These funds were disbursed by the State Forester, and an extra allotment of 60 percent of the Clark-McNary money due each Association was utilized to start the Emergency Fund. Each year at the annual meeting of the Oregon Forest Fire Association, the Board of Directors determined the amount the member associations should contribute to the support of the Fund for the current year, and determined the regulations governing its administration.

At the time the fund was established (1930) each patrol association was required to spend a certain amount from budgeted funds before receiving aid from the emergency fire cost fund. A formula was established, taking the average of the district's last five years' experience, and then doubling that averaged amount. Using the formula, each time dropping the earliest year and adding the latest, the deductibles were established annually for each district. This method continued through 1936. Later, maximum and minimum contributions were established by the use of deductibles.

Now that the patrol associations were protected from excess fire fighting costs through the establishment of the Fund, the question of further safeguarding of their interests, through insuring the Fund, was considered. In 1936, on the basis of experience, an opportunity developed to insure the Emergency Fire Cost Fund, and a policy was secured with the Charter Oak Insurance Company. The total collected in losses from 1936 to 1946 was \$280,416.21 at a premium cost of \$71,127.39. The OFFA-administered fund ceased to function in 1945; 1945 claims were settled in April, 1948.

2. Emergency Fund Established by Board of Forestry

In 1946, the Board of Forestry authorized through the budgeting procedure, the establishment of an Emergency Fire Cost Fund utilizing about \$125,000 of Clarke-McNary Funds annually.

3. Emergency Fund Established by Legislature

By 1949, this emergency fund had accumulated \$250,000. At this time, authorization was granted by the Board to increase the fund to \$500,000. Also, in 1949, the legislature gave this full emergency fund status by making it continuously appropriated and requiring agreements with the associations to establish eligibility.

4. The Forest Emergency Fire Cost Account

In 1953, a revision of the fire protection emergency fund established a new revenue procedure for equalizing fire suppression costs in western Oregon. A "forest harvest tax" was levied upon all forest products harvested in western Oregon. The rate was established at 4 cents per thousand board feet. The proceeds of this levy were deposited in the Forest Emergency Cost Account. When the account reached \$750,000, the levy was reduced to 2¢/MBF. Distribution of moneys from the Emergency Fire Cost Account was supervised by the Forest Protection and Conservation Committee. Expenditures consisted entirely of payments to the protection districts for costs of fire suppression in excess of 2 cents per acre. An attempt was made in 1967 to get the Legislature to appropriate money to reimburse the Western Oregon Emergency Fire Cost Account for public-caused fire suppression expenditures; this attempt failed. However, ORS 321.012 was passed establishing the policy of public participation in fire suppression costs for public-caused fires.

5. The Eastside Emergency Fire Cost Fund

The 1959 Legislature established an Emergency Fund for eastern Oregon by providing for an annual one-cent per acre assessment on all east side forest lands. These assessments were collected in the same manner as the amount collected to meet the fire prevention and control budgets of the various districts. The size of the fund was set at \$250,000. When it reached this amount, the levy was to be discontinued for the next year. The Board of Forestry ruled that the district must expend for fire suppression an amount equal to one cent per acre within the district before it could use moneys from the Emergency Fire Cost Fund. The one-cent per acre levy was collected in 1959-60 and 1960-61, after which it was suspended pending the outcome of litigation testing the constitutionality of the law. The Oregon Supreme Court upheld the law in a decision dated June 26, 1963. A 3-cent levy was set in 1963-64 to pay for the two suspended years to collect the current annual assessment. The Eastern Oregon Emergency Fund also received revenue from a special harvest tax enacted by the 1961 Legislature, which provided for collection of 2 cents per thousand board feet on timber harvested on all east side private, state and federal forest lands which were protected from fire by the Forester, U.S. Government through contracts, or any protection agency under contract. The fund went broke in 1968 as a result of several large fires. The fund was replenished by the Emergency Board of the Legislature with more than \$400,000 of General Fund monies.

6. Oregon Forest Land Protection Fund

The 1969 Legislature created the Oregon Forest Land Protection Fund. This fund combined the two previously existing funds; the "Forest Emergency Fire Cost Account", which funded emergency fire suppression for protected lands in western Oregon; and the "East Side Emergency Fire Cost Fund" which was used for emergency fire suppression in eastern Oregon. (ORS 321.165 and ORS 477.970,

respectively.) The Legislature appropriated \$200,000 of General Fund monies to provide a viable starting balance for the new fund.

To make a smooth transition, the 1969 Legislature required available money in the prior-existing emergency account to be fully spent on westside fires before using money from the Oregon Forest Land Protection Fund (ORS 477.765).

The sources of funds for the Oregon Forest Land Protection Fund were divided by law in two: western Oregon and eastern Oregon taxes and assessments. The 1977 Legislature increased the forest products harvest tax from 4 cents to 6 cents per 1000 board feet (MBF). This applied to timber harvested from all lands in Oregon which were protected under authority of the Department of Forestry. In addition, there was a 1 cent per acre land tax on all east side forest lands. The 1 cent per acre tax also applied to western Oregon Class 3 agricultural class forest lands.

The OFLPF is held as a Trust Fund by the State Treasurer who invests the money (ORS 477.750). However, money in the Fund is appropriated continuously to the Emergency Fire Cost Committee. The Committee administers the fund for: equalizing emergency forest fire suppression costs in any forest protection district; and administrative expenses, which are now limited by a legislatively approved biennial budget.

The EFC Committee consisted of four members of the State Board of Forestry (ORS 477.440); three representing forest industry, and one representing the Oregon Small Woodland-Owner's Association.

The reserve base was \$4 million. The fund balance was reviewed annually by the Emergency Fire Cost Committee at their March meeting. If the Committee determined the unencumbered balance as of the preceding February 16 exceeded the reserve base, then the harvest tax was eliminated for the following fiscal year (ORS 477.760). The taxes and assessments on the east side were to continue until the State General Fund was reimbursed the \$200,000 it contributed to get the OFLPF started. (ORS 477.780).

The EFC Committee may require that prior to payment from the Fund the forest protection districts expend an amount for emergency fire suppression not to exceed 10 percent of their annual fiscal budget. This is called the district deductible.

7. Minimum Lot Contributions to OFLPF

In 1965 the Legislature established a minimum assessment level that forest landowners would pay for forest fire protection (ORS 477.295). In 1965 the level was set at \$2.00.

In 1977 the minimum assessment was increased to \$5.00 by the Legislature.

In 1981 the minimum assessment rate was increased to \$15.00, with \$2.25 of the \$15.00 directed to the Oregon Forest Land Protection Fund.

In response to the OFLPF almost going broke from fires in the summer of 1981 (FY 1982), the 1983 Legislature increased the contributions to the fund from minimum assessments. The new level was set at \$5.00.

In 1991, the minimum assessment was increased to \$18.00, with \$3.00 directed to the OFLPF.

In 2007, the minimum assessment was increased to \$18.75, with \$3.75 directed to the OFLPF.

8. Reserve Base Increased

In 1985 several significant events occurred regarding the OFLPF.

First, as a result of good (no fires) fire seasons in the summers of 1982, 83, and 84, the OFLPF exceeded its \$4,000,000 reserve base ceiling for the first time ever.

Second, since the OFLPF had exceeded its reserve base, the \$200,000 in General Fund monies that created the fund in 1969 were paid back to the State General Fund. Reaching the reserve base also meant that the 15¢ per MBF harvest tax and 2¢ per acre assessment would not be collected for FY 1986.

Third, as a result of recent, disproportionate cost increases involved with forest fire suppression, the 1985 Legislature increased the OFLPF reserve base to \$6,000,000.

9. Emergency Fire Cost Committee Restructured

In 1987 the Legislature restructured the Board of Forestry (HB 3396), and at the same time restructured the Emergency Fire Cost Committee, which oversees the OFLPF.

The committee now consists of four forest landowners, or their representatives, appointed by the Board of Forestry rather than being composed of Board members themselves. At least one member must be selected from each of the three forest regions of the state.

10. 1989: Revenue Sources Increased

The 1989 Legislature made substantial changes in statutes that provide for the Oregon Forest Land Protection Fund. The following are major changes provided in this legislation.

- a. Increased the harvest tax from 15¢/MBF to 30¢/MBF and extended the tax to all forest lands in Oregon. Previously the tax had only applied to non-federal lands.
- b. Provided for a \$20.00 surcharge on all improved lots within a forest protection district with the revenue going to the fund.
- c. Increased the reserve base to \$10 million.
- d. Authorized the Emergency Fire Cost Committee to "borrow" funds from the State Treasurer.
- e. Increased the per acre assessment on protected forest land to 4¢/acre on the east side forest lands and westside grazing lands and added a 2¢/acre assessment to protected westside forest land.

Other changes included:

- a. Discontinuing all revenue resources when the reserve base is reached.
- b. Eliminating the ceiling on insurance purchase.
- c. Eliminating the \$200,000 district contribution for insurance purchase.

11. 1991: Revenue Sources Increased

The 1991 Legislature made the following changes:

- a. Required the State Forester to increase revenues during the year following the year in which funds were borrowed from the Treasurer. The revenue increase is required to be in an amount needed to repay the Treasurer.

- b. Increased the reserve base to \$15 million.
- c. Established a \$10 million annual expenditure limit for landowner-derived OFLPF funds.
- d. Required the EFC Committee to purchase insurance to protect the State against disastrous fire loss. (The Legislature did not establish a minimum for insurance purchase in the Statute but the Legislative intent clearly was that the deductible plus insurance should be equal to approximately \$45 million.)
- e. Increased the harvest tax from 30¢ to 50¢/MBF.
- f. Increased the eastside forest land and statewide grazing land assessment from 4¢ to 6¢/acre, and westside timber assessment increased from 2¢ to 4¢/acre.
- g. Minimum lot assessment changed to \$3.00 allocated to OFLPF out of \$18.00 minimum lot assessment.
- h. Increased the improved lot surcharge from \$20 to \$38/lot.
- i. Eliminated the requirement for Emergency Board prior approval for purchase of catastrophic insurance.

12. 2000: Reserve Base Exceeded

In fiscal year 2000, the Oregon Forest Land Protection Fund exceeded the \$15 million reserve base. As a result, acreage assessments, minimum lot assessments, and improved lot surcharges were not collected in fiscal year 2001; the harvest tax designated for the OFLPF was not collected in calendar year 2001. The following fiscal/calendar year, the reserve base dropped below \$15 million and the revenue sources were reinstated.

13. 2003: Reserve Base Increased

The Legislature temporarily increased the OFLPF reserve base to \$22.5 million, and the expenditure limit to \$15 million per fiscal year. Included in the Department of Forestry's biennial budget bill was a budget note (Budget Note 3) which required a comprehensive review and development of recommendations for Oregon's emergency firefighting funding system. The purchase of catastrophic insurance for the OFLPF for the 2005 fire season was prohibited unless the Legislature found it to be cost effective after conclusion of the Budget Note 3 study.

14. 2005: Passage of HB 2327

The Legislature overwhelmingly approved HB 2327, instituting a number of changes in the Oregon Forest Land Protection Fund:

- a. Instituted permanent changes to the reserve base: increasing the base to \$22.5 million at which point revenues are reduced by 50%, and shutting off revenues when the reserve base reaches \$30 million.
- b. OFLPF expenditure limit was set at \$15 million per fiscal year for the 2005-07 biennium, and at the conclusion of the biennium, the expenditure limit reverts back to \$10 million unless it is extended by the Legislature.
- c. The EFCC advises the State Forester whether or not to purchase catastrophic insurance for the OFLPF; the EFCC is not required to pay more than 50% of the cost of insurance (the other 50% is funded by the General Fund).

15. 2007: Passage of HB 3044A and HB 2067

The Legislature passed HB 3044A, which increased the Oregon Forest Land Protection Fund's revenue sources by 25%. In calendar year 2008, the harvest tax is increased to 62.5¢/MBF. In fiscal year 2009 (beginning July 1, 2008), acreage assessments on eastside forestland and grazing land are increased from 6¢ to 7.5¢/acre, acreage assessment on westside forestland are increased from 4¢ to 5¢/acre, minimum assessment portion directed to OFPLF is increased from \$3.00 to \$3.75/lot, and the improved lot surcharge is increased from \$38 to \$47.50/lot.

The Legislature also passed HB 2067, which extended the \$15 million annual expenditure limit of the OFLPF for two more years, through July 1, 2009.

16. 2008: Borrowed \$5 Million to Off-Set Projected OFLPF Deficit

The balance in the Oregon Forest Land Protection Fund (OFLPF) was projected at the conclusion of fiscal year 2008 to be -\$6,151,389; the culmination of several years' balances hovering at or below \$0, and a high cost 2007 fire season (estimated to be \$14,241,985 at the time). The EFCC held a special meeting on June 20, 2008 and made a unanimous decision to borrow \$5.0 million dollars, anticipating that fire cost collection actions in the succeeding fiscal year may net an additional \$1.0 million or more. The State Treasurer funded ODF's request made on behalf of the EFCC on June 30, 2008.

OFLPF rates were increased by 50% for one year over the newly established HB 3004A rates:

- Forest Products Harvest Tax: \$.94, up from \$.625/MBF
- Statewide grazing land assessment: \$.1128, up from \$.075/acre
- Eastern OR timber land assessment: \$.1128, up from \$.075/acre
- Western OR timber land assessment: \$.0752, up from \$.050/acre
- Minimum lot assessment: \$5.64, up from \$3.75/lot
- Improved lot surcharge: \$71.47, up from \$47.50/lot

The 2008 fire season was mild – totaling an estimated \$7,130,416; the fund's ending balance for fiscal year 2008-09 was projected to be \$1,313,654. Consequently the EFCC at their September 02, 2008 meeting directed repayment of the loan in full if no further significant firefighting costs were incurred that fall. In late October, 2008 the State Treasurer loan plus interest was repaid: \$5,069,726.78.

17. 2013: Passage of HB 2050A, the Wildfire Protection Act

A large collaborative group developed concepts which were drafted as a bill and introduced in the 2013 Legislature as HB 2050. Subsequently the Legislature passed HB 2050A in a near unanimous vote. Effective July 1, 2013, Oregon Forest Land Protection Fund (OFLPF) expenditures were capped at \$13.5 million annually: \$10.0 million for matching 50% of fire suppression costs (for a total of \$20.0 million), \$3.0 million for matching 60% of severity expenditures (for a total of \$5.0 million), and \$.5 million for matching 50% of catastrophic insurance policy premiums (for a total of less than \$1.0 million) and for administrative costs. Matching funds were to be provided by Oregon's General Fund; in addition, \$1.0 million in General Fund was to be leveraged to offset firefighting assessments on fire-prone, lower productivity forests. The bill also authorized the possible expenditure of OFLPF monies for "strategic investments" – one-time purchases/investments to enhance prevention or suppression of fire in the districts.

The \$20 million in fire suppression funded the revised catastrophic insurance policy deductible, reduced from \$25 million for the 2013-14 policy year. The 50% fire suppression deductible match is to be phased in over 3 biennia: 13-15: 50% match of the first \$2.0 million, the next \$9.0 million from the OFLPF, and the

remaining 90% from the General Fund; 15-17: 50% match of the first \$10.0 million, the next \$5.0 million from the OFLPF, and the remaining \$5.0 million from the General Fund; 17-19: full 50% match of the entire \$20 million deductible.

18. 2013 and 2014 Fire Seasons and Oregon's Catastrophic Fire Insurance Policy

The 2013 fire season was devastating in both suppression cost and acres burned. An estimated \$74,760,102 in total net fire suppression cost triggered a full damage claim against the catastrophic fire insurance policy -- \$25 million. To secure a policy for the 2014-15 policy year, a contingent led by Chair Ken Cummings and Paul Bell, Deputy State Forester accompanied by Willis and DAS Risk Management personnel visited Lloyds' of London. These efforts secured a new policy with the same deductible (\$20.0 million) and term limits (\$25.0 million) with a total cost of \$2,012,040 – shared 50-50 between the OFLPF and General Fund.

The 2014 fire season proved to also be challenging in fire severity and length of season, resulting in net fire suppression costs of \$7,179,071 in June 2014 and net costs of \$40,485,217 after July 1, 2014 – a total cost of \$47,664,288 in the 2014-15 insurance policy year (April 1 2014 through March 31 2015). These costs have triggered another not yet final \$25 million full policy claim against Lloyds' and the minority participating underwriter.

Another contingent visited London in early February 2015 led by State Forester Doug Decker, Chair Ken Cummings and Nancy Hirsch, Protection Division Chief. As of this writing, terms and costs of a policy for the 2015-16 policy year, if available, have not been secured.