2012 Large Fire Review Committee

REPORT TO STATE FORESTER

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Prepared by the Oregon Department of Forestry

Committee members and affiliations

Craig Shinn, Committee Chair

Representative Cliff Bentz, Oregon Legislature

Senator Doug Whitsett, Oregon Legislature

Nils Christoffersen, Board of Forestry Member

Dan Shoun, Lake County Commissioner

Milt Moran, Oregon Forest Industries Council, Protection Committee Chair

Bill Swarts, Industrial Landowner Representative, Central Oregon

Scott McClaran, Small Woodland Owner Representative, Northeast Oregon

John Albertson, Ranch/Timber Landowner Representative, Southeast Oregon

Lee Fledderjohann, Collins Pine

Nancy Hirsch, Fire Protection Division Chief, ODF

Cliff Liedtke, Eastern Oregon Area Director, ODF

Mike Kopitzke, Montana Dept. of Natural Resources and Complex Incident Management Course Cadre Member

Doug Decker (ex-officio member) – Oregon State Forester

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Executive Summary

The State Forester commissioned the 2012 Large Fire Review Committee as an external group to reflect on lessons learned from the 2012 fire season, and to provide recommendations on how to further improve Oregon's complete and coordinated fire protection system. A specific focus of the review involved communication and coordination with landowners.

The 2012 fire season presented challenges, both in terms of increasingly hazardous fire conditions on federal lands, and severe drought across much of eastern Oregon. Three large, joint jurisdictional fires burned on or threatened lands protected by the Oregon Department of Forestry (ODF). Of these, the Barry Point Fire southeast of Lakeview raised particular issues, including several incident management team (IMT) transitions in a short time. After-action reviews highlighted lessons learned related to IMT transitions, clear communication of ODF's fire suppression goals to non-ODF IMTs, and communication and coordination with landowners.

A range of views

The Review Committee brought together diverse perspectives, and included landowner representatives, legislators, local government representatives, key agency staff and subject matter experts in large fire management. The Committee met in Bend on December 12 and 13, 2013. Committee members reviewed the concerns or issues that arose during the 2012 season, and relevant experiences from the 2013 fire season. They developed specific recommendations to address the issues and concerns from 2012.

The Committee's discussions and recommendations are organized into four themes: Wildland Fire Policy and Landowner Risk, Improved Communication and Coordination with Landowners, Enhanced Technical and Financial Assistance Programs, and Increasing the Transparency and Clarity of the State's Tort Claim Process.

The Committee's specific recommendations fall into two categories: 1) improving existing policies, and 2) implementing new policies or processes to improve Oregon's complete and coordinated fire protection system.

Key issues and concerns included:

- Federal fire agencies do not always view every acre as having value, and focus on fire management rather than fire suppression.
- Federal lands in general are not being actively managed, resulting in hazardous fuel conditions and a transfer of risk to adjoining private lands.
- There were not adequate accountability measures in place for non-ODF IMTs operating on private lands.
- Landowner knowledge and resources were not adequately utilized in large fire suppression efforts.
- Information was not provided to them in a timely way as firefighting actions were planned and taken, creating unsafe conditions for landowners.
- Current laws and policies create disincentives to proper post-fire salvage and reforestation activities.
- Systems and forums for communicating about ODF's fire protection program tend to focus on larger landowners, leaving smaller owners less informed.
- Frustration arose from issues with the State's Tort Claim process.
- Landowners felt strongly that the State did not treat them with respect.

Commitment moving forward

The Committee provided 42 recommendations to ODF and the Department of Administrative Services (DAS). A number of recommendations address areas where ODF has already implemented new policy or processes through its management of IMTs, pre-season meetings with federal agencies and other cooperators, and decisions and directions related to IMT mobilization. Many of these changes resulted in success during the 2013 fire season. Others will require ongoing or future actions by ODF or DAS.

The Department committed to moving the recommendations forward, and has included in this report specific information on how it intends to do so. This will require ODF actions across multiple divisions, and coordination with DAS and with the U.S. Forest Service and other partners in Oregon's complete and coordinated fire protection system. ODF is a learning organization committed to continuous improvement, and the Committee's work was most valuable in articulating and clarifying where additional improvements can be made.

Introduction

Fire seasons in Oregon typically result in multiple joint-jurisdiction fires requiring coordination and communication with cooperators and landowners to meet suppression objectives and serve Oregon Department of Forestry (ODF) customers. The 2012 fire season presented ODF and its cooperators with a number of challenging multi-jurisdictional fires. These fires occurred in central and eastern Oregon, and involved a variety of landowners and fire management agencies.

2012 large fire incidents included the Cache Creek Fire in Northeast Oregon District, the Barry Point Fire in Klamath-Lake District, and the Pole Creek Fire in Central Oregon District. After-action reviews following the 2012 fire season, combined with a clear expression of concerns from several landowners and legislators, led ODF to convene the 2012 Large Fire Review Committee.

In Summer 2012, drought conditions and parched wildland fuels had set up south-central Oregon to burn. Several lightning episodes ensued, igniting three large fires, including the Barry Point Fire.

Committee Purpose and Scope

As part of ODF's commitment to continuous improvement and hearing the concerns raised, the State Forester commissioned the 2012 Large Fire Review Committee as an external group to reflect on lessons learned from 2012, and provide recommendations on how to further improve ODF's complete and coordinated fire protection system. The charge to the Committee included aligning their work with the following overall goal and specific objectives.

Overall Goal for Review Committee Process:
Apply lessons learned from large, joint jurisdiction fires through a deliberate, external review effort to improve existing policies, or develop new policies and/or processes for the future that will improve ODF's complete and coordinated fire protection system – with a specific focus on communicating and coordinating with landowners during these events.

Specific Committee Objectives:

- Objective 1: Provide recommendations for addressing or correcting challenges to effective large incident management experienced on joint jurisdictional fires.
- Objective 2: Provide recommendations for policies, processes or procedures to help clarify ODF's role when working on joint jurisdictional fires with federal agencies.
- Objective 3: Provide recommendations on methods for ensuring clear expectations and professional standards for all personnel on an incident when communicating and coordinating with landowners.
- Objective 4: Receive, review and comment on a report from DAS on the State's tort claim process related to wildfire, and provide recommendations on how to clarify the process, the decision-making around the claims review, and appeal process.
- Objective 5: Provide recommendations for improving communication and coordination with landowners throughout the year, including pre-fire season, during fire season, during fire events, and post-fire season. Provide recommendations for specific ideas, tools or processes that may be useful in rebuilding relationships with landowners.
- Objective 6**:** Provide recommendations for tools, resources and mechanisms to provide more direct information and technical assistance to landowners with fire rehabilitation needs. These include: the respective roles for ODF's Fire and Private Forests programs in supporting these needs, sources of state or federal financial assistance, and best organizational design to assist forestland owners following future incidents, i.e. the establishment of a "one-stop" resource.

The Barry Point Fire burned about 93,000 acres in California and Oregon. The blaze damaged range and forestland, severely impacting timber and ranch operations in the region.

Background on 2012 fire season and large fires

The 2012 fire season in Oregon occurred against a backdrop of moderate to severe drought conditions across large portions of northeastern, central and southeastern Oregon. Below-normal snowpack, early snowmelt, and below-normal June rainfall all contributed to these drought conditions and fuel conditions that were ripe for significant fire behavior. Continued dry weather in July and August, combined with several lightning episodes led to three significant joint jurisdictional, large fires that burned on or threatened lands protected by ODF.

The Barry Point Fire started on August 6, and over a twelve-day period burned more than 90,000 acres of private and federal land southeast of Lakeview (in Oregon and California). The Cache Creek Fire started on August 20 and burned 73,000 acres over a twelve-day period in northeast Wallowa County (in Oregon and Washington).

The Pole Creek Fire also started on August 20 and burned more than 26,000 acres south of Sisters over a thirteen day period. All three fires presented challenging multiple jurisdictional scenarios, and were staffed primarily with interagency incident management teams (IMTs) from Oregon and the Pacific Northwest, combined with ODF advisors and staff. The IMTs worked for both ODF and federal Agency Administrators.

Lessons learned

Some key lessons learned that emerged from ODF after-action reports and reviews included:

For joint jurisdictional fires, early and frequent contact with ODF counterparts in other agencies is critical. If Agency Administrators are on the same page, it is easier to provide consistent direction to the IMT.

Landowner Contacts – It can be challenging to establish contact with all potentially affected landowners and keep communication in place during rapidly expanding fire situations. This is especially the case with smaller, non-industrial landowners, where off-season contacts are less frequent or do not occur.

Agency Administrators need to continually push ODF's mission with non-ODF IMTs operating on their jurisdiction. It is essential that they understand it, and that products/actions reflect it.

Agency Administrators or their representatives (Deputy Agency Administrators) need to attend key IMT meetings, particularly those in which strategic and tactical decisions are being made. Full engagement in IMT processes is critical.

Embed key ODF staff in the organizational structure of non-state IMTs. Ensure they are identified in the Incident Action Plan (IAP) and other products so the IMT is aware of their role and presence, and they can have the needed influence. Consider local staff for these roles who know local landowners and concerns. More or fewer embedded staff may be necessary, but key positions/functions to consider include Incident Command, Operations, Planning, Information, and Landowner Liaison.

Be very specific in Delegations of Authority (DOA) to non-state IMTs. Address intent, strategic and tactical direction for private land protection, and communications with affected landowners. The DOA needs to set the standard by which team performance will be monitored and evaluated.

Educate non-state IMTs on the values at risk/resource values important to private landowners – timber, range land, fences, etc. (resources are valuable assets vs. fuels to be managed). IMT works for local Agency Administrator, and the relationship should be treated as an employee/supervisor or contractor/contracting agency relationship.

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Large Fire Review Committee Process

Committee members were selected to provide a diverse set of perspectives on the large fire experiences from the 2012 season. Committee membership included landowner representatives who were involved with the Barry Point, Pole Creek and Cache Creek Fires; legislators and local government representatives; key agency staff and subject matter experts in large fire management.

The 2012 Large Fire Review Committee was convened for a two-day meeting in Bend, Oregon, December 12 and 13, 2013. Prior to this meeting, ODF developed and distributed to committee members an issue paper containing information relevant to each of the committee's six objectives. For each objective, the concerns or issues that arose during the 2012 season were cited, and relevant experiences from the 2013 fire season were described to provide examples of how specific lessons learned from 2012 had been applied to create better outcomes.

At the December 12-13 meeting, the committee engaged in a review of this information, a discussion of relevant issues associated with each objective, and the development of specific recommendations to address the issues and concerns from 2012.

Federal and interagency teams managing fires that involve private ownerships must learn to view these lands as a valuable resource to be protected.

Following the meeting, ODF staff reviewed meeting notes and organized the committee's recommendations into four themes: A. Wildland Fire Policy and Landowner Risk, B. Improved Communication and Coordination with Landowners, C. Enhanced Technical and Financial Assistance Programs, and D. Increasing the Transparency and Clarity of the State's Tort Claim Process. Included with each theme and related committee recommendations are ODF's initial ideas on how to effectively implement the specific recommendations offered by the Committee.

Themes, Discussion and Recommendations

The overall goal of the committee process called for recommendations to address two key areas; 1) improving existing policies, and 2) implementing new policies or processes to improve Oregon's complete and coordinated fire protection system. For each of the four themes that follow, ODF has organized the committee recommendation to reflect these two key focus areas. In addition, ODF has chosen to include initial thoughts on how committee recommendations have been implemented through actions taken since the 2012 fire season, or will be implemented through future actions. Committee comments and recommendations appear in regular typeface, and ODF thoughts on implementation appear in italics following the respective blocks of recommendations. Specific implementation ideas for recommendations related to Theme D (State Tort Claims Process) were provided by, or discussed with DAS Risk Management staff.

Theme A: Wildland Fire Policy and Landowner Risk - Fire "Management" versus Fire "Suppression"

Summary of Committee Discussions:

Members expressed concerns that federal agencies and interagency IMTs tend to view resources in terms of fuels to be managed, while ODF and landowners view resources as assets with value. The phrase "every acre has a value" was repeatedly mentioned and encouraged as a key message that needs to be shared with other agencies. Committee members believe that some federal agency personnel simply don't understand the different resource values and management objectives that private landowners, both large industrial and small family forest landowners, have and investments that landowners have made to further those goals. Members are also concerned that some conservation groups advocate for allowing fires to burn as a means to improve forest health

without fully appreciating the range of landowner goals across the landscape. ODF provided clarification that Oregon Statutes call for suppressing all wildland fires, and that "let-it-burn" policies are not applicable on state-protected lands.

Members expressed concerns that interagency IMTs operating on state-protected land are not being held accountable for their actions or outcomes. They should be directed, and held accountable to develop and implement effective fire suppression strategies and tactics that seek to minimize loss of landowner resources. There were concerns that interagency IMTs seem to view landowners as a "nuisance," rather than as a partner and cooperator in controlling the fire.

Some members believe that multiple and frequent IMT transitions on the Barry Point Fire contributed to ineffective fire suppression and to poor communication with landowners. The committee discussed how landowners and landowner concerns were integrated into several large fire suppression efforts in the 2013 fire season, and agreed that ODF should continue to implement the methods used on the Douglas Complex and other 2013 fires.

Committee members expressed concern over forest management on federal lands, and the build-up of hazardous fuels. This has resulted in a "transfer of risk" as fuel conditions on federal lands increase the likelihood of catastrophic wildfire on adjacent lands. This was expressed as a major issue, as ODF-protected lands share more than 13,000 miles of common boundary with federal lands in Oregon, and a similar amount with Bureau of Land Management (BLM) O&C Lands (Oregon and California Railroad Revested Lands) in western Oregon. There was a belief shared by members of the committee that many of ODF's large fire costs occur because of poor management and fuel situations on adjacent lands, in particular federal lands, and that ODF would not incur the same level of fire costs if those lands were managed differently.

The large landowner representatives present pointed out that participation in local fire protection association meetings by U.S. Forest Service (USFS) fire managers has diminished over the years. While it was once common for the local district ranger to attend regularly, this is rarely the case today.

Committee recommendations related to communication, outreach and coordination

Recommendations to improve existing policies or processes:

1. Improved communication and coordination between ODF and federal land management agencies needs to take place at all levels.
2. ODF should expand efforts to engage federal partners in conversations to address the issues and concerns raised, through forums like the Board of Forestry and other initiatives.
3. ODF should "lean forward" in advocating for active management on federal lands to address hazardous fuel conditions and the resulting fire suppression and safety challenges, and the transfer of risk to adjacent lands.
    - Be active participants and advocates during federal Forest Plan revision processes to advance these concerns.
    - Explore projects and partnerships like the Blue Mountain Pilot, under the Cohesive Wildfire Strategy (CWS) as a vehicle to advance this.
4. Promote the message that "every acre has value" throughout all processes and communications. Use consistent tools (Oregon Forest Industries Council example provided at meeting) to reinforce this message.

Implement recommendations 1, 2, 3 and 4 through ODF's Board of Forestry Work Plan, ODF's Fire Protection Division Communication and Outreach Plan, and through funding for CWS.

Recommendations for new policies or processes:

5. Prepare a video tool for communicating the "Oregon Way," that can be used to provide an orientation to other agency personnel on Oregon's complete and coordinated fire protection system, its emphasis on minimizing landowner losses, and the critical role that landowners play in that system.
6. Incorporate key messages from the themes in the Oregon Way into communications with the contractor community.

Implement recommendations 5 and 6 through development of specific communication tools, such as an orientation video, brochure and contractor training materials.

Committee recommendations related to IMT effectiveness, expectations and accountability

Recommendations to Improve Existing Policies or Processes:

7. Find ways to translate the high level of interagency communication and cooperation that typically occurs on smaller fires to large fire situations.

Implement recommendation 7 through ODF Fire Protection Division Initial Attack working group training development.

8. Clearly communicate ODF Agency Administrator expectations to interagency IMTs and implement methods for ensuring accountability.
9. Favor decisions that minimize the need for IMT transitions.
10. Encourage IMTs to include agency expectations in briefings for operational supervisors and in Incident Action Plans.
11. Increase focus on performance standards for IMTs and the consequences of non-performance.
12. Employ more flexibility in adapting to different fire and IMT situations and utilize Unified Command and other means for directly assigning ODF personnel to non-ODF IMTs in key positions.

Implement recommendations 8, 9, 10, 11 and 12 through: a) ODF Fire Protection Division incorporating recommendations into IMT Management Document, and b) Pursuing stronger IMT accountability standards through Pacific Northwest Wildfire Coordinating Group.

13. Review Interagency Master Agreement and Delegation of Authority language to strengthen ODF's authority and increase accountability for interagency IMTs.

Implement recommendation 13 through periodic review and revision of Master Agreement, and through ODF Agency Administrator training and IMT Management document.

Theme B: Improved communication and coordination with landowners (particularly smaller, non-industrial landowners).

Summary of Committee Discussions:

Members expressed concerns that landowners, and their knowledge and resources, were not adequately utilized in large fire suppression efforts. Landowners are often the best source of information on local conditions and fire control opportunities. Landowner representation and communication with IMTs was sometimes inconsistent,

and it was difficult for landowners to know how, where and when to have effective input into IMT planning and decision-making. As a result, some landowners feel that suppression actions were untimely and ineffective, and they suffered additional losses as a result. Large forest landowners present described past efforts to document "in -kind" contributions made by forest industry to the fire protection system. Perhaps such an effort could be revisited to assure that smaller landowner resources have been fully identified. This could provide an opportunity to improve communication with them, and further increase knowledge about their land and resources.

There were also concerns expressed about the timeliness of information provided to landowners as fire suppression actions were planned and implemented and then changed to meet evolving conditions or status. The result was that landowners did not always know what was taking place on their property. This resulted in landowners finding themselves in unsafe situations due to poor communication by fire personnel. Also of concern to committee members was inadequate follow-up with landowners to "close the loop" on actions and outcomes.

Members also raised and discussed the overall difficulties in communicating with the large number of smaller, family forest landowners in Oregon on fire protection issues, and that existing communication forums are more likely to reach larger landowners. This inability to reach and communicate with small landowners in the "off season" contributes to communication challenges when large fires occur.

Committee recommendations related to communication, outreach and coordination

Recommendations for new policies or processes:

14. Utilize information technology (Facebook, Twitter, blogs, etc.) to receive and send feedback to landowners and cooperators during fire situations.

Implement recommendation 14 through ODF Fire Protection Division IMT Training, Information Officer Training and Public Affairs policies and standards.

Recommendations related to more effectively utilizing landowner and cooperator resources

Recommendations for new policies or processes:

15. Capture key resource knowledge and incorporate the use of technology to better the communication process.
16. Create a system, based on regional conditions, for pre-season engagement of key landowner resources.
17. Identify specific people (individuals, city and county officials, landowners, etc.) who can assist with effective landowner and stakeholder communications during large fire situations.
18. Develop a mechanism for actually hiring key people (individuals and landowners) to function in a liaison role on large fires.
19. Institutionalize these processes to withstand turnover and changes in leadership and management.

Implement recommendations 15, 16, 17, 18 and 19 through ODF Fire Protection Division policies and through District Annual Mobilization and Operating plans.

Recommendations related to improving landowner communication and coordination

Recommendations to Improve Existing Policies or Processes:

20. Increase Liaison/Information Officer capacity on IMTs when landowner complexity is high (large industrial, small family forests and/or grazing lands are involved).
21. Establish a "close-in" venue for regular landowner input in large fire situations (such as meeting locations in closer proximity to their lands and residences).
22. Consciously assess complexity of landowner situation at the time of IMT mobilization and when considering IMT transitions, and then staff IMTs accordingly.
23. Focus on local staff to fill key liaison roles on IMTs.
24. Conduct post-fire reviews.
    - Document and distribute to interested landowners and cooperators.
    - Follow-up on what actions are needed to correct problems or improve outcomes.
    - Provide clear feedback to people who participated in the review and shared comments and concerns.
    - Identify and institutionalize "best practices" for after-action reviews with landowners.
25. ODF should continue to encourage the USFS to follow up and "close the loop" with landowners on concerns they have raised.

Implement recommendations 20, 21, 22, 23 and 24 through ODF Fire Protection Division policies, additions to ODF IMT Management document, and through ODF Agency Administrator training and IMT training. Implement recommendation 25 through direct discussions with USFS Regional/ BLM State Director, USFS/BLM State Office-Regional Office Fire and Aviation Management staff and interagency IMTs.

26. Review previous efforts to identify in-kind contributions and resources from forest landowners, and determine if small landowner resources were adequately captured, or if there is a need to expand the effort to include smaller landowners.

Implement through a review of previous in-kind study to determine the extent and scope of private landowners included in the original study that was directed by the Legislature. Following this, if needed, implement through revisiting this concept and program with Legislative Fiscal Office and Budget and Management, and with key cooperators and advisory groups, i.e. Oregon Small Woodlands Association, Oregon Cattlemen's Association, Committee for Family Forestlands.

Theme C: Enhance technical and financial assistance programs available to deal with post-fire land and resource impacts.

Summary of committee discussions:

Jim Cathcart, Cooperative Forestry Manager with the Oregon Department of Forestry, presented information on technical assistance and cost-share programs available to landowners.

An overarching theme of the discussion was the need to increase incentives and reduce "penalties" associated with post-fire salvage and reforestation activities. Current rules governing reforestation requirements on forest lands are not well informed with current financial assistance programs. Landowners who conduct post-fire harvest operations risk incurring a legal requirement to reforest, which then disqualifies them from financial assistance for acquiring seedlings and planting burned acres. Smaller landowners are less likely to be familiar with the complex set of programs and requirements that can affect post-fire activities.

Another element of the discussion focused on the issue of what constitutes "rehab" in the post-fire context, and what level of responsibility ODF has for post-fire rehab work. The committee discussed and identified the need to distinguish between post-fire rehab work (commonly defined as repair of damage caused directly by suppression activities, such as waterbarring fire trails, repairing damage caused by heavy equipment, etc.), and post-fire restoration, which is unrelated to fire suppression activities, and may include salvage of burned timber, replanting or reseeding, or rebuilding burned infrastructure. Fire protection provided by ODF includes rehab work, consistent with the Emergency Fire Cost Committee large fire cost reimbursement standards. IMTs commonly prepare and carry out a fire rehab plan as part of their actions. ODF and IMT responsibilities do not include post-fire restoration work. That is a landowner responsibility.

The committee discussed the fact that the level of understanding about Oregon's wildland fire protection system is very high among large landowners, who are regular participants in fire protection associations, but less so among smaller landowners. This leads to different expectations when dealing with large fire situations and the aftermath of those fires. Large landowners are generally aware of what services they are paying for through annual fire patrol assessments. Many smaller landowners are not as aware of the services being provided, and may perceive that they are buying insurance against loss, rather than just fire suppression services. ODF's fire protection is similar to services provided by the local fire department, in that landowners are paying for putting the fire out, but not paying to be compensated for the value of property or resources destroyed or damaged by the fire. All forestland owners are "in the same boat" in this regard. Typically, landowners – large or small - do not have any affordable insurance protection against the loss of their resources from a wildfire.

The committee discussed the need to distinguish between post-fire rehabilitation work and restoration work such as tree planting.

Committee recommendations related to improved technical and financial assistance for landowners

Recommendations to Improve Existing Policies or Processes:

27. "Front-load" post-fire rehabilitation information so it can be shared with landowners in a timely manner.
28. ODF should ask the Committee for Family Forestlands (CFF) to explore the landowner loss issue as it relates to small landowners and propose options to help resolve concerns.
29. Explore Oregon Department of Fish and Wildlife (ODFW) and other agencies' grass-seeding support program to ensure that potential benefits to landowners are realized.
30. Develop systems and methods for clear communication of post-fire Forest Practices Act requirements to landowners. Consider employing a post-fire "kit" concept.

31. Develop system that provides rapid response by quickly communicating to landowners the proper sequence to follow in requesting information and technical or financial assistance.
32. Develop tools for clearly communicating the entire spectrum of post-fire activities that occur on burned-over lands, from short-term "repair" of damage caused by fire suppression, to longer term restoration activities.
33. Provide a specific link on ODF's website to information on fire protection that is pertinent to smaller landowners.

Implement recommendations 27, 28, 29, 30 and 31 through ODF's Private Forests Program and the work of the Committee for Family Forestlands. Implement recommendation 32 through ODF Fire Protection Division and ODF Public Affairs efforts. Implement recommendation 33 through coordination between ODF's Fire Protection Division and Public Affairs Program.

Recommendations for New Policies or Processes:

34. Explore Federal Emergency Management Agency (FEMA) Disaster Assistance Program to determine if there is financial assistance available to landowners that suffer resource losses from wildfire.
35. ODF explore Forest Practices Act rule changes to "even the playing field" for Eastern Oregon lands.
36. Look for ways to simplify the interaction between regulatory reforestation obligations following timber salvage and eligibility for financial assistance for the reforestation costs incurred so that it works for landowners.
37. Explore restoring or creating a program that provides tax credits to landowners for post-fire reforestation.
38. Affirm ODF's role as key contact point for other agency assistance.
39. ODF should explore ways to institutionalize post-fire financial assistance programs (coordinate with NRCS and others).

Implement recommendation 34 through ODF Fire Protection Division research into available FEMA assistance programs and incorporate information into post-fire information tools. Implement recommendations 35, 36, 37, 38 and 39 through ODF's Private Forests Program and work with the Eastern Oregon Forest Practices Advisory Committee.

Theme D: Increasing the transparency and clarity of the State's tort claims process, and improving communication with claimants.

Summary of Committee Discussions:

Penny Evans, DAS Risk Manager, provided an overview of the State's Liability Claims Management process and the specific process for review and decision-making on tort claims. There was general consensus that the

overall process as described seemed like a reasonable one, but skepticism as to whether the process had been correctly applied in the case of the Barry Point claims.

Committee members shared strong concerns about the State's tort claim process and the communication that occurs with claimants once a claim has been made. There was a high level of frustration with lack of communication from the State for long periods of time after claims were filed related to the Barry Point Fire. Landowners were frustrated over receiving a form letter sent to all claimants, when they had filed individual claims describing individual circumstances. Landowners felt they were not provided an opportunity to share their side of the story, and that their claims were denied initially with little or no direct contact from the State to investigate their allegations and concerns. The strong feeling among landowners is that they were not treated with respect by the State throughout the process of claim submittal, review and eventual notification.

ODF shared that it is frustrating as the service provider, because once a claim is filed the department's ability to communicate with customers on information related to the claim is inhibited. All such discussions take place only between the claimant and DAS. Mike Kopitzke shared that Montana Department of Natural Resources and Conservation (DNRC) has an option to conduct direct settlement negotiations with claimants, and if they agree to settle the money comes out of fire suppression funds. Members supported efforts to explore a similar authority for ODF. Sen. Whitsett raised the possibility of legislation that could provide "safe harbor" by allowing the State to conduct direct discussions with landowners about their losses and potential claims, without the threat of those discussions being used against them in legal proceedings. Similar "safe harbor" protections apply to Oregon physicians.

Committee recommendations related to landowner damages and claims process

Recommendations to improve existing policies or processes:

40. ODF and DAS should look back at the history of fire-related damage claims to establish a point of reference for improving the process.
41. DAS should improve communication/outreach tools to better inform small landowners on claim process.

Implement recommendation 40 through DAS Risk Management review of past damage claims by May 1, 2014. Implement recommendation 41 through DAS Risk Management development of document outlining the claims process by June 1, 2014, for review by ODF. ODF will coordinate the distribution of the final document to small forest landowners.

Recommendations for New Policies or Processes:

42. Review how other states handle post-fire damage claims. Consider changes to authorities and responsibilities based on what is working in other states.
43. Consider interim notices or other communication with claimants for prolonged claim review processes.
44. Letter to claimants should provide more on the process followed, the extent of the investigation, and the specific reasons for denial of a claim.
45. Investigation needs to include contact with claimants and/or their attorneys. State should explore direct authority for ODF to pursue tort claim settlements initially (Montana example).
46. Explore a "Safe Harbor" concept to provide for more direct discussion with landowners regarding losses, without fear of subsequent litigation.

Explore the implementation of recommendations 42, 43, 44, 45 and 46 through discussions between ODF's Fire Protection Division and DAS – Risk Management and legislators involved with the review.

Conclusion

This report summarizes the two-day discussion by The Large Fire Review Committee and offers a series of recommendations from the review of the 2012 fire season. The committee is aware of the significant changes implemented by ODF in preparation and in practice for the 2013 fire season. While the committee clearly understands its purpose was to provide recommendations to the State Forester, it is apparent that some recommendations reflect the need for ODF to work with other agencies, organizations and levels of government as well as the forest landowners. While committee members brought a range of perspectives to the table, these recommendations have the support of the committee as a whole. Members of the committee share the sense that while the 2013 season marked a number of improvements, there is still an opportunity to do better. The committee supports ODF in its efforts to follow through on the recommendations made.

The recommendations as summarized relate to four key themes: 1) wildland fire policy and landowner risk; 2) improved communication and coordination with landowners; 3) enhanced technical and financial assistance programs; and 4) increasing the transparency and clarity of the State's tort claims process. These reflect the major issues discussed in the Committee's six objectives.

ODF communicated to the committee a commitment to move these recommendations forward through a combination of ongoing work, and new work that will require ODF involvement across multiple division responsibilities as well as coordination with another state agency (DAS). The committee work was extremely valuable in articulating and clarifying where progress can be made. The ODF is a learning organization committed to continuous improvement.

Reference documents

The following documents related to the work of the 2012 Large Fire Review Committee are available on the ODF website, using this link: www.oregon.gov/odf/Pages/fire/2012largefirereview.aspx

Committee Agenda – December 12-13, 2013 Meeting

December 12-13 Detailed Meeting Notes

December 12-13 Meeting Presentations

2012 Large Fire Review Committee Charter

2012 Large Fire Review Committee Issue Papers

ODF IMT Management Document – 2013 Working Draft

ODF 2013 Fire Season Memo

2012 Large Fire Review Protection Division Implementation Plan

2012 Large Fire Review Private Forests Division Implementation Plan

Barry Point Fire Area and Progression

The Barry Point Fire spread rapidly under extreme weather and fuel conditions in August 2012.