

Analysis

Item 37: Department of Transportation

Wildfire Debris Removal

Analyst: Gregory Jolivette

Request: Establish Federal Funds expenditure limitation of \$150,000,000 for the Department of Transportation and allocate \$43,750,000 General Fund from the Emergency Fund to the Department of Transportation for wildfire ash and debris removal.

Analysis: The Oregon Department of Transportation (ODOT), in collaboration with the Department of Environmental Quality and the Office of Emergency Management, has embarked on a major project to clean up the massive amounts of debris left behind by the 2020 Labor Day fires. The project encompasses the removal of hazard trees from the sides of roads and highways, as well as removal of ash and debris from burned out homes and businesses in the eight Oregon counties most impacted by the fires. ODOT estimates the project cost will be \$663 million. The Federal Emergency Management Agency (FEMA) is expected to reimburse 75%-90% of eligible costs.

For the purpose of tracking the different sources of project funding, it is helpful to think of the project as having two distinct components: (1) hazard tree removal, which is estimated to cost \$295.7 million; and (2) ash and debris removal, which is projected to cost \$367.3 million. Both are eligible for FEMA funds, but the source of the state match differs. For hazard tree removal, the state match will be met using the State Highway Fund reserves; whereas the state match for ash and debris removal will be covered by the General Fund. The latter is not an eligible use of State Highway Fund monies.

October Emergency Board Meeting

At its October 23rd meeting, the Emergency Board approved ODOT's initial request for the project. Specifically, the Emergency Board approved an Other Funds limitation increase of \$295.7 million to fully fund hazard tree removal from State Highway Fund monies and allocated \$50 million General Fund as an initial installment for ash and debris removal. There was an expectation that the \$50 million General would allow the state to draw down \$150 million in FEMA funds. The timing of the receipt of federal funds was an open question.

Changes Since the October Emergency Board Meeting

Since the October Emergency Board meeting, there have been two noteworthy developments. First, based on recent negotiations with FEMA officials, ODOT now expects to receive the \$150 million in FEMA funds within the next few months. ODOT is requesting establishment of Federal Funds limitation to allow the agency to spend those funds.

Second, ODOT has learned that some of the structural debris removal included within the project scope likely will not qualify for FEMA funds. Some notable examples of costs that are ineligible for FEMA reimbursement include cleanup on federal land and the removal of concrete slabs. The cost for ineligible activities -- estimated at \$65.3 million-- must therefore be borne entirely by the General Fund. To address this situation, ODOT is requesting \$43.8 million General Fund be allocated from the Emergency Fund to cover the portion of such expenses it expects to incur through the end of the current biennium.

In light of the various competing requests for the limited resources remaining in the Emergency Fund, the Legislative Fiscal Office recommends the Emergency Board allocate only \$7 million General Fund at this time, with the expectation that ODOT return to seek the balance of funds needed to support the project in the current biennium. The agency believes \$7 million General Fund will provide enough flexibility to allow it to manage costs deemed ineligible for FEMA money through the end of February 2021.

The table below summarizes the overall funding proposal and timeline. It is important to note that figures in this table do not reflect the expected state and federal cost sharing for the project. This is because federal reimbursements for hazard tree removal costs are not shown here.

ODOT Wildfire Debris Removal Funding				
(\$ in millions)				
	GF	OF	FF	Total
ODOT Proposal by Fund Type (as of Nov 2020)	140.80	295.70	226.50	663.00
Emergency Board - October 2020	(50.00)	(295.70)	0.00	(345.70)
LFO Recommendation on December E-Board Request	(7.00)	0.00	(150.00)	(157.00)
Remaining ODOT Need by Biennium	83.80	0.00	76.50	160.30
2019-21	36.75	--	0	36.75
2021-23	47.05	--	76.50	123.55

Legislative Fiscal Office Recommendation: The Legislative Fiscal Office recommends that the Emergency Board allocate \$7,000,000 from the Emergency Fund and establish a Federal Funds expenditure limitation of \$150,000,000 for the Oregon Department of Transportation’s Maintenance Program for wildfire ash and debris removal.

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Oregon Department of Transportation
Pearson

Request: Allocate \$43,750,000 from the State Emergency Fund for cleanup and removal of structural debris from the 2020 Labor Day wildfires. Establish a Federal Funds expenditure limitation of \$150,000,000 for cleanup and removal of structural debris from the Labor Day wildfires, in 2020.

Recommendation: Approve the request with the following modification: allocate \$10,000,000 from the State Emergency Fund for cleanup and removal of structural debris from the 2020 Labor Day wildfires. Establish a Federal Funds expenditure limitation of \$150,000,000 for cleanup and removal of structural debris from the Labor Day wildfires, in 2020.

Discussion: The Oregon Department of Transportation (ODOT) is requesting a \$43.8 million General Fund allocation from the State Emergency Fund and to establish a \$150 million Federal Funds expenditure limitation in its Maintenance program. The request is based on feedback from contractors, expenditure pattern analysis from a comparable fire in California in 2018, a deadline to complete recovery by the end of 2021, and input from federal agencies including the Federal Emergency Management Administration (FEMA). Recovery from the 2020 Labor Day Fires is a work in progress with ongoing need assessments and cost allocations among federal, state, local, and private payers. Additional requests for budget adjustments and General Fund appropriations will occur in the future. This request has the following two components:

- *FEMA Eligible Expenses.* This request would establish a \$150.0 million Federal Funds expenditure limitation for FEMA funding. In October 2020, the Emergency Board allocated \$50 million General Fund to provide the 25 percent match needed to access these Federal Funds.
- *Non-Eligible Expenses.* The \$43.8 million General Fund in this request will pay for costs ineligible for FEMA reimbursement. The Governor's Disaster Cabinet and the Wildfire Economic Recovery Council recommended these non-eligible properties receive state-only recovery funding.

ODOT expects to request \$25.5 million General Fund to access \$76.5 million of FEMA funds during the 2021 Legislative Session. It also expects to request \$21.6 million General Fund for non-eligible properties, bringing the total General Fund for non-eligible properties to \$65.3 million. Another agency, the Department of Environmental Quality, also expects to make a future request for General Fund to match FEMA funds, too. Because of current constraints on available State Emergency Funds, the analyst recommends allocating \$10 million of the current request during the December 2020 meeting of the Emergency Board, with the remaining request being addressed early in the 2021 Legislative Session.

Legal Reference: Allocation of \$10,000,000 from the State Emergency Fund to supplement the appropriation established by the Emergency Board at its October 23rd meeting for the Department of Transportation, Maintenance Program, for the 2019-21 biennium.

Establish a Federal Funds expenditure limitation of \$150,000,000 for the Oregon Department of Transportation, Maintenance program, for the 2019-21 biennium.



Oregon

Kate Brown, Governor

Department of Transportation

Office of the Director

355 Capitol St NE

Salem, OR 97301

November 20, 2020

The Honorable Senator Peter Courtney, Co-Chair
The Honorable Representative Tina Kotek, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairpersons:

Nature of the Emergency/Request

The Oregon Department of Transportation (ODOT) is requesting the establishment of a Federal Funds limitation of \$150 million for Federal Emergency Management Agency (FEMA) reimbursement of costs and an increase in General Funds appropriation of \$43.75 million relating to the cleanup and removal of structural debris from the Labor Day wildfires in 2020.

Agency Action

Oregon's 2020 Labor Day fires constitute the largest and most expensive disaster in our state's history. Historic winds caused numerous new ignitions and existing fires to spread rapidly across both rural and urban areas of the state, burning over 1,000,000 total acres and destroying over 5,000 residential and commercial structures. Though fire containment efforts are still ongoing, the state and its federal and local partners have begun work to clean up, recover, and rebuild in the wake of the fires' devastation. Of Oregon's 36 counties, eight are significantly impacted from the Labor Day fires: Clackamas, Douglas, Jackson, Klamath, Lane, Linn, Lincoln, and Marion.

The state, under leadership from Governor Brown's Disaster Cabinet and the Wildfire Economic Recovery Council, is managing the cleanup and recovery efforts in a state managed, locally coordinated approach. The Oregon Department of Transportation (ODOT), the Department of Environmental Quality (DEQ), and the Office of Emergency Management (OEM) formed a Debris Management Task Force to coordinate, facilitate, and lead efforts to clean up debris created by the fires and prepare impacted areas for further recovery and rebuilding.

The Federal Emergency Management Agency (FEMA) plays a critical role in providing financial aid to states and local governments in the wake of natural disasters. FEMA assistance requires a non-federal cost share that starts at a standard 25% but can be reduced at the president's discretion to 10% or even 0%. FEMA has indicated that total eligible costs of more than \$570 million would likely tip this disaster into a 10% non-federal cost share.

Structural Debris Cleanup

Structural debris cleanup is estimated at \$302 million in costs eligible for FEMA reimbursement and \$65.3 million in costs that FEMA will likely determine are not eligible. ODOT is working with FEMA to determine which costs of structural debris cleanup are eligible for federal participation and which costs are not.

Since the structural debris cleanup is not a constitutionally eligible use of the Oregon State Highway Fund dollars, the Legislature approved \$50 million in General Funds at the October 2020 E-Board. This \$50 million will serve as the 25% match on the \$150 million FEMA Federal Funds requested with this letter. ODOT will not be able to expend FEMA funds without establishment of a Federal Funds limitation. FEMA funds could be provided early in 2021.

The state through Governor Brown’s Disaster Cabinet and the Wildfire Economic Recovery Council has determined that funding should be made available for properties determined to be non-eligible for FEMA Assistance. The estimate for these non-eligible properties for the 2019-21 biennium is \$43.75 million General Fund.

ODOT will also seek additional General Fund resources and Federal Funds limitation in the 2021-2023 biennium, and DEQ will seek General Fund resources for the non-federal share of \$15-21 million in household hazardous waste cleanup that is underway by the federal Environmental Protection Agency. The chart below includes ODOT’s current wildfire structural debris cleanup estimated costs and projected requests of the Legislature (not including hazard tree removal paid for by the State Highway Fund and the Federal Highway Administration, or DEQ’s household hazardous waste request).

Labor Day 2020 Wildfire Recovery Efforts

Estimated as of November 2020
in millions

	Structural Debris Cleanup			
	FEMA Federal Funds	General Fund Match Match assumed at 25%	Non-FEMA General Fund	Totals
October 2020 E-Board		50.0		50.0
December 2020 E-Board	150.0		43.75	193.75
Additional ODOT need during 2021 Legislative Session (2021-2023 biennium)	76.5	25.5	21.55	123.55
	226.5	75.5	65.3	367.3
	Fed as Fed	GF	GF	

Action Requested

Approve ODOT’s request to establish a Federal as Federal Funds limitation of \$150 million for the 2019-2021 biennium.

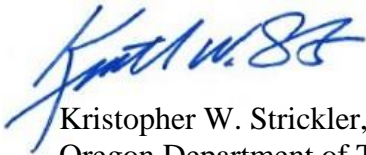
Approve ODOT's request to increase General Fund appropriation by \$43.75 million for the 2019-2021 biennium.

Legislation Affected

Establish a Federal Fund limitation by amending Chapter 614 Section (3) Oregon Laws 2019, by \$150 million Federal as Federal funds for the 2019-21 biennium.

Increase the General Fund appropriation by amending Chapter 614 Section (1) Oregon Laws by \$43.75 million General Funds for the 2019-21 biennium.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kristopher W. Strickler".

Kristopher W. Strickler, Director
Oregon Department of Transportation