

California Department of Forestry & Fire Protection (CAL FIRE)



Civil Cost Recovery Program

Annual Report to the Legislature | Fiscal Year 2021-2022

BACKGROUND

The Department of Forestry and Fire Protection (CAL FIRE) is responsible for providing fire protection, fire prevention, forest and range protection, and enhancement activities upon the State Responsibility Areas (SRA) of the state, consisting of approximately 31 million acres. Further, the Department is responsible for enforcing forest and fire laws of the State.

The Department supports multiple different activities to accomplish its fire prevention responsibility, including fire engineering, vegetation management, fire planning, education, and law enforcement. These combined programs reduce unintentional wildland fires throughout California, increasing public safety, protecting property, improving air quality, and protecting watershed lands. The philosophy of fire prevention is premised on the idea that the best way to suppress a fire is to not have the fire in the first place.

California Health and Safety Code Section 13009 authorizes fire agencies to recover suppression and related administrative costs from anyone who starts a fire negligently or in violation of law. This benefits the State and its taxpayers by appropriately allocating suppression costs to the individuals who negligently caused the fires. This authorization also provides a vital fire prevention tool and is one of the ways the Department seeks to reduce human caused fires within the SRA.

The purpose of the Cost Recovery program is further identified within the State Administrative Manual (SAM), which supports the program by mandating recovery of costs for State-provided services (SAM Section 8752). In addition, for fires where the State has received federal assistance from the Fire Management Assistance Grants Program (FMAG), contractual and legal obligations require the Department to investigate and seek fire suppression cost recovery (44 CFR Chapter 1, Section 204.62(a)). The federal government requires the State to seek reimbursement of those funds for fires caused by negligence or violation of law. If the Department does not make a legitimate effort to recover such funds, the State can be held responsible for the amount fronted by the federal government. This is also true for Federal Emergency Management Agency reimbursements, and in some instances, for federal or local assistance provided under a service or cost-apportionment contract.

The Department has utilized civil cost recovery as a fire prevention tool for many years, but averaged less than six cases per year prior to 2008. To meet the regulatory and contractual obligations discussed above, and in recognition of its effectiveness to yield greater wildfire prevention outcomes compared with administrative or criminal deterrents, the program has expanded. Following legislative approval, the Department implemented a statewide fire suppression civil cost recovery pilot program in Fiscal Year (FY) 2008-09. In recognition of the program's success, whereby the program tripled the number of cases resolved, the Legislature made the program permanent in FY 2010-11. In FY 2011-12, the Legislature approved an increase to the civil cost recovery program staff and made these changes permanent in FY 2013-

14. On August 22, 2014, Governor Brown approved SB 1075 (Knight), a bill that added Section 707.1 to the Public Resources Code (PRC) and requires a report to the Legislature regarding any moneys recovered by the Department in a civil action.

CIVIL COST RECOVERY PROCESS

The Department, or a county assuming fire suppression and prevention responsibilities (PRC Section 4129), by policy or contract and in recognition of its statutory responsibilities, investigates the cause of every fire occurring within the SRA. If the fire is determined to have started as the result of negligence, or because of a violation of law, and the responsible party can be identified, the Department or county evaluates, based on the individual circumstances, the most effective disposition to the case. Potential dispositions include administrative remedies, criminal complaints, civil cost recovery or a combination of the three. In those instances, where the Department or county selects to pursue recovery of the costs expended in the suppression of the fire, a case manager is assigned to facilitate the process.

Per Department policy, any fire occurring within any of CAL FIRE's 21 Administrative Units which resulted in Emergency Fund expenditures and found to be caused by negligence or violation of law is referred from the responsible Unit to one of the two Regional offices for Region Case Manager assignment. Overall Cost Recovery Program management, consultation, and oversight is provided from Program staff, located in Sacramento.

For the six contract counties, where the State pays the counties to assume responsibility for the prevention and suppression of all fires in SRA in the county (PRC 4129), the county has the option to independently pursue cost recovery on behalf of the State, in consultation with the applicable Region Case Manager. When a county chooses not to pursue cost recovery on behalf of the State, the case is referred to the county's Administrative Unit (the Department Unit that manages the contract with each county) and is managed as described above.

The assigned case manager reviews the details and circumstances of the case, as provided by the case officer. Case viability is considered, and the case manager ultimately determines if the referred case becomes a "Cost Recovery" case. If it is determined the case will proceed as a "Cost Recovery" case, the case manager requests specialized staff to thoroughly review fire suppression cost documentation to establish a defensible cost the Department paid in the suppression of the fire. Once this cost is determined, the case manager informs the responsible party of the cost and requests payment.

In some instances, the responsible party immediately acknowledges their negligence and/or violation of law which contributed to the cause of the subject fire. In these cases, the responsible party pays the costs in full or requests the Department develop a payment plan which allows the

responsible party to reimburse the State over a period, at a level they feel can be sustained for the term of the agreement. In other cases, the responsible party neither accepts nor denies their responsibility and submits the Department's claim to their respective insurance companies. The Department then seeks reimbursement through the insurance claim adjuster, subject to policy coverages, limits, and restrictions. In other instances, the responsible parties and/or their insurance companies disagree with either their culpability in the cause of the fire or their responsibility to pay. In these instances, the Department attempts to work with the responsible parties and/or their representatives to bring resolution to the matter; however, if resolution cannot be obtained, the Department will initiate civil action in the applicable Superior Court by enlisting services from the California Attorney General's Office.

Once the Department receives payment for the costs of suppressing a fire, the money is deposited as a reimbursement into the State's Treasury. Where FMAG funds were received, the Department reimburses FMAG consistent with contractual agreements generally through the Office of Emergency Services (OES). Costs recovered that were incurred by other agencies, but made a party to the recovery effort are similarly distributed. If the reimbursement is timely, the balance of the funds is utilized to abate the costs incurred in the actual suppression of the fire. If the reimbursement occurs after three years, the balance of the funds is made a credit to the General Fund where they are displayed as "miscellaneous revenue" in the State's financial statements.

REPORTING INFORMATION

The attached spreadsheet details every emergency wildland fire incident that resulted in moneys recovered during FY 2021-22, pursuant to the Department's cost recovery efforts. The start dates of these incidents range from 2003 to 2022, as it can take several years to successfully recover funds spent in the suppression of wildland fires. The spreadsheet shows:

- The incident name, incident number, start date, and location.
- The total cost of the incident, as recorded in the final Activity Reporting and Costs Summary (ARC).
- The date of the judgment, signed settlement agreement, or initial repayment check in the absence of a written agreement.
- The CAL FIRE administrative level (Unit, Region, or Headquarters) that approved the settlement or agreement (if applicable).
- The dollar amount of the judgment, settlement, or agreement.
- Whether the agreement included a monthly payment plan.
- FMAG funds received and/or reimbursed.

In addition to the information above, the spreadsheet shows how and where recovered funds

were accounted for and how they provided for reimbursement within Calstars and Fi\$Cal, the State's accounting systems. All moneys recovered are entered into the State's accounting system and tracked by receipt of collection, transaction, and deposit reporting. Pursuant to that system, moneys recovered are used as abatements to "reimburse" the following Department operating accounts and appropriations:

- The General Fund for all expenses incurred prior to FY 2019-20.
- The CAL FIRE Emergency Fund for those expenses incurred between FY 2019-20, and FY 2021-22.
- The CAL FIRE Base Budget for those expenses incurred between FY 2019-20, and FY 2021-22.

The Base Budget provides funding for personnel and resources used to provide an initial attack when a fire occurs, with the goal of extinguishing the fire quickly and keeping the fire to ten acres or less. This fund essentially provides for the Department's day to day activities. The Emergency Fund provides funding for suppression costs on fires when the fire suppression efforts needed to control the fire exceeds CAL FIRE's base budgeted resources and may be used to fund fire detection, and related emergency re-vegetation costs. The Emergency Fund and the Base Budget are generally funded from the General Fund.

DISCUSSION

All moneys received in FY 2021-22, for incidents that occurred before FY 2019-20, (June 30, 2019, and before) went directly to the State Treasury and into the General Fund. This treatment is consistent with collection of years where the accounting books have closed as described and directed in SAM, Section 10473.

Moneys received for incidents occurring between FY 2019-20, through FY 2021-22, were abated against either the Base Budget or the Emergency Fund. The amount of abatement is determined by the percentages of each fund expended in fighting the fire, split as a percentage of the total. For example, if 50% of the total suppression costs for a fire were spent from the Base Budget and 50% was spent from the Emergency Fund, the recovered amounts are disbursed back to those funds in the same percentages. The funding source for the Department's fire suppression efforts (both Base Budget and Emergency Fund) is the General Fund.

No money was received from or reimbursed to any State entity for incidents included in this report.

The total amount received from responsible parties in FY 2021-22, for civil action on wildland fires was \$32,076,721. The following table summarizes the reimbursements for FY 2021-22.

<i>General Fund Reimbursement</i>	<i>FMAG** Reimbursement</i>	Emergency Fund Reimbursement	Base Budget Reimbursement	Total Amount Recovered
\$ 30,808,880	\$ 4,751,680	\$ 885,354	\$ 382,487	\$ 32,076,721

**Reimbursements are reflected in the Department’s main appropriation, versus the E-Fund appropriation.*

***FMAG reimbursement amount included in General Fund reimbursement total*

In FY 2021-22, suppression costs were recovered for 47 fires. The largest recovery for a case with a disposition in FY 2021-22, was the Rye Fire. The Rye Fire occurred on December 5, 2017 in Los Angeles County and was caused by a broken dead-end guy wire resulting in hot metal particle emissions igniting surrounding vegetation. The fire burned 6,049 acres of natural vegetation with structures being damaged or destroyed. CAL FIRE expended \$7,517,485.46 to suppress the fire. The Department, with assistance from the State Attorney General’s Office, settled the case on December 24, 2021 for \$6,000,000.00. In addition to the Rye Fire being the single largest incident for which payment was received, the Department received an installment payment of \$8,586,183.00 from a global settlement agreement reached with Pacific Gas and Electric Company for fires that occurred between 2015-2018.

For the 47 fires where suppression costs were recovered in FY 2021-22, the median recovery was \$682,483.43. Approximately 28 percent of these fires have a payment plan requirement as part of a settlement agreement.

July 1, 2021 - June 30, 2022

INCIDENT NAME	INCIDENT #	DATE	UNIT	TOTAL COST (1)	FMAAG RECEIVED (2)	REMITTED TO OES FOR FMAAG (3)	SETTLEMENT DATE	SETTLEMENT APPROVAL LEVEL	TOTAL SETTLEMENT AMOUNT	PAYMENT PLAN (Y)	TOTAL AMT RECOVERED IN PZ1 FROM PRE-FY19 INCIDENTS	TOTAL AMT RECOVERED IN PZ1 FROM POST-FY18 INCIDENTS	REIMBURSED TO EMERGENCY FUND	REIMBURSED TO BASE FUND
Hummer	CAMMU008974	05/26/14	MMU	\$ 5,784,176			06/29/18	HQ	\$ 40,000	Y	0	0		
Lichten	CASLU005033	08/02/15	MMU	\$ 13,824			03/09/14	REGION	\$ 3,033	Y	408	408		
Breed	CAHUU004672	07/03/15	SRU	\$ 5,613			06/16/15	HQ	\$ 46,452	Y	1,452	1,452		
Smith 2	CAMMU023133	10/02/12	AEU	\$ 82,639			06/16/15	HQ	\$ 37,500	Y	3,500	3,500		
River	CAMMU020275	10/03/12	MMU	\$ 10,424			02/07/12	REGION	\$ 11,805	Y	3,885	3,885		
Central	CATCU007704	07/01/12	TCU	\$ 41,969			06/10/19	HQ	\$ 41,969	Y	4,000	4,000		
Cerrera	CAMMU009585	07/01/12	BEU	\$ 39,527,180			08/12/21	HQ	\$ 3,000,000	Y	3,000,000	3,000,000		
Corfme	CAMMU011662	06/18/15	MMU	\$ 7,625,156			08/12/21	HQ	\$ 5,000,000	Y	4,000,000	4,000,000		
Parfield	CAMMU003551	07/08/12	BEU	\$ 5,781,375			08/29/21	HQ	\$ 3,500,000	Y	157,000	157,000		
Zanon	CASLU008291	07/20/12	SRU	\$ 121,015			08/29/21	HQ	\$ 127,731	Y	5,162	5,162		
Benson	CATCU009512	07/08/12	TCU	\$ 125,731			08/29/21	HQ	\$ 5,162	Y	100,461	100,461		
Harney	CATCU011513	09/24/12	TCU	\$ 5,162			08/29/21	HQ	\$ 6,044	Y	6,044	6,044		
Table	CATCU011308	09/19/12	TCU	\$ 100,754			08/29/21	HQ	\$ 1,686	Y	15,000	15,000		
415	CAMMU016171	08/08/12	MMU	\$ 6,044			08/29/21	HQ	\$ 4,235	Y	35,000	35,000		
Bissett	CAMMU022891	11/09/12	MMU	\$ 1,686			08/29/21	HQ	\$ 22,000	Y	72,000	72,000		
Almond	CASLU007433	07/12/18	SRU	\$ 20,546			08/29/21	HQ	\$ 4,235	Y	4,235	4,235		
Scota	CASLU011961	08/07/12	BEU	\$ 79,986			08/29/21	HQ	\$ 35,000	Y	55,924	55,924		
Northridge	CAMMU012676	06/22/18	MMU	\$ 4,235			11/07/17	HQ	\$ 95,826	Y	300,000	300,000		
Lakeland	CALNU009502	06/30/18	LNLU	\$ 813,401			08/11/21	HQ	\$ 300,000	Y	1,000,000	1,000,000		
Liberty	CABRU151090	12/07/12	RRU	\$ 1,180,822			07/26/21	HQ	\$ 200,022	Y	21,653	21,653		
Gulch	CABRU003982	08/11/18	BEU	\$ 238,368			12/06/21	REGION	\$ 20,000	Y	510,000	510,000		
Cutter	CABRU009512	09/15/06	SRU	\$ 99,028			12/15/21	HQ	\$ 512,500	Y	2,460,000	2,460,000		
Arma	CASLU008912	09/26/16	SRU	\$ 21,473,662			05/27/20	HQ	\$ 4,000,000	Y	6,000,000	6,000,000		
Burke	CABRU009129	09/29/16	LNLU	\$ 3,179,073			12/24/21	HQ	\$ 5,162	Y	325	325		
Swainhill	CALCC060414	06/02/18	ORC	\$ 2,873,974	4,751,680		06/02/20	HQ	\$ 2,525	Y	50,000	50,000		
Bliss	CALCC062441	12/05/12	LAC	\$ 7,517,485			03/02/22	HQ	\$ 70,828,958	Y	1,858,051	1,858,051		
Cable	CABRU007256	05/26/18	BEU	\$ 51,035			09/02/21	REGION	\$ 75,000	Y	121,858	121,858		
Gentry	CASLU005218	07/22/18	SRU	\$ 683,548			06/04/22	REGION	\$ 170,000	Y				
2015-18 Ref Settlement Tracker	CACRU003022	07/01/15	CNR	\$ 70,828,958			06/04/22	REGION	\$ 170,000	Y				
Hill	CABRU008470	08/05/18	SRU	\$ 1,858,051			06/04/22	REGION	\$ 170,000	Y				
Biggs	CABRU002986	06/22/19	BEU	\$ 62,213			06/04/22	REGION	\$ 170,000	Y				
Liggett	CABRU002984	06/08/19	BEU	\$ 121,858			06/04/22	REGION	\$ 170,000	Y				
Phelan 4	CAMMU008232	06/10/19	MMU	\$ 184,837										

The following is a key to the three letter unit identifiers used above:

- AEO - Animal/Educator Unit
- BEU - San Bernardino Unit
- BRU - San Bernardino Unit
- BRU - Riverside Unit
- BRU - Orange County Fire Authority
- BRU - Inverade Unit
- BRU - San Diego Unit
- BRU - Kern County Fire Department
- BRU - Los Angeles County Fire Department
- BRU - Lassen/Wadcut Unit
- BRU - Sonoma Lake/Wapa Unit
- BRU - Mendocino Unit
- BRU - Wadner/Knappton/Mered Unit
- BRU - Kern County Fire Department
- BRU - Nevada/Idaho/Fire Unit
- BRU - Nevada County Fire Authority
- BRU - Nevada County Fire Department
- BRU - Santa Barbara County Fire Department
- BRU - Santa Clara Unit
- BRU - Shasta/Trinity Unit
- BRU - San Joaquin Unit
- BRU - San Luis Obispo Unit
- BRU - Teaneme/Carm Unit
- BRU - Tuolumne Unit
- BRU - Ventura County Fire Department

INCIDENT NAME	INCIDENT #	FIRE DATE	UNIT	TOTAL COST (1)	FMAAG RECEIVED (2)	REMITTED TO OES FOR FMAAG (3)	SETTLEMENT DATE	SETTLEMENT APPROVAL LEVEL	TOTAL SETTLEMENT AMOUNT	PAYMENT PLAN (Y)	TOTAL AMT RECOVERED IN PZ1 FROM PRE-FY19 INCIDENTS	TOTAL AMT RECOVERED IN PZ1 FROM POST-FY18 INCIDENTS	REIMBURSED TO EMERGENCY FUND	REIMBURSED TO BASE FUND
Green 3	CAMMU014697	10/06/19	MMU	\$ 95,422			05/19/21	REGION	\$ 33,895					
Gillis	CASLU008993	07/08/19	SRU	\$ 32,676			09/07/21	HQ	\$ 33,000	Y				
Nickel	CASLU000511	10/15/19	SRU	\$ 39,944			10/05/21	HQ	\$ 39,944	Y				
Maria	CATLU000469	06/16/20	SRU	\$ 90,677			11/09/21	HQ	\$ 90,677	Y				
Phant	CASLU000021	06/16/21	TUU	\$ 15,437			11/29/21	HQ	\$ 37,000	Y				
View	CASLU000364	06/06/20	SRU	\$ 41,123			12/15/21	REGION	\$ 70,888	Y				
Johnson	CABRU003810	09/04/20	BEU	\$ 70,888			01/17/22	REGION	\$ 1,000,000	Y				
Logg	CABRU011113	07/28/20	PHU	\$ 123,899			05/24/22	REGION	\$ 75,000	Y				
Lorenwater	CABRU002677	06/07/20	BEU	\$ 83,095			06/27/22	HQ	\$ 470,000	Y				
Hollister	CASLU005172	05/07/20	SRU	\$ 536,872										
TOTAL AMT RECOVERED IN PZ1 FROM PRE-FY19 INCIDENTS											30,808,880	30,808,880		
TOTAL AMT RECOVERED IN PZ1 FROM POST-FY18 INCIDENTS												1,267,841		
TOTAL AMT RECOVERED IN PZ1													32,076,721	

(1) Total fire suppression costs as recorded on the final Activity Reporting and Costs Summary (ARC).

(2) Federal Management Assistance Grants Program (FMAAG) provide grants from the Federal Government that fund the majority of eligible fire suppression costs.

(3) The Governor's Office of Emergency Services (OES) manages the FMAAG process on behalf of the State. As such, reimbursements due for FMAAG grants are remitted to OES for payment to the Federal Government.