TENSION IN THE TINDERBOX: FINDING FAIRNESS FOR FEDERAL FIREFIGHTER COMPENSATION

HEARING

BEFORE THE

SUBCOMMITTEE ON THE FEDERAL WORKFORCE AND AGENCY ORGANIZATION

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

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TENSION IN THE TINDERBOX: FINDING FAIRNESS FOR FEDERAL FIREFIGHTER COMPENSATION

FRIDAY, AUGUST 12, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FEDERAL WORKFORCE AND AGENCY ORGANIZATION,
COMMITTEE ON GOVERNMENT REFORM,
Las Vegas, NV.

The subcommittee met, pursuant to notice, at 11 a.m., at the Red Rock Canyon Fire Station, off Red Rock Campground Road, Las Vegas, NV, Hon. Jon C. Porter (chairman of the subcommittee) presiding.

Present: Representative Porter.

Staff present: Chad Bungard, deputy staff director, chief counsel; Christopher Barkley, professional staff member; and Chad Christofferson, clerk.

Mr. PORTER. I'd like to formally bring the meeting to order. I want to say I guess before I get into my scripted remarks, which I have to include for the record, as do many of you here today, how much I appreciate all of you being here today.

And, you know, it's truly a great facility, you know, at the foothills of one of the most beautiful places in the country. We're very proud of it, those that are here from Nevada. I'd like to say it's a secret but it really isn't. Red Rock and the adjoining area is just absolutely a phenomenal place. I know as you step outside, and hopefully you can spend a little time and tour the area, it's tremendous.

But it's very special not only because of the natural resource but we have so many people here that help make it so great. You know, the firefighters, Forest Service, State of Nevada, BLM, we can go on and on, the Federal agencies and all the State agencies. But it's truly because of a lot of people that care. There's a lot of volunteers that help here locally that help in Red Rock. It's very pristine. We want to make sure that we keep Red Rock the natural resource that it is; something for us to brag about.

There are some very special individuals that are on the line every day, and I've had a chance to talk to some of the guys outside. I think I had a picture with all of them.

But it's a very, very tough job. And it's, you know, we hear about it at times when the fires are big or when the fires are roaring across the valley or we hear about it when there's structures at

risk. But truly these men and women that are fighting those fires are our heroes.

And having had a chance to meet with many individuals prior to today and then today, I want to make sure that they are compensated properly, that benefits are proper, that they realize that we, as Members of Congress, but also residents of Nevada and of the country, can do everything we can to make sure that they have the benefits and they have proper compensation.

I know that Nevada is a State that faces late summer and fall with the potential of more fires. I know we've experienced many of those fires just through the years, but now with the needed moisture we received early in the year, we now have a lot of vegetation that I know as soon as I would read the accounts or see the amount of rainfall, knowing how the valley, from a moisture standpoint, but also realizing August, September and October we're going to have some more fires. So I thought it was an appropriate time to have this hearing.

It's again important for the rest of the country to realize that Nevada is on the forefront of a lot of things, and that's resort industry, gaming industry, entertainment and even shopping. But we have natural resources here that we're very proud of and that's why I think at the base of Red Rock it's also very, very important to have the hearing here today.

Now into my formal comments. We do have a title for the hearing. It's called "Tension in the Tinderbox: Finding Fairness for Federal Firefighters." Again as a committee, in August, Ranking Minority Member Mr. Danny Davis was going to try to join us, originally was, but at the last minute had a conflict, and he sends his apologies. He's a good friend from Chicago and is very supportive of what we're doing today.

Copies of his opening statement have been made available, so if anyone would like to see them, and his statement will be entered into the official record. As I mentioned, I want to thank everyone here and to the Bureau of Land Management.

You know, as we, as a subcommittee, look at the Federal work force, it's vital that we make sure that we examine how the Federal Government compensates the wildland firefighters. It's nowhere more important than here in Nevada where each year our State is ravaged by hundreds of wildland fires protected by hardworking firefighters.

I must say that the green brush and the wonderful wild flowers, I hope you have a chance to see and maybe even take some pictures, is a beautiful sight. And as I talk to many of my colleagues from the east and we talk about public lands, many of my colleagues they don't really understand the magnitude of Nevada being almost 90 percent Federal land.

And we've had a chance to fly over Nevada with other Members of Congress and I point out the window and let them know that you realize that's Federal property and we have that responsibility.

That too is I think a reason for having the hearing here today so we can send that message.

So with that I will submit my formal statement for the record, but I want to recognize a good friend of mine that couldn't be here today, Chairman Richard Pombo. He's chairman of Natural Re-

sources. He has a bill that we're going to talk about specifically today, and that's H.R. 408 called the "Federal Wildland Firefighter Emergency Response Compensation Act of 2005." Mr. Pombo is from California where I guess it's been over a hundred plus there, which is good they have the hot weather there. We're used to it here.

H.R. 408 would do—what it would do is enhance the pay and benefit package offered to employees of the Department of Interior and the Forest Service at the Department of Agriculture who fight wildland fires.

H.R. 408 would provide what is known as "portal-to-portal" compensation for wildland firefighters and would allow hazardous duty pay to be calculated for retirement purposes.

Portal-to-portal compensation refers to pay given on a 24-hour basis beginning at the time a firefighter leaves his home station and ends upon his return.

Now, I've had a chance to meet some of the gentlemen that are here today from Arizona, this would be a case where they are here from southeastern Arizona. I tried to get them to stay but they said they had to go home sometime, but they were enjoying being here.

Currently, wildland firefighters are paid only during working hours and not for off hours despite not being able to leave the fireline.

At this time, the vast majority of Federal firefighters—structural and wildland—do not receive portal-to-portal compensation and so the decision to change how firefighters are compensated will have to be made carefully. My hope is that this hearing will serve as a forum from all key stakeholders on this issue.

We will first be hearing from Bob Vaught of the Forest Service. I have invited Mr. Vaught here today not to comment on the provisions of this bill, but rather to provide the subcommittee with insight into the current conditions facing wildland firefighters.

In his capacity as forest supervisor for the Humboldt-Toiyabe National Forest, he's had firsthand experience with wildland fires and understands what it is that the wildland firefighters do at the Forest Service on a day-to-day basis.

Next we'll hear from Nancy Kichak. I hope I pronounced that right.

Ms. KICHAK. Yes.

Mr. PORTER. From the Office of Personnel Management. She will share with us administrations' views on H.R. 408 and help us to see how this bill will affect pay issues involving other Federal employees.

On the next panel we'll hear from a representative of wildland firefighters, Mr. Casey Judd, best tie in the room. Mr. Judd is the business manager for Federal Wildland Fire Service Association and he will be sharing his views on H.R. 408 with the subcommittee.

Last, we'll be hearing—we're fortunate to hear from Mr. Ryan Beaman, the vice president for the Southern Region of Nevada for the International Association of Firefighters. Mr. Beaman will share his views with us on some other issues facing Federal firefighters at this time.

We're fortunate to have all our guests today to discuss this important issue and I look forward to your testimony.

I've asked other Members and have allowed other Members to provide any statements in writing, and Members of Congress will have 5 days to issue their statement and possibly have additional questions for all of you that are panelists.

I also ask that any written questions provided by the witnesses be included in the record. I request that all exhibits, documents, and other materials referred to by members and the witnesses may be included, and I think we should get a picture of Red Rock to be on the record.

Mr. BUNGARD. I'll do it.

Mr. PORTER. And may be included in the hearing record, and all Members be permitted to revise and extend their remarks.

It is the practice of the subcommittee to administer the oath to all witnesses. So if you would all please stand, all those witnesses please stand for a moment and I'll administer the oath.

[The prepared statement of Hon. Jon C. Porter follows:]

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"Tension in the Tinderbox: Finding Fairness for Federal Fire Fighters"

Subcommittee on the Federal Workforce and Agency Organization
Chairman Jon C. Porter
August 12, 2005

I would like to thank everyone for being here today at beautiful Red Rock Canyon National Conservation Area. A special thanks to the Bureau of Land Management for hosting us this morning.

We couldn't have picked a more appropriate place to discuss Federal wildland firefighters since right here in Red Rock we have had a number of wild fires this season already. In fact, just this past July a wild fire ripped through here burning 821 acres of the park before being extinguished by the work of wildland firefighters. It is therefore vitally important that this Subcommittee do its part to ensure wildfires are put out by examining how the Federal Government compensates its wildland firefighters. And it is nowhere more important than to discuss the issue here in Nevada where each year our state is ravaged by hundreds of wildland fires and protected by hard working firefighters.

Earlier this year, though it seemed unrelated at the time, Southern Nevada experienced above-average rainfall that resulted in flooding for much of the region. Although I will be the first to say that we needed this water to help the West recover from the severe drought that we have experienced, few may have realized how this high level of rainfall in the winter months, combined with a relatively dry spring and summer, created a recipe for disaster with respect to wildland fires. The green brush and wildflowers that decorated the desert southwest were a beautiful sight, however, these plants eventually created an ideal situation for brush and wildfires.

Over the past few weeks alone, it seemed that almost every time you looked over toward our mountain skyline, you could see puffs of black smoke rising from a newly-formed wildfire. The lightening storms we have been seeing have caused our federal and local firefighters to be constantly on their toes, wondering where the next fire will be. Mt. Charleston, Red Rock Canyon, Blue Diamond, and many other areas have all seen the effects of wildfires, and the fact that these fires were handled so quickly is due to the hard work of firefighters like those who are sitting before me today.

The main purpose of our hearing today is to discuss how it is that the Federal Government pays its wildland firefighters. Specifically, we will also be looking at H.R. 408, the "Federal Wildland Firefighter Emergency Response Compensation Act of 2005," which was introduced by Representative Richard Pombo from California. Unfortunately, Representative Pombo couldn't be here with us

today, but I know that firefighter issues are very important to him and I am happy that the Subcommittee will be examining this issue.

What H.R. 408 would do is enhance the pay and benefits package offered to employees of the Department of the Interior and the Forest Service at the Department of Agriculture who fight wildland fires. H.R. 408 would provide what is known as "portal-to-portal" compensation for wildland firefighters as well as allow hazardous duty pay to be calculated for retirement purposes. Portal-to-portal compensation refers to pay given on a 24-hour basis beginning at the time a firefighter leaves his home station and ends upon his return. Currently, wildland firefighters are paid only during working hours and not for off hours despite not being able to leave the fire-line.

At this time, the vast majority of Federal firefighters—structural and wildland—do not receive portal-to-portal compensation and so the decision to change how firefighters are compensated will have to be made carefully. My hope is that this hearing will serve as a forum to hear from all key stakeholders on this issue.

We will be hearing first from Bob Vaught of the Forest Service. I have invited Mr. Vaught here today not to comment on the provisions of this bill, but rather to provide the Subcommittee with insight into the current conditions facing wildland firefighters. In his capacity as forest supervisor for the Humboldt-Toiyabe National Forest, he has had first hand experience with wildland fires and understands what it is that wildland firefighters do at the Forest Service on a day-to-day basis.

Next up we will hear from Nancy Kichak from the Office of Personnel Management. Ms. Kichak will share with us the Administration's views on H.R. 408 and help us to see how this bill will affect pay issues involving other Federal employees.

On the next panel we will hear from a representative of the wildland firefighters themselves, Mr. Casey Judd. Mr. Judd is the business manager for the Federal Wildland Fire Service Association and he will be sharing his views on H.R. 408 with the Subcommittee.

Lastly, we are very fortunate to hear from Mr. Ryan Beaman, the Vice President for the Southern Region of Nevada for the International Association of Fire Fighters. Mr. Beaman will share his views with us on some other issues facing Federal firefighters at this time.

We are very fortunate to have all of our guests today to discuss these important issues and look forward to their testimony.

[Witnesses sworn.]

Mr. PORTER. Let the record show the witnesses answered in the affirmative. Please be seated.

Each witness will have approximately 5 minutes to summarize their comments, and certainly we'll accept anything in writing. I know it will be tough keeping it to 5 minutes but we'll do the best we can to make sure that yours points are known and taken for the record.

So first though we'll now hear from our first panel. Mr. Vaught, you may begin. Welcome.

STATEMENTS OF BOB VAUGHT, FOREST SUPERVISOR, HUMBOLDT-TOIYABE NATIONAL FOREST, U.S. FOREST SERVICE; AND NANCY KICHAK, ASSOCIATE DIRECTOR, STRATEGIC HUMAN RESOURCES POLICY, OFFICE OF PERSONNEL MANAGEMENT

STATEMENT OF BOB VAUGHT

Mr. VAUGHT. Thank you, Mr. Chairman. Thank you for the opportunity to be here today and talk about firefighting in the Forest Service. I am Bob Vaught, forest supervisor for the Humboldt-Toiyabe National Forest, which is 6.3 million acres, mostly in Nevada, of magnificent mountainous terrain that most people don't appreciate unless they've been there.

We do manage about 650,000 acres of national forest that are located in California on the eastern side of the Sierra Nevada range. I'm responsible for oversight of the management of the natural resources on this national forest including significant responsibilities for working with local people.

Mr. PORTER. Excuse me, Bob. You realize California is going to fall off into the ocean anyway. We'll have that in Nevada.

Mr. VAUGHT. I hope a piece of the eastern part of the mountains are still steady.

Mr. PORTER. That would be OK.

Mr. VAUGHT. I would like to introduce briefly, if I could, Mike Dudley. Mr. Dudley is the director of fire management in my higher level office in Ogden, UT.

I supervise over 400 employees. Over 130 of those work full time and seasonally in fire management. Many of our non-fire employees, such as wildlife biologists, foresters, engineers, hydrologists and many others while they're not full time firefighters have qualifications and are an essential resource in fighting fires as well.

Many factors and people are involved in fuel and fire and firefighting and fuels management. This area of expertise includes not only fighting wildfires but suppression, rehabilitation and restoration after fires as well.

Today I'll discuss the current fire season very shortly and our methods of wildland fire management and the duties of the many people that are involved in wildland fire management. Of the three factors that influence wildland fires, weather, topography and fuels, fuels is the only one we can really manage with any effectiveness at all.

For much of the 20th century, wildland fires were generally thought to be bad for the environment, and as a consequence all

were put out as soon as possible. Over time and across very large areas in Nevada and across the west, as the acres of natural fires was reduced, the amount of fuel on the landscape in the form of trees and shrubs has increased.

This buildup of vegetation coupled with drought and the development of homes and communities near the wildlands has led to very significant, increasing concerns about the health of the forest and rangelands as well as the risk to communities. Understanding and meeting these challenges requires unprecedented cooperation today among interagency groups including Federal agencies, State agencies, tribal and local governments.

I would like to say a few words about this year's fire season. We've burned more than a million acres of land this year in Nevada, mostly in southern Nevada. Heavy winter snows and early rains led to heavy growth of grasses and other herbaceous fuels. Most of western Nevada rangelands remained at high risk for wildfire. Eastern and southern Nevada have had recent rainfalls and so we believe there will be near normal fire danger for the rest of the season in this area. Forested areas across the State will continue to see near normal fire conditions we believe in August.

In initial attack as we fight fires, agencies use a variety of techniques including ground firefighters, crews, engine crews and a mixture of helicopters and fixed-wing aircraft. In recent we've succeeded in controlling more than 98 percent of fires through initial attack.

If firefighting assets are strained, however, as a result of multiple, simultaneous large fires, resources are prioritized and allocated by a group called the National Multi-Agency Coordinated Group which is based in Boise in a part of the national interagency fire center. This group consists of national fire directors of all the Federal firefighting agencies and State representatives as well. These efforts ensure that all of the national firefighting assets are appropriately positioned and provided with the most up to date information.

In 2005 we have about the same level of firefighting resources as we had in 2004. Nationally more than 18,000 firefighters are available. This does not include though the Federal agency personnel and the many other occupations like wildlife biologists and many others that also mobilize to perform incident management duties when fires occur. These 18,000 firefighters include Federal and State employee crews from tribal organizations, local governments, contract crews, emergency and temporary hires.

If we experience severe fire risk, we stage or deploy firefighters even before fires occur. And we stage things like equipment and aircraft vehicles, supplies and personnel. And these are tracked through a national integrated system.

Aviation is a big and important part of the firefighting effort, and we use heavy airtankers, helitankers and many other helicopters. We also use CL–215 airtankers, which are a midsize airtanker, and smaller airtankers called Single Engine Airtankers called SEATS. There's also eight military aircraft, C–130 aircraft that are available.

Safety is of course of extreme importance to our agency and to our people. Safety is a core value of the Forest Service. Our fire-

fighters do an impressive job under adverse conditions. And as you stated, Mr. Chairman, they very much deserve our thanks.

Firefighting is a high risk, high consequence activity, so safety and training are essential for firefighter preparedness. Situational awareness is the centerpiece of firefighter safety, and our responsibility for managing the unexpected in wildfires which is where the danger lies. It includes formal classroom training, on-the-job training, drills, discussions, and reviews that are all a part of a very significant training program that firefighters are involved with. They must complete course work and multiple training assignments in the field before they can be certified for fire-line positions.

The President's Healthy Forest Initiative has been very important to the Forest Service and other wildland agencies in providing us with tools to reduce the risk of fuels, and therefore reduce the risk of severe and dangerous wildfires. In total the Humboldt-Toiyabe National Forest in the last 4 years has completed about 7,000 acres of fuels reduction work. About 3,000 of those acres have been in the wildland urban interface. I expect this program to significantly increase over the next few years, and it is a very important one for our nation, for our communities and for the health of our resources on the landscape.

Over the past 2 years the Nevada State Forester, the Bureau of Land Management and Humboldt-Toiyabe National Forest have worked with the Nevada Fire Safe Council and have completed Community Wildfire Protection plans for 251 communities at risk in Nevada. Each of these plans identifies specific actions to protect communities.

This year the Forest Service also provided $2¼ million in matching grants to the State of Nevada for fire fuels and forest health management. And the Humboldt-Toiyabe National Forest also assists volunteer rural fire departments with training, equipment and organization through the volunteer fire assistance program. And so again it highlights the very significant importance of the interagency help both financially and as we work together on fires.

As you can see, there are many facets of fire management. Many occupations are involved in firefighting—planners, scientists, hydrologists, biologists, finance specialists, community specialists as well as the men and women of our firefighting force.

When fire season is over, and even before fire season begins, our firefighters also have collateral duties and they put those skills to good use. They include planning, prescribed fire management and fuels reduction projects, range and many other non-fire duties. Conversely many of our foresters, biologists, hydrologists and other professional and technical and clerical employees have collateral duties when a fire bell rings.

Last I'd like to say just a few words about the action that citizens can take. And this is also a very important aspect of living and working in fire adapted western ecosystems. Homeowners need to learn how to protect their homes with survivable, cleared space and how to build their homes and landscape with fire resistant materials.

A consortium of wildland fire agencies sponsors a Firewise program. These include the Forest Service, Department of Interior, the

National Fire Protection Association and the National Association of State Foresters. Information about the Firewise program is available on our Web site www.firewise.org, and it is very important that every person that lives or plays in these fire-adapted ecosystems be knowledgeable.

And we appreciate the opportunity that we have to be here, and of course we'd be happy to answer any questions you may have. Thank you.

[The prepared statement of Mr. Vaught follows:]

Statement of Bob Vaught
Forest Supervisor, Humboldt-Toiyabe National Forest, Forest Service
United States Department of Agriculture
Before
House Government Reform Committee
Subcommittee on Federal Workforce and Agency Organization
Concerning
Wildland Fire
Las Vegas, Nevada
August 12, 2005

INTRODUCTION

Mr. Chairman, thank you for the opportunity to meet with you today. I am Bob Vaught, Supervisor of the Humboldt-Toiyabe National Forest, 6.3 million acres of magnificent mountainous terrain in the state of Nevada. About 649,000 acres of the Forest are located in California on the east side of the Sierra Nevada range. I'm responsible for the oversight and management of the natural resources on the National Forest including working with local people and communities. I supervise 424 employees of whom 137 work fulltime and seasonally in fire management. Many of our non-fire employees are in occupations such as wildlife biology, forestry, engineering, and hydrology, and while not full time firefighters, have qualifications for supervisory, tactical or support roles during a wildfire when the need arises. In addition, these employees are essential to planning and carrying out fire activities. Many factors and people are involved in fire and fuels management, preparedness, suppression, rehabilitation and restoration. Today, as requested, I will discuss the current fire season, our methods of wildland fire management, and the duties of the many people involved in fire management.

Of the three factors that most influence wildland fire behavior – weather, topography, and fuel - land managers can effectively influence only fuel. For much of the twentieth century, wildland fires were generally thought to be bad for the environment. As a consequence, fires were suppressed as soon as possible. Over time and across large areas, fire-adapted ecosystems changed as the amount and structure of shrubs and trees increased.

The build up of vegetation, coupled with other factors such as long-term drought and the development of homes and communities next to wildlands, has led to increasing concerns about both the health of our forests and rangelands and the risks to communities near these lands.

Understanding and meeting these challenges requires unprecedented levels of interagency cooperation among Federal agencies and with state, tribal and local governments.

First, I'd like to say a few words about this year's fire season in Nevada. Early rains led to heavy growth of grasses and other herbaceous fuels at lower elevations. Most of western Nevada rangelands remain at high risk for wildfire. Eastern and southern Nevada will likely have near normal fire danger for the rest of the season due to occasional heavy rainfall. Forested areas will continue to see near normal fire danger conditions in August.

PREPAREDNESS

While we prepare local resources to be ready for wildfire suppression, we also have the ability to draw on national assets if we need them in the event of a wildfire. The Predictive Services office at the National Interagency Fire Center (NIFC) and units located in each geographic area provide an ongoing outlook for the fire season by monitoring weather, climate and fuel conditions and reporting the changing conditions. The reports increase in frequency as the fire season progresses. This information supports local, geographic and national decisions about resource allocation based on anticipated fire starts, fire spread and severity.

In the event of a fire start, the closest available firefighting resource responds regardless of agency. Usually this is the agency with management jurisdiction and protection responsibility for the location of the fire, such as a national forest or national park. However, interagency agreements allow for response by the closest firefighting entity.

In initial fire attacks, agencies use a variety of techniques, including firefighting crews, engine crews, and a mixture of helicopters and fixed-wing aircraft. In recent years, we have succeeded in controlling more than 98 percent of fires through initial attack. If a fire continues to grow and local resources are inadequate, our fire managers request additional help.

Critical firefighting needs are coordinated through the National Interagency Coordination Center, located at the National Interagency Fire Center (NIFC) in Boise, Idaho. If fire-fighting assets are strained as a result of multiple simultaneous large fires, resources are prioritized and allocated by the National Multi-Agency Coordinating group at NIFC. The National Multi-Agency Coordinating group consists of the national fire directors of all the Federal firefighting agencies and state representatives. These efforts ensure firefighting assets are appropriately positioned based on the most up-to-date information.

Firefighting resources include:
Fulltime professional fire program leaders;
Permanent firefighters
Temporary firefighters hired by location;
Federal agency personnel in other occupations qualified and mobilized to perform incident management duties in addition to their normal responsibilities, often called the "militia";
Tribal, State, and local personnel (including volunteer fire departments) through mutual aid agreements;
Agency-owned equipment;
Contract equipment, aircraft, and crews; and
Firefighting personnel from other countries; and the
United States military.

In 2005, our status for firefighting resources is comparable to 2004. Nationally, more than 18,000 firefighters are available, including permanent and seasonal Federal and State employees, crews from Tribal and local governments, contract crews, and emergency and temporary hires. If, locally, we experience severe fire risk, we stage or deploy firefighters, equipment, and teams as needed. Personnel, equipment, aircraft, vehicles, and supplies are dispatched and tracked through the nationally integrated system. Supplemental personnel, equipment, and aircraft are

pre-positioned in specific locations when we determine that there is an increased risk of fire starts.

AVIATION

Nationally, to date, the 2005 aviation plan includes 16 heavy airtankers, 14 large helitankers and more than 260 other helicopters. Through cooperative agreements with State and interagency partners, there are two exclusive use CL-215 airtankers, 26 Exclusive Use Single Engine Airtankers (SEATS), and approximately 70 Call- When-Needed SEATS. Two Call-When-Needed CL-215s are available. Eight military C-130 aircraft equipped with the Modular Airborne Firefighting System (MAFFS) are also available. Equipment is positioned as needed depending on weather and fuel conditions. Four of these MAFFS units were activated and are operating out of Boise, Idaho.

In 2004, the Forest Service terminated the contracts for heavy airtankers due to the National Transportation Safety Board recommendations about the airworthiness of the aircraft. Some of these heavy airtankers have been returned to service after an acceptable operational service life was determined. The primary role of heavy airtankers is to deliver a large amount of retardant rapidly, in the initial attack of a wildfire to support ground firefighters. Heavy airtankers are only one of the many tools that we use to suppress wildland fires. We increased our fleet of other firefighting aircraft to assist ground firefighters, particularly during extended attack. We also note that during any year, thousands of wildland fires are suppressed without the benefit of any aviation support.

SAFETY

Safety is a core value for the Forest Service. Our firefighters do an impressive job under adverse conditions and they deserve our thanks. Firefighting is a high risk, high consequence activity so safety and training are essential for firefighter preparedness. Situational awareness is the centerpiece of firefighter safety and for managing the unexpected on wildfires. Formal classroom training, on-the-job training, drills, discussions, and reviews are part of an extensive training program for all involved in fire management. Firefighters must complete both coursework and multiple training assignments before they are certified for critical fireline positions.

In the fall of 2004, the USDA Office of Inspector General (OIG) completed a review of the Forest Service Firefighting Safety Program. The report noted the Forest Service has made significant improvements in the safety of firefighting operations and had excellent written firefighting safety policies and procedures. The report identified four areas in which the agency can strengthen efforts to promote firefighter safety. The four areas that the OIG identified were: (1) monitoring the agency's response to fire safety recommendations, (2) maintaining centralized records to support firefighting qualifications, (3) conducting administrative investigations on serious fire accidents, and (4) incorporating firefighting safety standards as critical elements in firefighter performance evaluations. Reviews such as the OIG report help us in our evaluations of firefighter safety.

Nationally, the Forest Service works with the Occupational Safety and Health Administration and other interagency partners through the National Wildfire Coordinating Group to determine

areas of safety that need focus. These areas include fire complexity analysis, enhanced training of agency administrators involved in fire suppression, emphasis on fatigue awareness, and improved work/rest guidelines. After several serious vehicle accidents, guidelines for driving and rest periods have been strengthened and clarified for both our employees and our contractors. The new Incident Qualifications Certification System enhances our ability to track classroom training and on-the-job training of each federal firefighter and fire manager. With this system, fire managers and supervisors can better measure success and determine future training needs. We are also concentrating on leadership development for both firefighters and managers. We emphasize preparing leaders to be capable decision-makers in the complex and intense situations found in firefighting.

MANAGEMENT

The President's Healthy Forest Initiative has provided us with tools to reduce the risk of severe wildland fires and restore forest and rangeland health. In total, the Humboldt-Toyiabe National Forest will have completed nearly 7,000 acres of fuels treatments between 2001 and 2005. About 3,035 of those acres are located in the Wildland-Urban Interface. I expect the program to significantly increase over the next several years as we complete additional planning and collaboration.

Over the past two years, the Nevada State Forester, Bureau of Land Management, and the Humboldt-Toiyabe National Forest worked with Nevada Fire Safe Council and local communities to complete Community Wildfire Protection plans for 251 communities at risk in Nevada. These plans identify actions to protect communities and provide the opportunity to become involved in planning for hazardous fuels treatment on Federal lands.

This year, the Forest Service provided over $2.25 million in matching grants, where the federal and state each make available approximately equal funding, to the state of Nevada for fire, fuels, and forest health management. The Humboldt-Toiyabe National Forest also assists volunteer rural fire departments with training, equipment and organization through the Volunteer Fire Assistance program.

Scientists are also involved in the firefighting effort. We land managers increasingly need scientifically sound solutions to firefighting as well as land management. We have always needed science-informed decision making, but the demand is increasing as we strive to address fuels problems and restore fire-adapted ecosystems. For example, program planning to identify high priority needs continues to be an important part of fuels management activities. LANDFIRE, a science based multi-partner ecosystem and fuel assessment mapping project, will improve our ability to choose high priority projects. We expect to begin using aspects of LANDFIRE in 2006. Generally, fire-adapted ecosystems do recover after a fire. Sometimes recovery can take many decades and land management objectives may indicate restoration efforts to speed recovery. Research and tools developed by scientists provide important methods of evaluating actions that are most effective for emergency stabilization, rehabilitation, and restoration.

As you can see, there are many facets of fire management. Many occupations are involved in firefighting – planners, scientists, hydrologists, biologists, finance managers, community

specialists as well as the men and women of our firefighting force. When fire season is over, our firefighters have collateral duties and put their many skills to good use – including planning, fuels management projects, range projects, and other non-fire duties. Conversely, many of our foresters, biologists, hydrologist and other professional, technical, and clerical employees have collateral fire duties when the need arises. Everyone contributes.

WHAT CITIZENS CAN DO

Lastly, I'd like to say a few words about actions citizens can take. In addition to the community wildfire protection plans, citizens can get assistance to protect their homes and communities through the FIREWISE program, which helps people who live or vacation areas with higher fire risks educate themselves about wildland fire protection. Homeowners can learn how to protect their homes with a survivable, cleared space and how to build their houses and landscape their yard with fire resistant materials. A consortium of wildland fire agencies sponsors the program; including the Forest Service, the Department of the Interior, the National Fire Protection Association, and the National Association of State Foresters. The information is available at the website: www.FIREWISE.org and from local agency offices.

Thank you, Mr. Chairman, for this opportunity to discuss fire management. I would be happy to answer any questions you might have.

Mr. PORTER. Thank you, Bob. Appreciate your comments. Before we move on I want to also recognize a friend, Steve McClintock with Clark County Fire Department. He's here. He's the rural coordinator. I think many of you know him professionally. He offered his assistance.

But also I want to acknowledge that his sister recently passed away, Anita, who was a friend of mine. If you didn't know, Steve's sister had cancer and it's just recent that he and his family had the loss of his sister, so I want to add that for the record because they're a great family and a firefighting family in Cal-Nev-Ari and other areas.

On a lighter note I know Steve is always eyeballing our Federal firefighters, and we want to make sure that county doesn't steal any more of your Federal firefighters and the city. We want to make sure that we keep them working for the Federal Government, right, guys? We want to make sure that we're competitive, and I know that Clark County and the city of Las Vegas have been superb in cutting edge fire equipment and employees, but we want to make sure that our Federal team is equal and has compensation.

So having said that, I know Steve will appreciate your best wishes.

Next, Nancy, we appreciate you being here, look forward to your statement.

STATEMENT OF NANCY KICHAK

Ms. KICHAK. Thank you, Mr. Chairman. And I have summarized my remarks and request that my whole statement be submitted for the record with your permission.

I am pleased to be here today on behalf of the Office of Personnel Management to discuss the issue of compensation for Federal employees who perform emergency functions and to provide the administration's view on H.R. 408, the Federal Wildland Firefighter Emergency Response Compensation Act of 2005.

We at the Office of Personnel Management recognize the importance of the work performed by Federal wildland firefighters and by their State, local and tribal government colleagues. We respect the difficulties inherent in the complex and intense situations they address and I want to express our appreciation for their efforts.

I would like to focus my testimony today on H.R. 408. As you are aware, Mr. Chairman, the administration's views have recently been provided to you in a letter from Linda Springer, the Director of OPM. In general terms the administration is unable to support the proposal.

In determining our position on H.R. 408, we are governed by three basic principles. First, we need to address the merits of the proposal based on the objectives that must be met to achieve a certain mission. Second, we must try to maintain some level of equity among various groups of Federal employees who face similar challenges. Finally, we are obligated to ensure taxpayer dollars are being spent efficiently and effectively to achieve results for the American people.

Section two of H.R. 408 would amend the current law to provide portal-to-portal compensation for wildland firefighters. It appears the intent is to mandate that wildland firefighters be in a duty and

pay status for all hours they are away from their normal duty location to fight wildland fires. This change would violate each of the three principles stated which are guiding our review of legislative proposals.

We do not find compelling evidence that such a change is necessary to meet mission objectives. Pay must be set to assure that the Federal Government is able to recruit and retain the employees that it needs to meet its mission. Where there is no indication that pay levels are producing significant and widespread recruitment or retention problems, we cannot justify large, general increases in pay.

Second, this change in pay formula would not lead to equity among various groups of Federal employees who face similar challenges. Other Federal employees who are temporarily assigned to geographically isolated work sites are placed in a non-pay status when they are released from duty. Therefore, we believe paying wildland firefighters for periods of rest and sleep would create inequities for other Federal employees receiving assignments away from home. Also, we believe it would be inappropriate to provide hazardous duty pay for sleep and rest periods.

Our third responsibility is to assure that taxpayer dollars are spent wisely. Again the pay proposals of H.R. 408 do not meet this test. As stated previously, many adjustments are made to the pay of wildland firefighters while they are working at the sight of the fire. This includes hazardous duty pay and overtime pay. Under current law, firefighters can receive total pay for a week that is three to four times his or her regular weekly rate of basic pay.

Depending on work schedule, this legislation could increase overall pay in a given week by as much as 100 percent over amounts payable under current law. Since there is no compelling evidence of widespread staffing problems, we don't see a basis for asking taxpayers to fund the kind of large pay increases that H.R. 408 can produce.

Section three of the bill would make hazardous duty pay received by firefighters basic pay for retirement purposes. Again this provision does not meet the three principles governing our review of the bill, and therefore we oppose that section also.

The proposed provision does not meet the test of being good public policy when viewed independently. Retirement annuities are intended to replace a proportion of an individual's income earned consistently over the course of a career. For that reason hazardous duty pay is one of many things explicitly excluded from statutory definition of basic pay.

Second, crediting hazardous duty pay for retirement purposes could create substantial inequities between wildland firefighters and the broader community that also receives hazardous duty pay but is not credited with that pay for retirement.

The provision fails the third test of being a prudent use of taxpayer dollars. Incorporating these amounts in the calculation of annuities will result in unfunded pension liabilities and will require additional taxpayer dollars. For all of the reasons stated above, the administration opposes H.R. 408. I would be pleased to respond to any questions. Thank you.

[The prepared statement of Ms. Kichak follows:]

STATEMENT OF NANCY H. KICHAK
ACTING ASSOCIATE DIRECTOR
FOR STRATEGIC HUMAN RESOURCES POLICY
OFFICE OF PERSONNEL MANAGEMENT

before the

SUBCOMMITTEE ON THE FEDERAL WORKFORCE
AND AGENCY ORGANIZATION
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

on

TENSION IN THE TINDERBOX:
FINDING FAIRNESS FOR FEDERAL FIREFIGHTER COMPENSATION

AUGUST 12, 2005

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today on behalf of the Office of Personnel Management (OPM) to discuss the issue of compensation for Federal employees who perform emergency functions, and to provide the Administration's views on compensation for Federal wildland firefighters generally and, more specifically, on H.R. 408, the Federal Wildland Firefighter Emergency Response Compensation Act of 2005.

We, at the Office of Personnel Management, recognize the importance of the work performed by Federal wildland firefighters and by their State, local, and Tribal government colleagues. We respect the difficulties inherent in the complex and intense situations they address, and I want to express our appreciation for their efforts.

You asked that we address the classification, pay, and compensation of wildland firefighters generally, as well as providing the Administration's views on H.R. 408.

In reviewing the classification of wildland firefighters, it might be useful to discuss the differences between their duties and responsibilities and those of structural firefighters.

Wildland firefighters are employed by the Forest Service and the Department of the Interior to control, extinguish, prevent, and manage wildland fires. While some wildland firefighters are employed year round, the larger number of them are employed on a seasonal basis. Most are employed under the General Schedule (GS) as GS-462 Forestry Technicians, or GS-455 Range Technicians. When actively fighting fires, they must serve at the site of the fire and work shifts that extend well beyond the typical 8-hour work day. They stay at a base camp during off-duty hours for sleep and meals and other personal

activities. About 85 percent of wildland firefighters are classified in grades GS-5 through GS-9. Their classification is based primarily on their forestry duties, as opposed to their firefighting duties.

Structural firefighters classified in the GS-081 series provide round-the-clock fire protection at certain Federal installations. About 94 percent of them are employed by the Department of Defense and serve at military installations. In addition, they generally provide paramedic support and hazardous material controls in the communities they serve and protect. They typically work 24-hour shifts that include sleep, meals, and other personal standby time. Most have a 72-hour workweek consisting of three 24-hour shifts. Because sleep and personal time is included in their duty shift, GS-081 firefighters receive a lower hourly rate of basic pay than other employees. Roughly 85 percent of GS-081 structural firefighters are at grades GS-5 through GS-9. Their classification is based on firefighting duties as well as duties related to emergency medical services and hazardous material controls.

With regard to premium pay, there are additional differences between the two categories of employees. GS-081 firefighters have no overtime pay entitlement until they have worked 53 hours in a week or 106 hours in a biweekly pay period. This special overtime standard is consistent with the standard established for firefighters under the Fair Labor Standards Act (FLSA). For GS-081 firefighters who are FLSA-exempt, the overtime rate of pay is capped at one and one-half times the rate for GS-10, step 1, or the employee's regular rate of basic pay, whichever is higher. The overtime rate of pay for GS-081 firefighters subject to FLSA is not similarly capped.

Wildland firefighters, on the other hand, whether FLSA-exempt or not, receive overtime pay after 8 hours in a day or 40 hours in a week, even while assigned to fight fires. They are not subject to any cap on the hourly rate of overtime pay while engaged in emergency wildland fire suppression activities.

Hazard pay is payable to wildland firefighters at the rate of 25 percent when they are on the fire line. In fact, if they are exposed to a hazard at any time during a day, wildland firefighters receive hazard pay for all time in a pay status. In contrast, hazard pay generally is not payable to GS-081 structural firefighters, since the typical hazards of firefighting are taken into account in the classification of their job.

Now let me turn to H.R. 408, the "Federal Wildland Firefighter Emergency Response Compensation Act of 2005. As you are aware, Mr. Chairman, the Administration's views on H.R. 408 have recently been provided to you in a letter from Linda Springer, the Director of OPM. In general terms, the Administration is unable to support H.R. 408. In determining our position on H.R. 408, we are governed by three basic principles. First we need to address the merits of the proposal based on the objectives that must be met to achieve a particular mission. Second, we must try to maintain some level of equity among various groups of Federal employees who face similar challenges. Finally, we are obligated to ensure taxpayer dollars are being spent efficiently and effectively to achieve results for the American people.

Section 2 of that bill would amend the current law to provide "portal-to-portal" compensation for wildland firefighters. It appears the intent is to mandate that wildland firefighters be in a duty and pay status for all hours they are away from their normal duty locations to fight wildland fires. This change would violate each of the three principles stated which are governing our review of legislative proposals. We do not find compelling evidence that such a change is necessary to meet mission objectives. Pay must be set to assure that the Federal Government is able to recruit and retain the employees it needs to meet its mission. Where there is no indication that pay levels are producing significant and widespread recruitment or retention problems, we cannot justify large, general increases in pay.

In fiscal years 2002 through 2004, the quit rate for full-time permanent, nonseasonal wildland firefighters ranged from 2.1 to 2.5 percent, which is relatively low. The quit rate for seasonal wildland firefighters is somewhat higher—roughly 5 to 7 percent over the last few years—as one would expect for any seasonal workforce. To the extent there are staffing problems in particular locations, we believe existing laws provide the flexibility to address them—for example, through targeted retention incentives or special rates.

In addition, the excessively generous pay computation the bill would provide would result in FLSA-exempt firefighters reaching the annual premium pay cap much more rapidly, particularly those at higher grades. Because employees may be required to work even after the annual cap is reached, this can generate employee dissatisfaction

Second, this change in pay formula would not lead to equity among various groups of Federal employees who face similar challenges. Other Federal employees who are temporarily assigned to geographically isolated worksites are placed in a non-pay status when they are relieved from duty. Therefore, we believe paying wildland firefighters for periods of rest and sleep would create inequities for other Federal employees receiving assignments away from home. Also, we believe it would be inappropriate to provide hazardous duty pay for sleep and rest periods.

We are aware that Federal wildland firefighters sometimes serve side by side with other firefighters who at times may be paid higher amounts, and we understand how this creates dissatisfaction. While comparability is always a factor in establishing pay for Federal workers, we must be concerned with not only the balance between external employees and those within the Federal community, but also with the internal balance between similarly situated groups of employees. The Federal employee is only guaranteed a fair reimbursement, not the highest reimbursement. However, even if one were to compare, Federal wildland firefighters sometimes are paid higher amounts than other wildland firefighters in both the private and public sectors.

Our third responsibility is to assure that taxpayer dollars are spent wisely. Again the pay proposals of H.R. 408 do not meet this test. As stated previously, many adjustments are made to the pay of wildland firefighters while they are working at the site of the fire. This includes both generous hazard pay and overtime pay. Under current law, a wildland

firefighter can receive total pay for a week that is three to four times his or her regular weekly rate of basic pay. Depending upon the work schedule, this legislation could increase overall pay in a given week by as much as 100 percent over amounts payable under current law. Since there is no compelling evidence of widespread staffing problems, we don't see a basis for asking taxpayers to fund the kind of large pay increases that H.R. 408 would produce.

Section 3 of the bill would make hazardous duty pay received by firefighters basic pay for retirement purposes. Again this provision does not meet the three principles governing our review of the bill, and therefore we strongly oppose that section of the bill, as well.

The proposed provision does not meet the test of being good public policy when viewed independently. Retirement annuities are intended to replace a proportion of an individual's income earned consistently over the course of a career. For that reason, hazardous duty pay is one of many things explicitly excluded from the statutory definition of basic pay. While there are a few enumerated exceptions to the general rule that premium pay is not basic pay, they are limited to amounts that generally are paid at a consistent and predictable rate, not only from day to day and week to week, but over the course of a typical employee's career. In these circumstances, retirement deductions are made over an entire career, and the rate of pay used in the annuity computation is representative of career pay levels; this provides equitable treatment for employees and protects the solvency of the Civil Service Retirement Fund.

This is not the case for hazardous duty pay. Indeed, one of the features of hazardous duty pay is its inconsistency. It varies from workday to workday, from pay period to pay period, and over the career of an employee. Some years there are many more fires than others, and so there is more time in hazardous duty pay status. Moreover, as employees reach more senior status, they are more likely to enter positions in which they are less likely to be actively involved in hazardous work. Should hazardous duty pay be included in retirement basic pay, these inconsistent and unpredictable payment patterns would result in some employees receiving a windfall in their retirement. On the other hand, other employees would be shortchanged, receiving no additional annuity even after having paid additional retirement deductions for many years.

For example, if an employee retires at the end of a 3-year period in which he or she received greater than usual hazardous duty pay, his or her average salary would be artificially high by comparison with his or her overall career earnings. Not only would this be a windfall to the employee, such an arrangement would make individuals more likely to retire at such times, thus creating staffing difficulties. On the other hand, an experienced employee who works many seasons paying retirement deductions on hazardous duty pay and who advances to an administrative or managerial position could be disadvantaged. While such an employee would have paid substantial additional retirement deductions on an irregular basis over the course of his or her career, the employee would receive no consideration for such payments in the annuity computation, if the hazardous duty was outside of the high-3 period.

Second, crediting hazardous duty pay for retirement purposes would create substantial inequities between the wildland firefighters and the broader community that also receives hazardous duty pay but is not credited with that pay for retirement purposes.

The provision also fails the third test of being a prudent use of taxpayer dollars. Incorporating these amounts in the calculation of annuities will result in unfunded pension liabilities and will require additional taxpayer dollars.

Section 4 of the bill is also of significant concern. Section 4 of the bill would make those changes effective immediately after enactment of the bill. Making the changes in the bill effective upon enactment is impractical for a variety of reasons relating to the notification of agencies and units in the field, the preparation and publication of regulations, and the reprogramming of payroll and retirement computer systems.

For all of the reasons stated above, the Administration strongly opposes H.R. 408.

That concludes my testimony, and I would be pleased to respond to any questions the subcommittee may have.

Mr. PORTER. Thank you very much. I would also like to note that firefighters are not whiners.

Ms. KICHAK. No.

Mr. PORTER. And note that the firefighters that I've spoken to are very proud of what they do. They're very proud to serve and they're also happy to be where they are and they consider it an honor. So even by this legislation coming forward and being heard today, it's not based upon a bunch of folks out there that are really unhappy. They're actually very proud of what they do. But I would concur that I believe that there needs to be some adjustments, which is really why we're gathered here today.

I have of course numerous questions and then we will submit additional because of the element of time. But I guess first, Bob, how many in Nevada, how many residents of Nevada would be under this category? You mentioned 400 and some. Is that Nevada residents?

Mr. VAUGHT. Most of those are Nevada residents, 400 employees total. About 130 include the firefighting force for the Forest Service. That does not, Mr. Chairman, include BLM employees or other Federal agency employees. Only a portion though of those 130 employees have a permanent appointment with the Forest Service and would be applied to a standard like this. And I'm sorry I don't have the exact number with me today, but I'd be happy to provide that. I could do so quickly.

Mr. PORTER. What would you say an average for, and I may have the terminology wrong, but a transfer to another portal, would it be called transfer or what would you call it when they go to fight a fire in Washington State or whatever, what is that called? Transferred?

Mr. VAUGHT. Mike.

Mr. DUDLEY. Just a reassignment.

Mr. PORTER. So if you're to take the average time away to be reassigned, what would it be for an employee to be away from their own portal.

Mr. VAUGHT. Mr. Chairman, it really varies a lot. Right now, in fact, in Washington and the very northern part of the United States fire danger is very high, and we expect that there will be additional significant fire behavior up there this fall. And when an employee leaves their home to go to a fire in a location such as that from Nevada, they are gone—I believe they can work—how many days, Mike.

Mr. DUDLEY. 14 up to 21.

Mr. PORTER. 14 up to 21.

Mr. VAUGHT. Up to 21 days.

Mr. PORTER. So they should anticipate 14 but then they could go to 21 is what you're saying.

Mr. VAUGHT. Yes.

Mr. PORTER. When they transfer, reassign it's 14 days at a time normally.

Mr. VAUGHT. Yes, normally. Now, if the fire danger remains severe, they would have a short period of rest and they could be quickly reassigned to the fire again. So the main purpose of the 14 to 21 days is to ensure that they have a limited period of work and a proper amount of rest before they're reassigned to fires. But in

some cases in severe years firefighters are assigned constantly on that type of schedule, 14 to 21 days and then rest period and reassigned throughout the fire season.

Mr. PORTER. So they could be gone for a better part of a summer or fire season, 90 days or so, I mean, could they.

Mr. VAUGHT. Mr. Chairman, that is entirely possible. And for some employees it's even likely. We have a group of employees called Hot Shots and their role is to be kind of the army rangers of the Forest Service firefighting corps. They're the elite troops and they spend their entire summer fighting fires somewhere in the Forest Service across the country.

Mr. PORTER. Are they compensated differently? Is it the same hazardous pay when they're on? How does it work for those guys.

Mr. VAUGHT. They're compensated in precisely the same way as other Federal employees that fight fires, Mr. Chairman.

Mr. PORTER. So of the 400 and some approximately you mentioned, about 130 are full-time firefighters.

Mr. VAUGHT. Mr. Chairman, full time during the season.

Mr. PORTER. Yes.

Mr. VAUGHT. Yes. Some have permanent appointments and some are just seasonal employees and just work part of the year for the Forest Service and don't have permanent Federal appointments.

Mr. PORTER. I met a young man this morning that's from Arizona that's trying to—he's seasonal and trying to go full time.

Mr. VAUGHT. Right.

Mr. PORTER. There you have a number of those folks.

Mr. VAUGHT. Yes, sir.

Mr. PORTER. And this may be a question for Nancy, and if need be, please jump in. What are their classification? What is their title? Are they technicians? Wildlife technicians? Wildland technicians? How do they fall into the category of titles.

Mr. VAUGHT. That might be better addressed—or should I go ahead? In most cases, Mr. Chairman, our firefighting forces are and historically have been classified in the forestry technician series. And the pay grades range from GS–5 up to GS–13 or so for the employees that are actively fighting fire on the ground. And I think in most cases they are classified as forestry technician employees.

Mr. PORTER. That's because they have other duties beyond just fighting fires.

Mr. VAUGHT. Yes. The Forest Service has always viewed our firefighters as a part of our larger natural resource management force, and during the off season they perform forestry technician duties. During the on season they perform fire duties, and then basically almost all of our employees fight fire when the need is high. So it's part of our larger resource management issue.

Mr. PORTER. So more specifically how much time does a wildland firefighter spend on fighting wildfires as compared to other Forest Service management duties? Like 50/50 or 70/30 or what would it be.

Mr. VAUGHT. Mr. Chairman, our firefighting employees have different kinds of appointments. Some are full time year round. And in those cases those employees spend maybe 30 percent of their year fighting fire and the remainder of the year in other duties.

Other employees have what we call 18 and 8 appointments. So 18 pay periods fighting fire mostly with 8 pay periods off where they're not on active duty, so to speak.

And then we have another class of employee that are 13 and 13. So about half of their year they are full-time employees fighting fire and then about half of their year they are off. And then we have seasonal employees who are only hired, don't have a full-time appointment and only are hired during the firefighting season.

Now, what I also have to say though that many of our less than permanent full time, year round status employees, the 18 and 8 employees and the 13 and 13 employees, remain on when there is funding and work to do. So when we have fire, prescribed fire work or fuels reduction work and lots of chain saw work and other on the ground work, wildlife projects, range fence building projects, when there is funding and they have an interest in staying on, many of them work much longer than their 18 and 8 or 13 and 13 appointment in order to take on that extra work. I hope that answers your question.

Mr. PORTER. I'm going to have to digest what you just told me, but I think I understand. I'll probably come back to that in a little bit.

The forestry technician category, and I'll tell you where I'm going, I don't particularly like that title. I think we need to elevate that position somehow, something other than technician. And maybe not today but I'd like both of you to help me as we move forward in legislation. Not that there's anything wrong with that title, but I think we have to elevate it a little bit more because they're not technicians, you know, they're firefighters. They're professionals.

And as part of legislation we need to work on that title, and maybe some of you guys will help me later on with a better title. But I want to work on that too, because I think they deserve something elevated in that capacity.

Explain some of the off-season duties. You talked about it a little bit, off fire season. So they do proactive under the forestry initiative, the President, so can you talk about that a little bit more, some of the things they do?

Mr. VAUGHT. Certainly, Mr. Chairman. One of the main duties they do is what we call fuels or prescribed fire program under the Healthy Forest Restoration Act, and the President's initiatives that we're currently operating under, it gives us funding and priority to do a lot of fuels reduction work.

This type of work occurs outside normally of the wildfire season, and so we have to do planning, NEPA, National Environmental Policy Act, planning work. We have to do technical planning work, figure out where to do this kind of work on the landscape of millions of acres. We have to set priorities and then we actually go out and do that.

Mr. PORTER. So if there's a beetle infested forest, they would work on under the act.

Mr. VAUGHT. That would be a good example.

Mr. PORTER. Remove some of these proactively.

Mr. VAUGHT. Yes. They also do many other kinds of work that are unrelated to fire. The range program has projects that might

involve fence construction or supporting the ranchers on the national forest. They might have work associated with our timber program, marking boundary lines or helping and supporting the folks that are surveying and laying out timber sales, for example.

There are many, many, many resource areas—watershed projects. There are wildlife and fisheries projects, building guzzlers to support higher levels of wildlife populations. Many kinds of work that really cover the entire gamut of the natural resource work that the Forest Service does.

Mr. PORTER. My friends at the National Park Service, I spent 25 years in Boulder City and I was mayor and councilman so I have a lot of friends in the National Park Service, and I know that a lot of their duties have evolved from National Park duties to law enforcement duties because of the number of tourists and visitors there. Is your team involved much in law enforcement or are they being put in a position of law enforcement because of the tourists or visitors or problems in the areas.

Mr. VAUGHT. Mr. Chairman, by and large they do not. That doesn't mean there aren't a few employees that are involved in the law enforcement work. But at least on Humboldt-Toiyabe National Forest our law enforcement officers are professional officers, they're peace officers of the same rank and level as county sheriffs and other professional law enforcement officers. There are relatively few of them. We just have maybe four or five law enforcement officers on the entire Humboldt-Toiyabe National Forest in the State of Nevada.

Mr. PORTER. Normally that would be in partnership with local government, counties, cities.

Mr. VAUGHT. Yes.

Mr. PORTER. They're not being called into that role very often.

Mr. VAUGHT. No.

Mr. PORTER. Other than those that are assigned to that.

Mr. VAUGHT. Right.

Mr. PORTER. How about rescues, do they do a lot of rescue of individuals.

Mr. VAUGHT. Mr. Chairman, they really do not. Now, if we have rescue missions, and we do, we search around in our organization and we assign people that are available to go on those rescues, but it would be a very small, a very small percentage of the firefighter's responsibility.

Mr. PORTER. What about prescribed burns, how is that handled? Is that handled differently as far as their role with prescribed burns.

Mr. VAUGHT. Mr. Chairman, actually our firefighters would have a very big role in the prescribed burn program. They help plan those. They help design that kind of work. And then our firefighters of course, our wildland firefighters are the most experienced in dealing with fire. And so when we put fire on the landscape as a planned activity, they would have a very large responsibility in doing that. And that kind of work is increasing at a rather dramatic rate as we have funding and priority to implement the President's initiative.

Mr. PORTER. I was just in Washington State and I know there's serious fires happening. For the team from the Nevada portal to go

to the Washington portal, how are they transported? How do they get there? How does that work.

Mr. VAUGHT. Mr. Chairman, it does depend. In some cases they would fly on commercial airlines. In some cases there would be Forest Service air transportation for some crews. And in many cases, I would say probably in most cases they would drive.

Mr. PORTER. Drive a Federal vehicle or their own vehicle? How do they get there.

Mr. VAUGHT. Through Federal vehicles, fire engines or fire vehicles that are specifically funded and set aside for use in the fire program.

Mr. PORTER. I see.

Mr. VAUGHT. So most crews have crew vans, for example, and in most cases they would drive.

Mr. PORTER. Now, this is a premier facility we're in today. I know the guys from Arizona would smile and appreciate being here. But when the firefighters are called to a fire and they're living and breathing the smoke and the danger every day, their off times are many times spent right at the base of the fire, correct, whether it be tents or under a tree. So if you could, maybe explain some of the living conditions when they are—when they do leave a portal if there's a severe fire.

Mr. VAUGHT. On our larger fires, Mr. Chairman, we generally set up what we call an incident command post. Sometimes they can be very large and include several hundred employees that are living and working in this area. They bring in showers, portable showers. They bring in portable food, folks that prepare and feed and can feed large numbers of firefighters in short periods of time. And each of the crews sets up in a certain place almost in a military fashion, and they do live and stay in that fire camp during their off hours.

Our firefighters are restricted to 16 hours of firefighting work a day, which is a very long day. And that doesn't mean they all work 16 hours, but they work up to 16 hours. And so our crews would come back to the camp, to the incident command post, for their sleep hours and then get fed, showered and the next day go out again from that location. They generally are fairly segregated from say cities and towns, and so they oftentimes are remote.

Mr. PORTER. And we have lost some technicians, firefighters when they're off duty from fires and other catastrophes, correct, that were actually on duty in a camp nearby? Hasn't there been some cases where accidents have happened or the fire has shifted, we've lost some individuals?

Mr. VAUGHT. Mr. Chairman, unfortunately there have been some fatalities of our firefighter crews over the last number of years on duty. And occasionally there are firefighters that, much relatively rarely, but there are examples of firefighters that off duty wander onto a highway or in some cases get into trouble and also there are a few fatalities that occur in that way.

Mr. PORTER. The reason I ask about living conditions is that again we have a great facility here, and this is unique, but if we have a major fire, as we have had here in the past, they wouldn't all be able to stay here. There would be facilities set up, you say military style here, it would be 120 degrees in a camp, correct? It's

not like we're putting folks in Bellagios around the country when there's a serious fire.

Mr. VAUGHT. Basically, Mr. Chairman, we provide very good meals. We provide as good of living conditions as we can to keep the firefighters happy and healthy, but they would certainly be described as rustic.

Mr. PORTER. And again these employees are not complaining. They would like to have their compensation adjusted but they don't complain. They're a great group of folks. You should be very proud. Thank you, Bob. And I may come back a little bit later.

For the OPM, and I know that we disagree a little bit possibly on pieces of this legislation, but I also know of OPM's respect for these individuals. Just talk about your prospective of these folks a little bit, would you, Nancy, because I know you have great respect also for them.

Ms. KICHAK. Well, they definitely do a magnificent job, and we do want to afford them all the respect they're due. And, therefore, if the title forestry technician doesn't have the connotation that affords that respect, we would certainly be glad to look at renaming the series.

However, it is true that because of the particular series they're in, series 462, the firefighters do receive higher grade—are paid at a higher grade level in recognition of the extra duties they do, the things they know about conservation and forestry and agriculture. So the title might be misleading but the series definitely recognizes their broad range of skills, not just their firefighting skills.

And there is some value to that to be in that series because it helps them achieve a higher grade. But we'd definitely be glad to look at renaming that, would make it clear what high regard we hold them in.

Mr. PORTER. And again we're not here to talk about renaming it.

Ms. KICHAK. Right.

Mr. PORTER. Or coming up with a new title, but I think that's something we can work on that would help a little bit with morale.

The seasonal employees of course was talked about, permanent. You also mentioned a little bit about not having a recruitment problem and not having a retention problem. Would you talk about that a little bit?

Ms. KICHAK. Sure. We have a data base, the central personnel data file. We've analyzed looking at the folks that assume this position. And if you look at what we call quit rates for folks in similar grades as our firefighters, the quit rates are similar. In other words, folks are as likely to leave a Federal job of a similar grade that are not firefighters as the ones who are firefighters.

We've looked at the quit rate of seasonal folks, and the quit rate there is high but it's not higher than other seasonal folks. The Federal Government employs a broad range of folks to meet its objectives. We have a lot of seasonal employees in other jobs in interior. We have seasonal employees in the Internal Revenue Service, etc.

Mr. PORTER. We have too many of those, IRS. Just kidding.

Ms. KICHAK. Anyway, if we look at the quit rate for folks in that kind of employment situation, it's very similar to the firefighters. So we don't believe we have a recruit and retain problem in the firefighters.

Mr. PORTER. Is it possible that there are regional problems with recruitment.

Ms. KICHAK. Yes, there can be regional problems. There are other pay flexibilities besides the portal-to-portal coverage. There are recruitment bonuses and retention bonuses. We also have locality pay. We have locality pay adjustments for some firefighters in California. So there are other ways if there are recruitment and retention programs to address the issue.

Mr. PORTER. I realize this is a hearing specific to the bill, but are there some areas that you, OPM, is working on now to help with Federal firefighters or in this circumstance? Is there anything that we need to know about that maybe is on the drawing board.

Ms. KICHAK. We are not specifically working on anything pertaining to firefighters. We are studying the issue. We have received a lot of feedback from the community, and we remain interested in everything they've provided. We've been reviewing that. We know there's been some concern about healthcare for firefighters, although those who are permanent, either a full time or seasonal basis, those folks get it.

We continue to look at what might be done for coverage for folks of a temporary nature and health insurance. However, again the Federal Government is a large organization and it hires a lot of folks on a temporary basis. So we're looking at all these programs as they affect not just firefighters but the community at large.

Mr. PORTER. What happens to seasonal if they get hurt on the job.

Ms. KICHAK. Well, anyone who gets hurt on the job is assisted through the Department of Labor through our workman's compensation program. No matter what kind of appointment they're in, that is available to them.

Mr. PORTER. I mentioned earlier the prescribed burns. My understanding is that they don't receive hazardous duty pay for prescribed burns; is that correct.

Ms. KICHAK. I am unable to answer that question.

Mr. VAUGHT. Mr. Chairman, that is correct.

Mr. PORTER. Do we know why that is.

Mr. DUDLEY. Because it's considered under a prescribed fire you're operating under constrained conditions at your——

Mr. PORTER. Portal.

Mr. DUDLEY [continuing]. At your work in terms of developing the burns. So because of that it's not considered to be a wildfire and under those operations hazard pay is not considered. If the prescribed fire was to escape and be declared a wildfire, then you'd be in a hazard pay situation.

Mr. PORTER. I see. You anticipated my question. Thank you.

The Federal Government hires a number of cooperators from State and local as well as private fire agencies to assist just because there's not enough Federal firefighters or is it because it's tough to gear up without that?

Ms. KICHAK. Well, the decision on who to hire to fight a particular fire is made at the fire.

Mr. VAUGHT. Mr. Chairman, if I might, there are many very good and important reasons for hiring local resources. You don't have transportation. They often know the country. Oftentimes volunteer

fire departments really appreciate the experience that they receive while fighting wildfires when they work with us.

And so it has always been perceived as a very positive thing to use local resources when available. And I believe that it helps our relationships, it provides some small amount of work for a period of time to local folks and local communities, and it is a very positive cooperate relationship.

Mr. PORTER. And I will put a plug in for Nevada, whether it be North Las Vegas or Boulder City or Henderson, County and City, we have a great team here. And I know that its cooperation is probably one of the best in the country. And that's credit to those folks out there every day and to management. But I think we're a real model here in southern Nevada of cooperation between agencies.

And I know that we've had some rough situations in the years, but of course when you include 7,000, 8,000, 9,000 people a month moving into the area and all the of course strain on our infrastructure and facilities, I think in Nevada we did a great job and we appreciate everyone for that.

I really have one more question, and that is the portal-to-portal, if we were to make some adjustments specific to the forestry technicians and firefighters, how does that impact other firefighters? What happens if we do that?

Ms. KICHAK. Well, the other Federal firefighters are called structural firefighters, and their pay system——

Mr. PORTER. Excuse me, is that like Nellis firefighters, are they structural firefighters.

Ms. KICHAK. Which kind.

Mr. PORTER. At Nellis Air Force Base.

Ms. KICHAK. Yes. In fact, 90 percent of the structural firefighters are in the Department of Defense. And they're in a series called 0081, and their grade level is lower and their hourly pay is lower. And this is because they are paid for a 24-hour shift. They don't receive overtime until they've worked over 53 hours a week and they don't receive hazardous duty pay. So their whole package is entirely different.

And we do not want to create—you can't look at one piece of the package without looking at the other piece. In other words, I definitely understand the interest for having portal-to-portal coverage but then in order to do exactly comparable, you would end up with a lower hourly pay and you would give us your hazardous duty pay. So changing this for one set of firefighters would create an environment in which the other Federal firefighters would then be dissatisfied.

Mr. PORTER. Or when we're looking maybe we should look at some others also, make sure that they're being compensated appropriately also, correct? Put you on the spot, Nancy. But it seems to me we should be looking beyond this at some other areas also. And really that's it for now. I sure appreciate you both being here.

Ms. KICHAK. Thank you very much.

Mr. PORTER. You've come a long way from Pennsylvania.

Ms. KICHAK. It's beautiful.

Mr. PORTER. Bob, where do you live.

Mr. VAUGHT. Mr. Chairman, the forest supervisor's office, my headquarters office is in Sparks, so we're in the Reno area. We have 10 districts throughout the State of Nevada with one office being in Bridgeport, CA. And so our forces and employees are widely separated in 10 different offices throughout the State.

Mr. PORTER. And Sparks has made it on ABC News as one of the best places to live in the country, by the way. Just thought you might like to know that. Thank you very much.

Mr. VAUGHT. Thank you.

Mr. PORTER. Casey and Ryan, please join us.

Next this, of course, is panel two. Casey Judd, you're up, president, Federal Wildland Fire Service Association. Casey, welcome.

STATEMENTS OF CASEY JUDD, BUSINESS MANAGER, FEDERAL WILDLAND FIRE SERVICE ASSOCIATION; AND RYAN BEAMAN, PRESIDENT, CLARK COUNTY FIREFIGHTERS, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS

STATEMENT OF CASEY JUDD

Mr. JUDD. Thank you, Mr. Chairman. I do want to correct you. I'm actually the business manager for the Federal Wildland Fire Service Association.

Mr. PORTER. So you get blamed for everything.

Mr. JUDD. Absolutely. And the buck stops here. The president, the one with the really cool tie, is sitting behind me.

Mr. PORTER. There we go.

Mr. JUDD. I appreciate the opportunity to be here. It's been a long time coming. As stated, my name is Casey Judd, and I'm the business manager for the Federal Wildland Fire Service Association. The FWFSA is an employee association that was created by wildland firefighters in 1991. Our members hold positions throughout the GS grade system from the entry level GS–2s and 3s to FMOs, or fire manager officers, in the GS–12 range.

As a result, the FWFSA itself receives a wealth of information on the impact of pay and personnel policies in the everyday lives of its members along with the environment of their working conditions they face on the fire-line. We believe that such information is not readily available to other government agencies.

It is my responsibility to represent the association's members in a legislative capacity by developing legislative proposals designed to achieve the association's goals and objectives and to educate you folks on the Hill with respect to those issues.

I was a Federal firefighter employed by the Department of Defense for 20 years and previously held the elected position of fifth district vice president for the California Professional Firefighters, a position which provided legislative and political representation for the State's Federal firefighters.

I also nearly won a position on the executive board of the International Association of Firefighters in 2003 by losing by 21 votes in a special election. I have been working with Members of Congress on Federal firefighter issues for over a decade. As committee members you're of course——

Mr. PORTER. Excuse me, it's funny how you remember those numbers, right, 21. I remember I've lost some races. I can tell you the numbers. It's OK.

MR. JUDD. 21. Trust me, I counted and recounted.

As committee members of course you're all used to the formality of witnesses offering their thanks, but I'd be remiss if I didn't personally on the record thank Chris for taking the time to work with us, and Chad too. Chris has really taken an interest in this issue. I've sent him Web sites of infrared imaging, and I really think to a large degree we wouldn't be here if we didn't have folks such as Chris that are really truly interested in the subject matter and want to make a difference in it.

Although it's unfortunate that more members of the committee couldn't be here today as a result of the August recess and the scheduling conflicts, it is our fervent hope that you will help those folks read our written testimony. We had hoped to have additional firefighters here today. Of course they're all on fire assignments.

Mr. PORTER. Excuse me, Casey. I've been threatening my subcommittee that we would be coming to Las Vegas for a hearing soon, and know that if it wasn't for whether it be family or——

Mr. JUDD. Absolutely.

Mr. PORTER [continuing]. Congressional commitments that they really are very interested in this. Of course we love to come to Nevada, but timing is such, but they are very interested and want to hear more.

Mr. JUDD. Absolutely. I understand that. We trust that each one of you will take the time to thoroughly read the testimony provided by our firefighters, if you haven't already. We believe that it will paint a very clear picture of the longstanding detrimental effects of current pay and personnel policies that are on our Federal wildland firefighters and will illustrate the ramifications of maintaining the status quo with respect to those policies. We trust the testimony will also provide guidance on how to affect positive change not only for our firefighters but the Nation's taxpayers.

H.R. 408, the Federal Wildland Firefighter Emergency Response Compensation Act, is the second in a series of bills introduced by Congressman Pombo on our behalf. His first effort, H.R. 2814, was well received by the subcommittee under the chairmanship of former Congressman Joe Scarborough.

During hearings before what was then the Subcommittee on Civil Service, and additional testimony before the Subcommittee on Forests and Forest Health, the FWFSA laid the groundwork for H.R. 408. Although opposed by OPM in favor of a legislative proposal offered by the administration, H.R. 2814 which eliminated the overtime pay cap for Federal wildland firefighters was passed by Congress and signed into law in 2000.

The issues identified in H.R. 408 and supporting testimony are certainly not new. The concept of portal-to-portal pay along with the proper classification of wildland firefighters has been discussed for over two decades by the land and management agencies themselves.

Numerous meetings have resulted in recommendations from a variety of sources suggesting that the time has come for proper

classification while also identifying the benefits of portal-to-portal pay for Federal wildland firefighters.

Despite these recommendations and the employing agency's very own findings on the benefits of portal-to-portal pay, proper classification and other personnel pay reforms, firefighters continue to face bureaucratic opposition to these reforms. Whether it be the political appointees of the land management agencies fearing the loss of such appointments or the bureaucratic bean counters with absolutely no insight into the world of wildland firefighting, our brave men and women have been stymied for years in being properly recognized as firefighters and properly compensated for their life risking duties.

Yet sadly these very bureaucrats who classify the employees as forestry technicians, range technicians and biological science technicians refer to them as firefighters when our men and women lose their lives in the line of duty. Despite data to the contrary, the government continues to suggest there are no recruitment and retention problems within the Federal wildland firefighting community.

Such opinions are truly misleading when it becomes evident that the data used by the government fails to take into account the loss rates for seasonal firefighters who make up nearly 50 percent of the annual firefighting staffing. Responding to H.R. 408 the administration of land management agencies have suggested that implementing such legislation would be prohibitively expensive rather than embracing the reality that it might, in fact, mandate the agency to develop more cost effective and efficient fire suppression funding policies and practices, and, in fact, require them to become more fiscally responsible to the American taxpayer.

Given that the Forest Service has chosen to scrape $100 million off the top of the suppression budget to move its human resources department to New Mexico, it would seem a logical conclusion that fiscal policies could be more efficient. The administration has also suggested that implementing H.R. 408 would create a pay disparity between wildland firefighters and other Federal employees who are sent on temporary assignments.

As I indicated in my written testimony, the only government employee who faces the same dangers and working conditions that our firefighters face are the men and women of the armed services, yet they are not taken off the clock and put in a non-pay status when resting and eating. I think we would all agree that applying such policies to the military would be as ludicrous as it is to our firefighters.

Add to that the typical phenomenon among government agencies where a portion of appropriated dollars somehow get lost before reaching their intended targets, in this case fire managers who need to staff and equip their firefighters for the season, and you begin to understand why it is time for Congress to takes action on these issues.

The opposition from the government agencies is nothing new. We faced it head-on when dealing with the Department of Defense and OPM in the mid to late 1990's when working for pay reform for Federal firefighters employed by DOD, and again as I mentioned in 1999 and 2000 with H.R. 2814. On each occasion Congress understood the need for such reforms and passed our legislation.

While the opposition isn't surprising, it's disappointing and difficult to understand given that it is these same government entities that have time and again over years and years identified these same reform measures as practices and policies that need to be adopted.

We find ourselves in the 21st century responding to a variety of incidents and environments yet being managed through archaic, out of date policies. Quite simply, current pay and personnel policies created a number of dynamics all converging in a convoluted and never ending viscous cycle.

There are approximately 16,000 employees in the 4624 technician series. Of that about 54 percent are permanent. The remaining are seasonal and temporary firefighters who don't receive basic healthcare for risking their lives.

Additionally, for years the Forest Service has relied upon other non-primary firefighting Forest Service employees to perform collateral duties on wildfires. We have identified these employees as the militia in our written testimony. Despite the Forest Service still relying on such employees, a number of studies report that the number of militia personnel actually responding to wildfires continues to decline substantially as a result of antiquated policies and for a variety of other reasons.

Further, recruitment and retention, always an issue in many Federal occupations as a result of lower pay and benefits than their private counterpart, continues to be a major problem on individual forests in the west regardless of the more optimistic picture painted by the agencies and administration.

Retention rates in some areas are less than 50 percent. On other forests, vacancies simply cannot get filled. Let us also not forget that in 1990 the first President Bush signed the Federal Employees Pay Comparability Act [FEPCA], into law. It was designed to help close the disparity in pay between Federal employees and their counterparts in the private sector. However, each year since its enactment provisions of the law are not properly radically implemented.

As a result of serious recruitment and retention problems in the primary Federal wildland firefighters, and the ever increasing reluctance on the part of the members of the militia to respond to fires, the land management agencies have become more and more reliant on cooperative agreements with State and local fire chief agencies as well as private for-profit contract companies.

There is no doubt that cooperative agreements with such fire agencies in a number of cases are crucial to prompt responses to wildfires each season to a point. The inherent higher cost of such resources, often substantially higher than comparable personnel and equipment from the Federal land management agencies, must be looked at and is in our opinion one of the greatest causes for the skyrocketing costs of wildfire suppression across the country.

Not only do these higher costs impact our Nation's taxpayers, the negative financial impact it has on the government's own wildland firefighters fuels the continuing loss of qualified, well trained, at taxpayers' expense I must add, Federal wildland firefighters causing the recruitment and retention problems we referred to.

The concept of equal pay for equal work should be in the Federal Government to ensure it retains its work force whose training and expertise, in the case of wildland firefighters, should be considered an investment by the taxpayers and the protection of this country's natural resources as well as the real and personal property.

Instead the financial inequities faced by our Federal wildland firefighters between themselves and their counterparts breeds low moral and creates sufficient incentive for these firefighters to leave the Federal service. As a result, as recent GAO studies have shown, the current cache of fire management personnel are closing in on retirement while those that should be preparing for long careers to take on such manager assignments are rapidly leaving for better pay and benefits outside of the Federal system after receiving significant training.

Given that it may take 17 to 25 years of training and experience to become a type I or type II incident commander, it becomes quite clear that current archaic policies must be amended to rebuild the ranks of Federal wildland firefighting staffing. Unfortunately instead of reforming pay and personnel policies to assure the survival of the Federal wildland fire service and increase the return on our taxpayers' investment by giving them the greatest bang for their buck, land management agencies seem content on relying on more expensive cooperators and contractors to fill the ever increasing gaps in wildfire staffing assignments.

The question is why. The answer is simple. These agencies have no incentive to change the way in which they do business. They have no true incentive to become more cost effective and efficient. There is virtually no oversight and no one to be held responsible for irresponsible fiscal policy. Historically Congress will ultimately fund the fire suppression costs, whether they do it at 100 percent of the preparedness budgets or provide a supplemental appropriations at the end of the season.

In recent years some in Congress have chastised the chief of the Forest Service for borrowing funds from other projects to pay for suppression. Yet in the end Congress provides the necessary funds to restore those projects and pay for all suppression expenses regardless of the cost.

We firmly believe that many in Congress are totally unaware of the enormous cost expended by the land management agencies to pay for contracts and cooperators and salaries and associated costs as compared to what they pay their own Federal wildland firefighters.

So as to avoid being redundant with the written testimony, the FWFSA has clearly outlined a variety of these costs and significantly higher rates in their written testimony. Congress has begun to pose questions of the land management agencies about the ever increasing cost of fires. Unfortunately the answers they get are not necessarily consistent with what our firefighters see in the field.

And inevitably, despite receiving the necessary funding for suppression, the land management agency often redirect those funds targeted for fire suppression to other projects, such as the human resources department move to New Mexico. As a result, our firefighters are told they can't hire seasonal firefighters, can't properly staff engines, and at the same time the agencies are more than

willing to pay significantly higher costs to contractors and cooperators. It simply doesn't make sense.

Mr. PORTER. Excuse me, Casey. Let me remind you that we've gone a little beyond five, so maybe you could summarize it a little bit for us and we'll allow Ryan to——

Mr. JUDD. OK. And I was going to—with all due respect to Mr. Beaman, and those folks that he represents, they have a difference, a distinct difference as you well know of the fact that they can negotiate pay and benefits. As Federal employees we can't.

We have provided some examples in our written testimony. If we're looking at the disparities or inequities, we want to remind you that the Federal Government, our firefighters' boss, pays these contractors and cooperators at a much higher basic rate, portal-to-portal pay plus a 17 percent administrative fee plus backfill costs plus a number of other costs associated with them. They'll put them in motels. They put us under a tent in the dirt.

And I just want to leave you with one comment if I could from a female firefighter in Montana. In referring to OPM's draft letter in opposition of H.R. 408 she writes, "Have them take a standards test and a pack test then send them out to a crappy piece of land somewhere. Well, and give them the bad yellow TSA line gear and the yellow gloves made by the society for the blind and inmate crews. Have them chink line in poison oak and manzanita for about 2 weeks with bad contractors' food, green meat for lunches. It may change their attitude." She finishes with, "The people sitting in their offices never built a house. It was the man swinging the hammer."

Mr. PORTER. Thank you.

Mr. JUDD. With that I'm more than happy to answer any questions.

[The prepared statement of Mr. Judd follows:]

STATEMENT BY

CASEY JUDD, BUSINESS MANAGER

FEDERAL WILDLAND FIRE SERVICE ASSOCIATION

BEFORE THE

HOUSE GOVERNMENT REFORM COMMITTEE;

SUBCOMMITTEE ON THE FEDERAL WORKFORCE & AGENCY ORGANIZATION

ON

FEDERAL WILDLAND FIREFIGHTER PAY, COMPENSATION & CLASSIFICATION

AUGUST 12, 2005

RED ROCK CANYON NATIONAL PARK

CONGRESSIONAL TESTIMONY

The brave men and women who make up the Nation's federal wildland firefighter workforce are employed by the five land-management agencies of the Department of Interior and Department of Agriculture of the United States. These agencies are the Park Service, Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA), Fish & Wildlife and the Forest Service. The Forest Service is the largest employer of federal wildland firefighters.

Many of these wildland firefighters are permanent employees of the above-referenced agencies. However during the fire season, staffing is often augmented by the hiring of seasonal/temporary employees who often times have several seasons of wildland firefighting experience. In fact, nearly 46% of annual fire suppression staffing is comprised of seasonal hires. The vast majority of federal wildland firefighters are assigned to National Forests and other federal lands within the 12 western-most contiguous states. This rationale is based on the preponderance of wildfires occurring in the western United States.

Federal wildland firefighters are classified as either General Schedule (GS) or Wage Grade (WG) employees of the federal government. Oddly enough, they are placed in a variety of occupational series including, but not limited to: Forestry Technicians, Range Technicians and Biological Science Technicians, none of which alludes to their firefighting duties. These current classifications grossly misrepresent the actual work performed by federal wildland firefighters. Despite decades of discussion and numerous recommendations by the land-management agencies, the Office of Personnel Management (OPM) and various Administrations supporting the development of a separate and distinct federal wildland firefighter classification series, none has been created.

As we enter the 21st century, the Nation's federal wildland firefighters are as "multi-tasked" as any structural firefighter in the country. Wildland firefighters respond to vehicle accidents, first aid calls and hazardous materials incidents. Additionally, many are assigned to national response teams that respond both

nationally and internationally to assist FEMA and other agencies during or after natural disasters. Federal wildland firefighters were on the front lines at the WTC, Pentagon & space shuttle disasters. Last month federal wildland firefighters were once again summoned to respond in support of Hurricane Emily recovery. As their tasks evolve, so too does the wildfire landscape they face. Recent "mega fires" and conflagrations have hit many areas of the country as a result of the "urban interface," geographical locations where businesses and homes have been built that used to be remote and heavily timbered forest.

Unfortunately, as the dynamics of wildfires and their causes and affects change, along with the many other emergency-related tasks federal wildland firefighters now perform, pay and personnel policies have not kept abreast with these changing environments.

These current dynamics fail to produce any nexus between the series classifications our firefighters are currently held under and what these employees actually do throughout the year. Identifying what a Forestry Technician does during the "non" fire season clearly demonstrates that their year-round functions are in fact geared towards fire preparedness, suppression and management.

Ask a Hot Shot crew member, or a smoke jumper or a battalion chief what they do during the off-season, and they will tell you "prepare for the next season." These preparations are logically similar to the preparations of any full time firefighting organization depending on one's rank. Such preparation includes training, vehicle and equipment maintenance, personnel management, internal incident qualification training, physical fitness, planning, pre-fire planning and fuel reduction projects. These off-season tasks are interspersed with responses to medical calls, hazardous material calls and other typical fire department responses. Ask these same firefighters what these duties have to do with biological sciences, or being a "Forestry Technician" and there is simply one answer...none.

During the fire season, generally between June and October, these firefighters respond to wildfires not only on their home forests, but throughout the United States. During the off season, the typical work week is 40 hours. During the season, normal 8-hour days can easily stretch into 24-hour fire assignments. These fire "assignments" can last up to 14 consecutive days or more and can take these firefighters to some of the most remote, inhospitable terrain this country has to offer.

Until recently, fire assignments could extend to as long as 21 consecutive days. However, as a result of recent fatal fires, employing agencies have attempted to cut such assignments to no longer than 14 consecutive days. This does not preclude some firefighters from spending longer than 21 consecutive days away from home on multiple assignments.

It is on these 24-plus hour assignments that current pay and personnel policies paint a staggering inequity as it relates to equal pay for equal work.

HISTORICAL PERSPECTIVE OF ISSUES

The provisions set forth in H.R. 408, The Federal Wildland Firefighter Emergency Response Compensation Act are certainly not new issues. All five land-management agencies along with OPM have discussed the concept and application of ***portal-to-portal*** pay for federal wildland firefighters for over two decades. Other long-standing issues include proper classification, inclusion of hazard pay as basic pay for retirement calculations, the elimination of the overtime pay cap, basic health care coverage for seasonal/temporary wildland firefighters risking their lives each season, and providing hazard pay on what are identified as "prescribed burns." Prescribed burns are "planned" burns to remove potentially volatile fuel loads.

Sadly, it has taken a relatively small employee association, the Federal Wildland Fire Service Association (FWFSA) a number of years to first educate and then

work with Congress in an effort to draw attention to these long-standing issues and seek legislative remedies to address the negative impact current policies have on our Nation's federal wildland firefighters.

The initial legislative effort came in 1999 with the introduction of H.R. 2814 by Congressman Richard Pombo, and S. 1498 by Senator Conrad Burns, both entitled **The Wildland Firefighters Pay Equity Act of 1999.** This legislation sought to eliminate the overtime pay cap for federal wildland firefighters. Hearings were held by this subcommittee, formerly known as the Subcommittee on Civil Service, under the chairmanship of Congressman Joe Scarborough.

OPM and several national unions representing federal employees, namely the American Federation of Government Employees (AFGE) opposed the legislation and indicated as much at the hearings citing a pending legislative proposal from the Administration to look at the overtime pay cap for all federal employees. Despite this opposition, the legislation was ultimately passed and signed into law. Although a number of federal agencies sought the same elimination of the overtime pay cap, only federal wildland firefighters were able to demonstrate the negative impact the cap had on their occupation and thus were the only group of federal employees to realize the elimination of the cap.

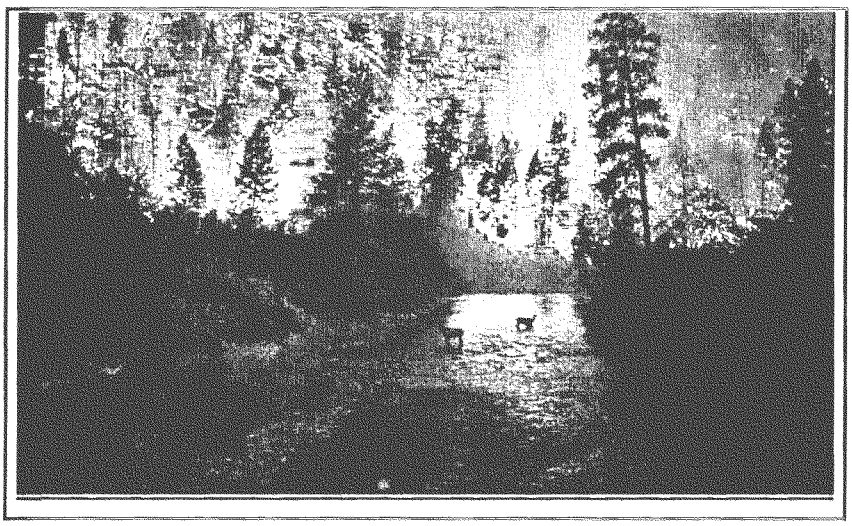
The aforementioned bills addressed one of several issues affecting federal wildland firefighters. During the 108th congress, Congressman Pombo introduced H.R. 2963, The Federal Wildland Firefighter Emergency Response Compensation Act. The bill sought portal to portal pay for wildland firefighters and the inclusion of hazard pay as basic pay for retirement calculations. Unfortunately the bill died at the end of the session without action.

This brings us to the reintroduction of the Federal Wildland Firefighter Emergency Response Compensation Act as H.R. 408 in the 109TH congress. The early introduction was to ensure the employing agencies clearly understood

the issue had received the attention of a key group of bipartisan members of congress and to ensure the agencies that the issue was not going to go away.

Since the reintroduction of the legislation, the FWFSA has provided the subcommittee staff with a significant number of documents pertaining to the historic need for such legislation. Additionally, former Acting Director of The Office of Personnel Management, Mr. Dan Blair, extended the courtesy of a meeting to the FWFSA to discuss the legislation and other issues affecting federal wildland firefighters. The meeting was held in Washington D.C. on July 8, 2005.

THE ANATOMY OF A WILDFIRE



Wildfires represent one of Nature's most awe-inspiring, ferocious, formidable and deadly foes for humankind. Ironically, science has shown that the role of wildfires throughout history is an important one in the ecology of any given area.

Wildfires occur by nature and unfortunately as a result of carelessness or deliberate act on the part of human beings. Lightning strikes account for a vast number of fires throughout the country. As stated, such fires generally serve a

valuable purpose for the cycle of life. However, as a result of population growth, a variety of political and financial decisions and subsequent policy implementation, the effects of wildfires have become far more sobering to the average American than ever before.

The dynamics of any given wildfire are affected by a number of factors. Some of these include fuel load, weather conditions, topography, residential density...if any, as well as access, resources and the applicable laws and regulations of any given area.

One needs only to drive through a mountain pass that has endured a wildfire to see the absolute total destruction of the area. However, unless you have battled a wildfire, no TV show, documentary or video can truly afford a clear, colorful picture of what the men and women of the federal wildland firefighting community face.

We know from years of wildfire suppression efforts that many wildfires are capable of creating their own weather. The plumes stretch into the atmosphere for tens of thousands of feet. The instability in these plumes, coupled with the enormous intake of oxygen which feeds the fire, create ferocious winds and even lightning which often triggers new spot fires.

It is not uncommon for flames to race horizontally in excess of 80 mph, nor is it uncommon for such fires to consume as much as 15 acres in ***one minute*** as the fire is propelled through the tops of 100ft+ trees that explode like matchsticks. And, perhaps most importantly, it is tragically not uncommon for wildfires to take the lives of even some of the most experienced, seasoned wildland firefighters in the country.

It is our firm contention that battling a major wildfire is a war. The enemy is powerful, agile and often unpredictable despite major advances in the study of

fire behavior. The speed in which such fires can spread is beyond comprehension to those that have not experienced such dynamics for themselves.

Yet despite constant training and the ever-developing understanding of the enemy, lives are lost. In fact, more wildland firefighters died in the line of duty between the end of the 1st Gulf War and the beginning of the 2nd Gulf War than military members during the same period.

As a result of what has been termed the "urban interface," wildfires have become more destructive in the loss of lives as well as real and personal property. In 2003, Southern California experienced a horrific rash of fires killing residents and destroying thousands of homes. Despite these losses and new laws designed to keep residents more safe, the potential for our wildland firefighters to face deadly fires continues to escalate.

Entire towns are susceptible to the ravages of wildfires. Yet as local, state & federal officials strive to better educate the public on wildfires and protect them from such incidents, little if any attention is given to the brave men and women

who risk their lives to protect the Nation's natural resources and its citizen's real & personal property.

CURRENT POLICIES ON STAFFING WILDFIRES
&
THEIR ASSOCIATED COSTS

The Forest Service manages about 200 million acres of land in approximately 160 national forests and grasslands while the BLM manages about 270 million acres. Due to BLM lands being generally located in the 11 contiguous western states, it is the National Park Service and Fish & Wildlife Service that have lands in the southeast and interact with the Forest Service on fire related activities.

For years, agencies such as the Forest Service promoted and relied upon a concept whereby employees who did not normally perform firefighting duties as a primary function, would respond to wildfires to augment staffing in a variety of support positions. These employees are identified as the "militia."

Even today, the Chief of the Forest Service encourages such employees to respond to wildfires in such a role. However unlike federal wildland firefighters who are eligible for the government's special retirement provisions for federal firefighters, these militia employees are not eligible for such a benefit. Nonetheless, the Forest Service leadership has continued to rely on the militia even though the number of employees responding in such a role has diminished considerably over the years for a variety of reasons.

The Forest Service also relies on "emergency hires." These are retirees with some experience/expertise. In other words, these employees are receiving their pension while also being paid to respond to current fire assignments.

According to a GAO report dated August 1999 entitled **FEDERAL WILDFIRE ACTIVITIES-Current Strategy and Issues Needing Attention,** it was noted that the agencies' firefighting workforce is "*shrinking because some workers are no longer willing to take on firefighting as a collateral duty while employees with expertise in fire management are nearing retirement age.*" This obviously refers to the militia.

The lack of militia involvement for any number of reasons coupled with recruitment and retention issues common with a number of federal employee occupations, paints a bleak picture for the adequate staffing of the federal wildland firefighting service. Add that to the approximate 17-25 years of training and experience it takes to become a Type I or Type II incident commander, and it becomes clear why the agencies have moved away from properly staffing employees whose primary function is firefighting and instead have come to rely on numerous agreements and other cooperative efforts with other federal, state and local firefighting organizations as well as contract entities. In the field, these entities are known as "cooperators" (municipal and state firefighters) and "contractors" (private, for profit companies).

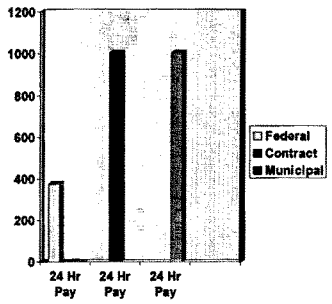
The Federal Wildland Fire Service Association does not in any way seek to discount the vital role contractors and cooperators play in the effort to suppress wildfires or to protect lives and property. We consider cooperators from around the country to be our "brothers and sisters" in the firefighting community. It is critical that the use of such resources continues where absolutely needed. However, we firmly believe the land-management agencies have become over-reliant on contractors and cooperators. As a result, the cost of annual fire suppression continues to skyrocket while on the fire line, the disparity in pay adds to recruitment and retention issues and low morale.

Data provided to this subcommittee clearly demonstrates the higher costs of contractors versus the cost of similar federal crews and equipment. In fact, a contract engine with 3 personnel costs the government more than a federal crew with 5 personnel.

Therefore, more often than not, a glaring pay disparity is evident before any personnel arrive on the scene of a wildfire. In essence, there is an inherent pay disparity already established before the fire is attacked.

WILDFIRE PAY DISPARITY

- Contractors and cooperators (state & municipal firefighters) cost the federal government an average of $1006.00 per 24 hours on a wild fire.
- Federal Wildland firefighters cost the government an average of $375.00 per 24 hours.



WHAT IS "PORTAL TO PORTAL" PAY?

The term "portal to portal" describes various manners of pay within the fire service. With respect to the vast majority of paid, professional structural firefighters in the United States, including DoD civilian federal firefighters, portal to portal means you are paid from the time you arrive at work until the time you leave work.

The standard duty shift for such firefighters is 24 hours. These firefighters are paid for a full 24 hour tour of duty whether they respond to a call or not. Included in this 24 hour period is rest and eating periods. In other words, while on duty,

BASIC PAY DISPARITIES BETWEEN FEDERAL WILDLAND FIREFIGHTERS & COOPERATORS AND CONTRACTORS

As a result of previous legislation and congressional hearings on pay reform for federal firefighters employed by the Department of Defense (DoD) and other non-wildland federal firefighters, significant data indicates a continuing disparity between pay rates of municipal and state firefighters across the country as compared to those of federal firefighters. Such disparity reaches as high as 66% in some areas of the country. Thus in general terms, it is widely acknowledged that the pay rates of municipal and state firefighters, again referred to as *cooperators,* are significantly higher than those of comparable federal firefighters.

As some in Congress may recall, President George Herbert Walker Bush signed the Federal Employees Pay Comparability Act (FEPCA) in 1990 which sought to reduce such disparities between the federal workforce and the private sector. Unfortunately, Congress and the Administration have consistently failed to fully and properly implement the law they themselves passed.

The situation is generally the same as it relates to the disparity between federal wildland firefighters and contract crews. However the disparity is more often looked at by comparing the daily costs of like crews and equipment rather than hourly rates of each firefighter. This much is known: again, with all due respect, contract entities are in the business to make a profit. Many contractors come from the ranks of the Forest Service and other agencies as former federal wildland firefighters who now recognize the reality that the federal government will pay just about anything for fire suppression personnel and equipment. In other words, contracting has become somewhat of a "cottage industry" in the last few years.

they are paid to respond or to be prepared to respond. OPM periodically establishes the normal hourly workweek for firefighters. Municipal firefighters average approximately 51-53 hours per week while DoD civilian federal firefighters work a 72 hour shift.

THE APPLICATION OF PORTAL TO PORTAL ON WILDFIRES

Under the Cooperative Fire Protection Act, the federal government pays for fire suppression services through assistance-by-hire. This requires the federal government to pay contractors and cooperators ***all*** costs associated with those personnel on the wildfire.

Using an example of a 24 hour or longer fire assignment in which contractors and cooperators are utilized, the federal government pays cooperators portal to portal based upon the aforementioned definition for municipal firefighters. In other words, the federal government pays each cooperator their full 24 hour tour of duty pay, inclusive of overtime. If an assignment continues beyond 24 hours, then the next 24 hours on the line is virtually all FLSA overtime at time and one half for each cooperator, paid for by the federal government.

Keeping in mind that the basic pay rates of cooperators are already significantly higher than those of federal wildland firefighters working the same fire, simply paying portal to portal to cooperators exacerbates the pay disparity. However the costs do not end there.

In addition to portal to portal pay, the federal government ***also*** pays to the fire department from which the cooperator came, a 17% "administrative fee." Still further, the federal government pays the "backfill" costs for the cooperator on the fire line. In other words, if a municipal firefighter from station 17 is sent to a wildfire and another municipal firefighter is required at station 17 to take his place based upon staffing requirements, the federal government will also pay that cost

for as long as the cooperator is on the wildfire. These added costs are certainly not set in stone and in fact can go much higher. As an example, the "cost to the government" for a Forest Service Battalion Chief may be $60.00 an hour. While that may sound pricey, the term *cost to the government* is inclusive of health and other benefits to the employee.

By contrast, a Battalion Chief from a municipal department can earn $190.00 an hour from the federal government. If that employee stays at a motel, that cost is also born by the federal government. If that employee takes a county vehicle to the incident, mileage reimbursement is paid by the federal government. If that employee travels by airline to the fire area that too is paid for by the federal government.

It has been noted that on at least one national response team, 8 members of the team from a municipal department **each** made over $100,000 in overtime alone courtesy of the federal government.

These costs, in addition to the fees charged by some contractors, along with the policies established to enter into such agreements, are needlessly costing the American taxpayers tens of millions of dollars each year for wildfire suppression. Again, we do not believe we are "competing" with cooperators for their livelihood. They will obtain their compensation whether they choose to respond to a wildfire or not. However therein lies the point. Such cooperators often choose to respond to wildfires for the sole purpose of earning significant overtime. We do not criticize this practice nor expect the total elimination of the use of cooperators. However the practice of such compensation is not equitable nor it is consistent and often comes at the expense of the government's own federal wildland firefighters.

THE GENEROCITY OF THE FEDERAL GOVERNMENT CONTINUES AT THE EXPENSE OF ITS OWN FEDERAL WILDLAND FIREFIGHTERS

The examples above illustrate a wildfire on federal lands or those managed by federal agencies. However, what happens when wildfires rage on state lands?

The Federal Wildland Fire Service Association is not advocating any change to existing federal policy as it relates to the following information. Rather it is simply an illustration of the volume of federal dollars expended for fire suppression with the intent to demonstrate the inequity of how the federal government compensates its very own federal wildland firefighters.

States, which act as Grantees, may apply to the federal government through FEMA for reimbursement of a variety of costs expended as a result of fires that meet certain criteria. Local entities may apply to the Grantee for sub grants. State and local governments more often than not, meet the criteria. The reimbursement of such costs are made through the Fire Management Assistance Grant Program (FMAGP) which provides for a 75% reimbursement (the government calls it Federal Cost Share) for actual eligible costs incurred. These grants add an enormous price tag to the federal government's cost of wildfire suppression across the country.

NO PORTAL TO PORTAL FOR FEDERAL WILDLAND FIREFIGHTERS

Despite the federal government paying cooperators full portal to portal pay at already elevated rates, the government does not provide the same compensation for its very own employees. In fact, the government's compensation policies for these heroes is to not only **not** pay them portal to portal as they do cooperators on the same fire, but even more egregiously, to interpret federal law to take their

federal wildland firefighters ***off the clock*** for up to 16 hours during a 24 hour period. Ponder how difficult it must be to provide for a family thousands of miles away when you are gone for 14 consecutive 24 hour days yet are only paid for 10-14 hours per day.

Think of the ramifications nationwide if cities, counties and states started taking their firefighters off the clock while they slept and ate. Such ideas are nothing less than prehistoric and demonstrate ignorance about what firefighters face.

A PERSONAL SCENARIO FOR YOUR CONSIDERATION

Imagine yourself as a GS-6 apparatus operator (engineer) assigned to a national forest in Arizona. Your team is called to a large fire complex in Alaska, thousands of miles from home. Also called to the scene are contractors and cooperators. The fire rages for days on end, devouring hundreds of thousands of acres. In fact, you are on the fire assignment for a full 14 days, 24 hours per day. The fire is located in a remote mountainous area, far from any town or city. The fire camp, if you're lucky to get to the camp rather than bedding down on the rocks and ground surrounded by fire, has virtually no comforts of home. You wait hours in line to be fed, perhaps longer to shower (if you get to shower at all) and sit down next to a firefighter from a municipal fire department.

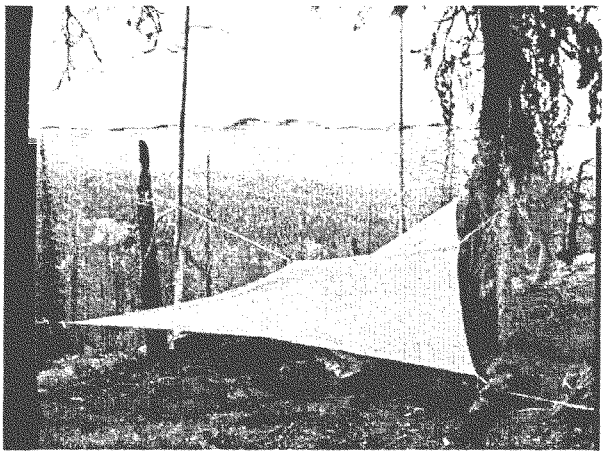
While you sit there, you come to realize the startling fact that the firefighter next to you may make two to three times per hour more than you make. You then recognize that ***your*** boss, the federal government, is paying him/her that rate for a full 24 hours including overtime even when he sleeps & eats. If motels or other forms of lodging are nearby, your boss will foot the bill for the municipal firefighter to sleep there (while being paid) as you remain sleeping on rocks and/or dirt, exposed to the elements with no pay. You further recognize that at the same time, ***your*** boss, the federal government, is taking you off the clock, putting you in a non-pay status despite your requirement to be ready to respond, for up to

10-14 hours of that same 24 hour period. Imagine what that does to morale. Imagine the desire to leave the federal system, take one's training paid for by the American taxpayer and "jump the fence" to a municipal or state fire agency.

The naysayers to all of this, the employing agencies and even OPM, have suggested that paying federal wildland firefighters portal to portal pay would ***create*** a disparity between the firefighters and other federal employees who travel away from home.

Let's examine this theory closely. We can think of only one other government employee who leaves home for weeks on end and risk their lives each and every day they are away. We can think of only one other group of federal employees on temporary duty assignment (TDY) that can't access a shower for days on end. We certainly can't think of ***any*** federal employee group who must wait hours in a **non-pay status** just to eat. And certainly, we know of very few other federal employees on temporary assignment, inclusive of the federal employees who work for OPM, who would choose to trade places with our federal wildland firefighters:

BREAKFAST...ahh THE AMBIANCE



TEMPORARY LIVING QUARTERS

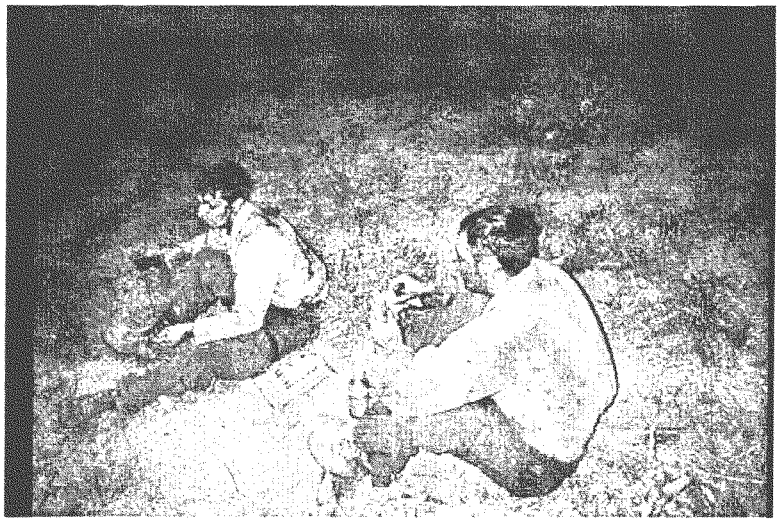
WELCOME ALL FEDERAL EMPLOYEES

NO: toilet, shower, TV, radio or human contact.

Amenities: Snakes, fire ants, poison oak

Wind, rain, humidity, 100+ degrees in the shade

MREs for breakfast & dinner (no time for lunch)



DINNER...YOU DON'T EVEN NEED PER DIEM FOR THIS STUFF

The ***only*** group of federal employees that share any semblance of similar environments while away from home are the men and women of the United States armed forces.

Quite frankly, with all due respect to these brave men and women who are serving this country in the war in Iraq and elsewhere, such policies applied to them would be tantamount to the Department of Defense taking its soldiers "off the clock" while they slept or when they weren't engaging the enemy or firing their weapons. Such a policy for our military personnel would be as absurd and nonsensical as it is for federal wildland firefighters. While some would suggest this analogy is comparing apples to oranges, we tend to disagree. Not only is a wildfire a war with nature, the fact remains that during World War II, the Japanese lofted fuel-laden balloons towards the west coast in an effort to destroy forest land and other natural resources.

The scenario described above is played out on nearly every wildfire during every fire season. These archaic, inequitable and costly policies are driving this vicious cycle of over-dependency on contractors and cooperators, subsequent recruitment and retention problems, and inevitably, the skyrocketing price of wildfire suppression.

RAMIFICATIONS FOR MAINTAINING THE STATUS QUO

A member of congress, who ultimately cosponsored HR 408, recently asked me what the incentive is for the land-management agencies to implement portal to portal pay for its federal wildland firefighters which would lead to more cost-effective and cost-efficient suppression policies. My response...there is no incentive. Each year, the land-management agencies prepare wildfire preparedness budgets. Historical data such as fire activity, weather, suppression costs etc., are used to create a model that determines what is known as the "most efficient funding level" or MEL. This is based on a calculation that is

intended [emphasis added] to minimize suppression costs and the loss of natural resources. Most often, the agencies receive about 85% of the preparedness funds they would need.

Instead of funding the agencies adequately, congress has allowed the agencies, for example the Forest Service, to supplement its annual appropriations by allowing it (the Forest Service) to keep a share of whatever gross revenues it generates from timber sales...in some cases 100%, despite significant losses in the timber sale program over the years.

Despite the less than 100% initial funding from congress, the agencies are always reimbursed by congress for the fire suppression costs they expend. Thus there is the proverbial "blank check." The agencies get reimbursed for whatever they spend, so what is the point of "upsetting the apple cart" by reducing the reliance on cooperators and contractors and properly compensating their own firefighters? The attitude is "it doesn't matter what we spend or even if we overspend our budget, there may be a hearing or two and a few questions asked, but in the long run the bureaucracy will prevail and congress will give us our money."

In fact the 1999 GAO report stated that "...the Forest Service, unlike other U.S. Land Management agencies, has made 'little progress' in demonstrating how well or poorly it gives taxpayers their money's worth and 'remains years away' from doing so in any credible way.

Oddly enough, the Forest Service has offered a more public posture opposing such pay reforms like HR 408 as costing too much money. It is the agency's unfounded interpretation that those supporting HR 408 simply want to throw more money on an already out of control expense.

However, at the same time the Forest Service is criticizing pay reform measures, it has chosen to rake off the top of the FY05 fire suppression budget, $100,000,000 to pay for the move of its Human Resources department to New Mexico. Thus while they pass the word along to fire managers in some regions that they can't hire seasonal firefighters this year and can't staff all of their engines because of "budget cuts" and can't afford HR 408, officials of the agency are "redirecting" suppression dollars to non-fire projects. If we think this practice is unique to the Forest Service however, we would be extremely naïve.

Maintaining the status quo and permitting the land management agencies to forego any semblance of pay reform will simply continue the upward slide in wildfire suppression costs and continue the downward slide in proper federal wildland firefighter staffing. Those that enter the federal wildland firefighting service will reap the rewards of quality training at the expense of the American taxpayer, then head to municipalities for better pay, benefits and working conditions thus wasting the investment made in them.

Forests will continue to have difficulty recruiting and retaining firefighters. Although the Forest Service and even OPM claim there are no "R & R" issues, their data fails to take into consideration seasonal firefighters which make up approximately 46% of the fire season staffing. Each day, the FWFSA receives information from forests on the number of recruits and apprentices hired as compared to how many remain after two years. The results are dismal at best. While some forests report their ability to retain firefighters is only 50%, others report the inability to fill 35-40 vacancies on a continual basis.

Given that the vast majority of wildland firefighters are employed in the west, it is misleading for land-management agencies and OPM to under-report recruitment & retention numbers by diluting such figures through the use of national figures. To get an accurate gauge of the problem, officials should look at rates within the 12 contiguous western states.

Without proper incentives, proper classification and proper compensation, the ranks of federal wildland firefighters, the best in the world, will continue to be decimated and the American taxpayer will be left holding the bill.

SIMPLE SOLUTIONS TO COMPLEX PROBLEMS

Having experienced the difficulty but ultimate success of securing some semblance of pay reform for federal (primarily DoD civilian) firefighters in the late '90s and the elimination of the overtime pay cap for wildland firefighters in 2000, it is certainly not surprising to the leadership of the FWFSA that the employing agencies, along with the Administration through OPM are offering what we would describe as tepid opposition.

It would seem to be a tradition among federal government agencies to rebuke reform measures that have to do with pay and personnel policies regardless of the merits of such reform proposals. Thus we face such opposition again to disassembling the status quo and offering ideas that not only benefit our brave men and women who fight wildfires, but ideas that we firmly believe will ultimately lead to significant savings for the American taxpayer.

The issues faced by federal wildland firefighters are many and cannot be addressed in one piece of legislation. Thus the effort in 1999 and again in the 109th congress with HR 408. At some point we must be able to rely on congress, the employing agencies and the Administration to adopt policies that are in the best interests of their employees and the tax-paying public.

The FWFSA has worked with members of congress for nearly six years to craft HR 408. It is a relatively simple bill that has the potential for 1)dramatically improving recruitment and retention among federal wildland firefighters thus salvaging the investment the American taxpayers spend in training these

firefighters throughout their careers 2) allow the employing agencies to properly staff their primary federal wildland firefighter positions 3)reduce the reliance on significantly higher-priced contractors and cooperators 4)force the land-management agencies to become more fiscally responsible 5)save taxpayers significant funds on wildfire suppression costs and, perhaps most important of all, 6)improve safety on the fire line.

HOW H.R. 408 WILL WORK

The primary function of HR 408 is very simple. HR 408 would require federal wildland firefighters to be paid at their ***base rate*** of pay for all hours they are currently "taken off the clock" on any given emergency incident which exceeds 24 hours in duration to which they have been assigned.

Additionally, the legislation calls for the 25% hazard pay differential earned by GS federal wildland firefighters at certain times to be used as basic pay for retirement calculations as is currently allowed for WG employees' 25% environmental pay differential.

BENEFICIAL EFFECTS OF HR 408 IMPLEMENTATION

The issue of a "closed" fire camp vs. an "open" fire camp has occupied the time and energy of line officers and incident personnel for decades. A closed camp typically dictates that crews must remain in the camp at all times. An open camp traditionally sees crew members leaving the camp perhaps to a local store miles away, or in some instances, "watering holes" in nearby communities.

It is a hard reality that in open camps, some firefighters are prone to consume alcohol during their "off the clock" time. It is also a sobering fact that as a result of such consumption, vehicle and other accidents have occurred that have taken the lives of firefighters.

Still further, with such an arrangement, the land-management agencies expect their fire managers and supervisors to supervise their crews at all times while neither the crew nor the supervisor is in a paid status. Quite candidly, that is unconscionable in today's society. In essence, you are asking a supervisor to work without pay and you are asking that person to supervise people who are not in a pay status.

In a **1985** meeting attended by representatives of all five land-management agencies, one of the conclusions and recommendations was as follows:
"...portal to portal pay would place personnel in 24 hour pay status thereby allowing better management & supervision of personnel during emergency incidents."

Until recently, the result of being in an un-paid status often left firefighters with no other alternative but to remain on the fire line in excess of reasonable hours of work simply to get paid. Being away from one's family for 2-3 weeks at a time and not getting paid for a portion of that time often resulted in firefighters staying on the lines too long.

Although changes in policy have been made subsequent to fatal fires to ensure firefighters get a period of rest, the oversight of the policy and the adherence to it is suspect at best for the same reasons today as they were 20 years ago...no play, no pay. Thus still today you will find firefighters finding creative ways to remain on fire lines, in a paid status simply to make ends meet. Without a doubt, this compromises safety. The same benefits of portal to portal pay identified by the employing agencies 20 years ago would still be applicable today:

- A decrease in reported injuries and illnesses would be realized as personnel would not be compelled to work excessive hours for additional pay. Overall safety would be improved.

- Would provide equitable pay for all personnel based on level of responsibility.
- Presently fewer people are available for incident assignment due to the pay inequity practice. Equitable pay would encourage participation in incident assignments.
- An overall indirect cost savings would be realized by reducing the administrative processes necessary to document time on incidents. Portal to portal would reduce the processes both on and off the incident and reduce confusion over pay regulations.
- Opportunities for fraud, abuse and or errors would diminish.
- The time Management is now required to spend to deal with pay issues would decrease and could be more effectively utilized.

Besides the above referenced benefits, the obvious benefits include:

- Higher morale among firefighters
- Eliminate the pay inequities on wildfire assignments and restore "equal pay for equal work" to the fire ground.
- Greater opportunities to improve recruitment and retention among primary federal wildland firefighters which in turn would allow agencies to properly staff these positions, thereby reducing their over-reliance on higher priced contractors and cooperators, thereby ***ultimately saving the American taxpayer significant dollars in suppression costs***.

COST SAVINGS EXAMPLE UNDER HR 408

TYPE EMPLOYEE	DAILY COST
Contractor/cooperator	$ 1006.00} average
Federal Wildland Firefighter	438.00} average
Daily Total	$ 1444.00 average

IMPLEMENTATION OF HR 408 IMPROVES RETENTION & RECRUITMENT ISSUES

ALLOWS AGENCY TO BRING ON BOARD ADDITIONAL FEDERAL WILDLAND FIREFIGHTER AND REDUCE USE OF CONTRACTOR/COOPERATOR DURING 24 HR. EMERGENCY INCIDENTS

TYPE EMPLOYEE	DAILY COST
Federal Wildland Firefighter	$ 438.00} average
Additional Federal Wildland Firefighter (could be seasonal)	438.00} average
Daily Total	$ 876.00 average

SAVINGS REALIZED BETWEEN:

1 CONTRACTOR/COOPERATOR & 1 FEDERAL WILDLAND FIREFIGHTER

VS

2 FEDERAL WILDLAND FIREFIGHTERS

$ *568.00* SAVED FOR EACH 2 STAFFED POSITIONS

INCLUSION OF HAZARD PAY AS BASIC PAY FOR RETIREMENT PURPOSES

With this provision incorporated into HR 408, federal wildland firefighters are not asking for anything more than what other federal employees on the same incident receive.

As previously mentioned, federal wildland firefighters are GS (General Schedule) employees covered by several non-germane (to wildland firefighting) classification series. Also mentioned was the fact that the federal government employs WG, or Wage Grade employees. Current law creates an odd inequity between these two types of employees, both of which find themselves on wildfire incidents.

GS employees earn a ***Hazard Pay*** differential of 25%.
WG employees earn an ***Environmental Pay*** differential, also 25%.

The definition of each differential is ***identical,***

Yet the WG employee's environmental pay differential ***is*** included as basic pay for retirement purposes while the law is silent on hazard pay for GS employees. As a result, the following scenario is common on such wildfire incidents:

The WG employee driving a support truck receives his/her environmental differential which ***is*** included as basic pay for retirement purposes while the GS employee, actually fighting the fire receives his/her hazard pay differential which ***is not*** included as basic pay for retirement purposes.

The FWFSA strongly believes that it was not Congress' intent to create this disparity when such laws were crafted.

INTERPRETATION OF LAW

Current pay and personnel policies and regulations are extremely convoluted and often times subject to interpretation.

We believe the land-management agencies use to their advantage, regulations that state "**For fighters performing standby duty, other than those paid premium pay on an annual basis, federal agencies *may* deduct up to 8 hours out of each 24-hour shift for sleep and meal periods**."

Try that in any municipal fire department!

To support the concept of portal to portal pay, we refer to the Fire Business Management Task Group meeting which took place nearly 16 years ago and looked at OPM regulations and recommendations to amend OPM's regulations.

The regulations stated: **"For the purposes of the FLSA an employee who is confined to an agency's premises or so close thereto that the employee cannot use the time effectively for his or her own purposes is working while on standby duty. Consequently, the time spent by an employee in a standby duty status under 5 CFR 550.143(b) (1) or (2) is compensable as hours of work under the FLSA.**

An employee who performs standby duty at home is not eligible for annual premium pay for such duty unless:

- **The employee's whereabouts are narrowly limited;**
- **The employee's activities are substantially limited;**
- **The employee is required to remain at his or her living quarters** (in our case a fire camp);
- **The employee is required to remain in a state of readiness to answer calls for his or her service.**

These conditions, imposed by 5 CFR 550.143 (b) (3) are so restrictive (as on fire assignments) **that an employee who performs standby under these conditions is working for the purposes of FLSA. Such an employee is "engaged to wait." Further, it appears that a literal interpretation of the provision requiring an employee to remain in living quarters is subject to challenge. In this regard, for employees located at stations, the following interpretation has been made: "The phrase –at or within the confines of their station-is intended to cover, in an over-all way, circumstances in which the employee's whereabouts and his freedom of choice to follow his ordinary living habits, and to engage in personal activities at places of his own choosing are limited by the Government for the benefit of the Government."**

Therefore, as a result of our interpretation of applicable regulations, we firmly believe that federal wildland firefighters are significantly limited in what they can or cannot do when on an assignment and in a non-pay status so as to be in an "engaged to wait" situation, unable to follow his or her ordinary living habits or to engage in personal activities of his or her own choosing. As a result, these firefighters should be paid for all hours from the time they leave their duty station on an emergency incident until the time they return home. Anything less can only be described as abusive.

ADDITIONAL ISSUE TO CONSIDER

While not included in HR 408, it is our hope that congress, the land-management agencies and the Administration will look at other long-standing issues that have a negative impact on our federal wildland firefighting community.

Providing hazard pay on prescribed burns

It is again an archaic policy not to provide the hazard pay differential to firefighters while on prescribed or planned burns. Despite intensive training and planning for such fires, changes in weather, wind direction etc. can occur creating just as many hazards as on a wildfire. Wildland firefighters across the country have lost their lives on prescribed burns. It should be a "no-brainer" of a policy to include the hazard pay differential for firefighters on prescribed burns.

Basic Health Care for seasonal/temporary firefighters

To expect to hire temporary employees, some at the ridiculously low grades of GS-2 & 3, and ask them to risk their lives and not provide any manner of health benefits is unconscionable. In fact this issue has been proffered by the Forest Service as long as 13 years ago. In a letter from then Forest Service Chief F. Dale Robertson, he stated: "Congress is looking into the possibility of expanding Federal Employees Health Benefits coverage to additional categories of employees, for instance temporary employees..."

As recently as 2000 in an article from the San Francisco Chronicle, Gloria Lowery, a supervisory personnel management specialist for the Forest Service, responding to the plight of temporary smoke jumpers and hotshots who do not get benefits said she sympathizes with the firefighters' plight but there is nothing her agency can do. "We implement (U.S.) Office of Personnel Management regulations, and those regulations in turn are determined by Congress. With any federal agency, there are certain benefits that are not available to temporary workers." She went on to say that OPM has "revisited" the issue and that there may be a renewed attempt to provide health insurance to seasonal federal employees. "I think it's on their radar," she said.

We've heard that before and we're still waiting.

PROPER CLASSIFICATION

Proper classification of federal wildland firefighters is perhaps the longest standing issue facing our firefighters. Discussions after discussion, recommendation after recommendation have all led to the conclusion that a proper wildland firefighter series, representative of the activities performed not only during the fire season but all year round be developed.

It defies logic that these employees are eligible for the special retirement provisions for federal firefighters but are classified as something unrelated to firefighting.

It is truly disheartening to hear politician after politician, elected official after elected official, and perhaps most frustrating, land-management agency leadership, refer to, or address these brave men and women as firefighters, yet refuse to classify them as such.

It is not a difficult task yet the Forest Service claims OPM won't make the change while OPM explains they'll do whatever the Forest Service and other land-management agencies tell them to do.

It is time to start recognizing one of the most often over-looked segment of the firefighting community in the United States...the federal wildland firefighter. Congress has authorized and appropriated huge sums since 9/11 via the FIRE Act and SAFER Act to assist fire departments across the country in obtaining equipment, increase staffing etc. Sadly, the federal wildland firefighters are ignored.

We truly hope Congress, the land-management agencies and the Administration will finally take the time to address these long-standing issues and work with us to effect positive change for our federal wildland firefighters and the American taxpayer.

We strongly believe that with the help of congress, we can convince the land-management agencies that HR 408 and other remedies to these issues can be implemented within current fire suppression budgets. This will require a mind-set change by the agencies on how they do business and require them to become more fiscally responsible, effective and efficient.

Respectfully Submitted:

Mr. PORTER. She is not very happy.
Mr. JUDD. She is a little spitfire.
Mr. PORTER. Ryan.

STATEMENT OF RYAN BEAMAN

Mr. BEAMAN. Good morning, Mr. Chairman. I just want to say thank you for letting me have the opportunity here today to speak in front of you and the committee, and also thank your staff for how helpful they've been in this process. I'm Ryan Beaman.

Mr. PORTER. Maybe we should give them portal-to-portal pay probably.

Mr. BEAMAN. I'm Ryan Beaman, southern district vice president for the Professional Firefighters of Nevada and a member of the International Association of Fire Fighters. I'm here today to express support for two bills introduced into the 109th Congress.

The first bill is H.R. 697, Federal Firefighters Fairness Act, that was introduced by Congresswoman Joanne Davis and Congresswoman Lois Capps.

Firefighters are exposed on a daily basis to stress, smoke, heat and various toxic substances. As a result, firefighters are far more likely to contract heart disease, lung disease and other cancers than any other profession. Firefighters increasingly assume the role of the Nation's leading providers of emergency medical services and are exposed to many infectious diseases. Heart disease, lung disease and cancer and infectious disease are now the leading cause of disability and death for firefighters. Numerous studies have found that these illness are direct occupational hazards for firefighters.

In recognition of this link, nearly 40 States have enacted presumptive disability laws which presume that cardiovascular disease, cancer and infectious diseases are job related for the purposes of workers' compensation and disability retirement unless proven otherwise. No such law covers Federal firefighters employed by the Federal Government.

Our Nation's Federal firefighters have some of the most hazardous and sensitive jobs in our country. While protecting our national interests on military installations, nuclear facilities, VA hospitals and other Federal facilities, they are routinely exposed to toxic substances, biohazards, temperature extremes and stress.

Under the Federal Employee Compensation Act, Federal firefighters must be able to pinpoint the precise incident or exposure that caused a disease for it to be considered job related. This burden of proof is extraordinarily difficult for firefighters to meet because they respond to a wide variety of emergency calls consistently working in different environments under different conditions. As a result, very few cases of occupational disease contracted by firefighters have been deemed to be service connected.

The presumption is rebuttable, meaning the illness would not be considered job related if the employing agency can demonstrate that the illness likely has another cause. For example, a firefighter who smokes would not be able to receive a line-of-duty disability for lung cancer. But the burden of proof would be on the employer rather than the injured employee or his or her family.

It is fundamentally unfair that firefighters employed by the Federal Government are not eligible for the disability retirement for the same occupational disease as their municipal counterparts. This disparity is especially glaring in incidents where Federal firefighters work alongside municipal firefighters during mutual aid responses and are exposed to the same hazardous conditions.

If the Federal Government wants to be able to recruit and retain qualified firefighters, they must be able to offer a benefits package that is competitive with the municipal sector.

H.R. 697 amends the Federal Employee Compensation Act to create a rebuttable presumption that cardiovascular disease, certain cancers and infectious diseases are job related for the purposes of workers' compensation and disability retirement.

Mr. Chairman, we also are here to speak on the other bill that everybody else is here, which is H.R. 408 that was introduced by Congressman Richard Pombo.

Mr. PORTER. Ryan, can I interrupt you for a moment.

Mr. BEAMAN. Yes.

Mr. PORTER. I'm kind of going off of protocol, but the H.R. 697——

Mr. BEAMAN. Yes.

Mr. PORTER. And I guess 697 covers infectious disease also.

Mr. BEAMAN. Yes.

Mr. PORTER. So it's similar to what we passed here in Nevada, correct.

Mr. BEAMAN. Correct. In the State of Nevada we do have presumptive benefit for infectious diseases.

Mr. PORTER. So that's one bill, and the 408 is the other one.

Mr. BEAMAN. The 408 is what everybody else is here to talk about.

Mr. PORTER. Because I remember the testimony when I was in the legislature and supported it.

Mr. BEAMAN. Yes, you did.

Mr. PORTER. And I know from the infectious disease side there's certain challenges too, especially in the rescue end. But it's not normally protocol to discuss another bill in the midst of 408, but I'm glad you brought it up.

Mr. BEAMAN. We thought it was an important issue that definitely affects Federal firefighters, and we're here today to talk about those issues.

The second bill being H.R. 408 that was introduced by Congressman Richard Pombo. This legislation would correct the problems of portal-to-portal compensation for wildland firefighters.

As most of you know, Federal firefighters are called out on a moment's notice to battle fires and support other emergency incidents all over the United States as well as other countries on occasion. In these instances firefighters are compensated for their travel and the work time only. These firefighters are not compensated whatsoever for being away from their home and families.

In other words, it makes no difference in pay for wildland firefighters to be away from their home for an extend period of time. These firefighters have fought fires throughout the western United States, eastern United States, Canada and Alaska. They have been

pre-positioned for fires in other States and only work 8 hour shifts as if they were at home with no extra compensation for this duty.

They may be literally thousands of miles away from home but get paid as if they were going home every night to the comforts of their home and family.

Frequently crews have been utilized in a fire suppression strategy known as "Coyote Tactics." This implies that we construct fire-lines all day then just before dark we receive a helicopter sling loaded with military rations, drinking water and paper sleeping bags delivered to our fire-line location. Once they are provided these items of survival, they go off the pay clock while remaining on the fire-line.

Firefighters have lost a lot of sleep with the ongoing concern of fire spread and fire behavior during these incidents. Sleeping in the dirt on some ridge top in Montana 75 miles from the nearest community is not the same as going home at night once your shift is over, yet the compensation is the same, that is, without pay.

They do not have the freedom to engage in personal freedoms during these periods as we would at home. Instead they are usually trying to dry off the sweat often around a campfire before their bodies begin to chill while they are at complete mercy of the incident. It is a rugged environment on the borderline of heat exhaustion and dehydration at times and hypothermia at others.

Sometimes in the 24-hour period they go weeks without a shower or even washing their hands on some assignments, yet they are compensated the same as if they were returning to their homes every night and the luxuries of a hot meal, shower and bed. They are not getting any additional compensation yet they are making the sacrifices left and right.

The Federal lands that they protect contain some of the most rugged terrain in the United States. Firefighters work long hours on steep slopes and a ration of water to make it through the shift. They carry all the necessary provisions of survival on their backs while they perform these arduous duties. Work shifts on these assignments are usually 14 to 16 hours long and last up to 21 days.

Sleep is something that the wildland firefighters usually do not get enough of during these assignments. As during your off time in a fire camp situation, you can spend a lot of time of your programmed sleep standing in lines to eat, shower and use portable toilets. These situations are uncomfortable, lack good sanitation and are sleep depriving, yet they are paid as if they're going home every shift which means there is no pay during the nonworking hours. In these cases working 16 hour shifts during your 8 hours off a firefighter gets 5 to 6 hours of sleep.

Sometimes the incident commander deems the fire camp closed. This means that firefighters are confined to the perimeter of the fire camp. Firefighters in these cases are treated no different than prisoners during non-paid hours. Imagine being told you're off the clock but you can't leave the premise, yet it would give the appearance of a violation of one's civil rights.

Another example of the need for portal-to-portal pay compensation occurs when firefighters are off duty after shift and they're not restricted to fire camp. Firefighters may be visiting a nearby com-

munity unavailable during an off shift time when an emergency need occurs and they cannot be found.

Many, many times over the years they have been awakened while in fire camp to engage in fire suppression activities due to structures or control lines being threatened. Sometimes these critical occurrences last 24 to 48 hours. The bottom line is the crew's supervisor cannot retain complete control of the resources during off-pay non-pay status.

With the common exposure of heat exhaustion, dehydration and muscle fatigue, to mention a few, incidents need to be managed to allow for a maximum recovery to personnel between their work shift as well as maintain control of the troops for their availability should the need occur.

In this part of the country, county, city and State cooperators are paid portal-to-portal pay when they fight Federal wildland fires. It appears unjust that the Federal wildland agency would pay their competitors round the clock to help put out the fires on Federal lands when not returning to their home unit after shift, yet these same agencies do not pay their own firefighters at the same incidents.

This decreases the morale of the troops to know that someone working side by side with them is compensated with consistent pay while the Federal wildland firefighters are off the clock. This issue has escalated in the last several years as personnel availability in the Federal work force has shrunken drastically. This is due to qualified personnel retiring with an insufficient younger work force in their place and the fact that many qualified personnel are discouraged to do the same job as their competitors yet receive a much lower compensation.

The Federal wildland agencies agree that portal-to-portal pay is needed, but I'm not certain that they are persuing this for the reasons previously mentioned.

I'll just kind of summarize and I'll get to my end here. A realistic portal-to-portal pay compensation would be like that of the cooperators who are employed and provide for compensation for wildland firefighters while assigned to the emergency incidents for being away from their homes and families and enduring the rather primitive environment the incident offers, and provide for the necessary control of resource personnel on incidents to increase firefighter efficiency.

The Federal wildland firefighting work force has aged progressively over the last two decades. Retention of the newest employees is a problem. In some areas, such as southern California, the numbers are staggering and firefighters are opting to leave to go to other cooperating agencies which provide better pay, incentives and year round employment.

Quite simply, the portal-to-portal pay is that wildland firefighters are only paid for the hours they are actually performing duties even when they are assigned to fire camp hundreds of miles away from their home. H.R. 408 entitles a wildland firefighter employed by the Department of Agriculture or the Department of the Interior to compensation for the entire period of time such firefighter is engaged in officially ordered or approved duties in responding to a wildland fire or other emergency.

Mr. Chairman, I'd just like to say again thank you for the opportunity to give testimony here today. I would also like to offer I'm a good friend of Steve McClintock's also, and I send his family condolences. As you know, his sister was a volunteer firefighter for Cal-Nev-Ari also. And her passing of cancer definitely is something I'd like to put on the record.

[The prepared statement of Mr. Beaman follows:]

August 9, 2005

Subcommittee on the Federal Workforce
And Agency Organization
2157 Rayburn House Office Building
Washington, DC 20515

Re: Tension in the Tinderbox Finding Fairness for Federal Firefighter

Dear Committee Members:

Good Morning. I'm Ryan Beaman Southern District Vice President for the Professional Fire Fighters of Nevada and a member of the International Association of Fire Fighters. I'm here today to express support for two bills introduced in the 109th congress. The first bill is (HR 697) Federal firefighters Fairness Act that was introduced by Congresswoman JoAnn Davis (R-VA) and Congresswoman Lois Capps (D-CA).

Firefighters are exposed on a daily basis to stress, smoke, heat and various toxic substances. As a result, firefighters are far more likely to contract heart disease, lung disease and cancer than other professions. Firefighters increasingly assume the role of the nation's leading providers of emergency medical service and are exposed to many infectious diseases. Heart disease, lung disease, cancer and infectious disease are now the leading causes of disability and death for firefighters. Numerous studies have found that these illnesses are direct occupational hazards of firefighting.

In recognition of this link, nearly 40 states have enacted "presumptive disability" laws, which presume that cardiovascular disease; certain cancers and infectious diseases are job related for purposes of workers compensation and disability retirement unless proven otherwise. No such law covers firefighters employed by the federal government.

Our nation's federal firefighters have some of the most hazardous and sensitive jobs in our country. While protecting our national interests on military installations, nuclear facilities, VA hospitals, and other federal facilities, they are routinely exposed to toxic substances, biohazards, temperature extremes and stress.

Under the Federal Employee Compensation Act (FECA), federal firefighters must be able to pinpoint the precise incident or exposure that caused a disease in order for it to be considered job related.

This burden of proof is extraordinarily difficult for firefighters to meet because they respond to a wide variety of emergency calls, constantly working in different environments under different conditions. As result, very few cases of occupational disease contracted by fire fighters have been deemed to be service-connected.

The presumption is rebuttable, meaning that illnesses would not be considered job-related if the employing agency can demonstrate that the illnesses likely has another cause. For example, a firefighter who smokes would not be able to receive line-of-duty disability for lung cancer. But the burden of proof would be on the employer, rather than the injured employee or his or her family.

It is fundamentally unfair that firefighters employed by the federal government are not eligible for the disability retirement for the same occupational diseases as their municipal counterparts. The disparity is especially glaring in instances where federal firefighters work along side municipal firefighters during mutual aid responses and are exposed to the same hazardous conditions.

If the federal government wants to be able to recruit and retain qualified firefighters, it must be able to offer a benefits package that is competitive with municipal sector.

HR 697 amends the Federal Employee Compensation Act to create a rebuttable presumption that cardiovascular disease; certain cancers and infectious diseases are job-related for the purposes of workers compensation and disability retirement.

The second bill being (HR 408) that was introduced by Congressman Richard Pombo (R-CA). This legislation will correct the problems of portal-to-portal compensation for wildland firefighters.

As must of you know federal firefighters are called out at a moment's notice to battle fires and support other emergency incidents all over the U.S. as well as other countries on occasion. In these instances firefighters are compensated for their travel and work time only. These firefighters are not compensated what-so-ever for being away their homes and families. In other words, it makes no difference in pay for a federal wildland firefighter to be away from their home for extended periods of time. These firefighters have fought fires throughout the western U.S., the eastern U.S., Canada, and Alaska. They have been pre-positioned for fires in other states and only worked 8-hour shifts as if they where at home, with no extra compensation for this duty.

They may be literally thousands of miles from home, but get paid as if they where going home every night to the comforts of there home and family.

Frequently crews have been utilized in a fire suppression strategy known as "Coyote Tactics". This implies that we construct firelines all day, then, just before dark, receive a helicopter sling loaded of military rations, drinking water, and paper sleeping bags delivered to our fireline location. Once they are provided these items of survival, they go off the pay clock while remaining on the fireline. Firefighters have lost a lot of sleep with the ongoing concern of fire spread and fire behavior during these instances. Sleeping in the dirt, on some ridge top in Montana, 75 miles from the nearest community is not the same as going home at night once your shift is over, yet the compensation is the same, that is, without pay. They do not have the freedom to engage in personal freedoms during these periods as we would at home; instead they are usually trying to dry the sweat off around a campfire before there body begins to chill, while they are at the complete mercy of the incident. It is a rugged environment, on the borderline of heat exhaustion and dehydration at times and hypothermia at others, sometimes in the same 24-hour period. They go weeks without a shower or even washing of their hands on some assignments, yet they are compensated the same as if we were returning to our homes every night and the luxuries of a hot meal, shower, and a bed. They are not getting any additional compensation, yet they are making sacrifices left and right.

The Federal lands they protect contain some of the most rugged terrain in the United States. Firefighters work long hours on steep slopes and rationed water to make it through their shifts. They carry all the necessary provisions to survive on their backs while they perform these arduous duties. Work shifts on these assignments are usually 14-16 hours long and last up to 21 days at time. Sleep is something that the wildland firefighters usually do not get enough of on these assignments. As during your off time in a fire camp situation, you can spend a lot of your programmed sleep time standing in long lines to eat, shower or use a portable toilet. These situations are uncomfortable, lack good sanitation and are sleep depriving. Yet they are paid as if they are going home after every shift, which means that is "no pay" during the non-work hours. In the case of working a 16-hour shift, during your eight hours off, a firefighter gets about 5-6 hours sleep.

Sometimes the Incident Commander deems the fire camp "closed". This means that firefighters are confined to the perimeter of fire camp. Firefighters in this case are treated no different than prisoners during non-pay hours. Imagine being told you are off the clock, but you cannot leave the premises. It would give the appearance of a violation of one's civil rights.

Another example of the need for portal-to-portal compensation occurs when firefighters are off duty after shift and not restricted to fire camp. Firefighters may be visiting a nearby community and unavailable during off shift time when an emergency need occurs and they cannot be found. Many, many times over the years they have been awakened while in fire camp to engage in fire suppression activities due to structures or control lines being threatened. Sometimes these critical occurrences last 24-48 hours. The bottom line is that the crew supervisors cannot retain complete control of their resources during off duty/non-pay status. With the common exposures of heat exhaustion, dehydration and muscle fatigue to mention a few, incidents need to be managed to allow for maximum recovery to personnel between work shifts as well as maintain control of the troops for their availability should the need occur.

In this part of the country, county, city, and state cooperators are paid portal-to-portal when they fight federal wildland fires. It appears unjust that the federal wildland agencies will pay their cooperators round the clock to help put out fires on federal lands when not returning to their home unit after shift, yet those same agencies do not pay their own firefighters on the same incidents. This decreases the morale of the troops to know that someone working side by side with them is compensated with constant pay, while the federal wildland firefighters are off the clock. This issue has escalated in the last several years as personnel availability in the federal workforce has shrunken drastically, this due to qualified personnel retiring with an insufficient younger workforce in place and the fact that many qualified personnel are discouraged to do the same job as cooperators, yet receive a much lower compensation.

The federal wildland agencies agree that portal-to-portal pay is needed, but I am not certain that they are pursuing this for the reasons previously mentioned. Their focus seems to be on simplifying pay calculations associated with emergency incidents. The proposal the federal wildland agencies have been working on would allow for portal-to-portal pay while working on emergency incidents at a base pay rate, i.e., no overtime or hazardous duty pay. This proposal could reduce firefighters pay on a regularly scheduled day by up to 25% from current pay scheme. Although we are glad to see the interest and acknowledgement for the need for portal-to-portal pay by the agencies, a potential loss of wages as compared to the already low wage scheme is unacceptable. Implementation of the agencies proposed portal-to-portal pay system would be in violation of the current Fair Labor Standards Act (FLSA).

A realistic portal-to-portal compensation would be like that of the cooperators who are employed and provide for; (1) compensation for wildland firefighters while assigned to emergency incidents for being away from their homes and families and enduring the rather primitive environment the incident offers, and (2) provide for the necessary control of resource personnel on incidents to increase firefighting efficiency.

The federal wildland firefighting workforce has aged progressively over the last two decades. Retention of the newest employees is a problem. In some areas such as Southern California, the numbers are staggering and firefighters are opting to leave to other cooperating agencies which provide better pay, incentives and year round employment.

Quite simply, the portal-to-portal pay is that wildland firefighters are only paid for the hours they are actually performing duties even when they are assigned to a fire camp, hundreds of miles from their own. (HR 408) entitles a wildland firefighter employed by the Department of Agriculture or the Department of the Interior to compensation for the entire period of time such firefighter is engaged in officially ordered or approved duties in responding to a wildland fire or other emergency.

Thank you for your time and contribution on these matters. If you have any questions, please contact me at (702) 870-1908.

Sincerely,

Ryan Beaman
Southern District Vice-President
Professional Fire Fighters of Nevada

Mr. PORTER. Thank you for mentioning that.

Ryan, I'll ask you a question first. So is the arrangement with the county, cities, are they called cooperators then?

Mr. BEAMAN. Yes. And we've been on the line with them numerous times. They've called us out for the incident.

Mr. PORTER. Is that negotiated.

Mr. BEAMAN. Negotiated with the——

Mr. PORTER. Yeah, the amount, the pay, you know. Maybe this is more for Bob.

Mr. BEAMAN. It might be.

Mr. PORTER. Is that negotiated per community? How does that work for the cooperators.

Mr. DUDLEY. It's through—excuse me, Mr. Chairman. It's through statewide agreements, that's the first setup, and then also local agreements between different municipalities.

Mr. PORTER. Do you do like an annual review of those or how does that work.

Mr. DUDLEY. Yes, sir. Every State—here in the State of Nevada there is an operating plan that is signed yearly by all the cooperators.

Mr. PORTER. I see. Thank you.

For both of you, what would be the No. 1 issue facing Federal firefighters in southern Nevada today? If there were one thing, what would it be, I mean whether it be equipment or pay or food or facilities, what would it be?

Mr. JUDD. I think because it's been so longstanding, that the classification issue. When we testified before for Forest, Forest and Health, and again with the Civil Service, that question was asked of our previous president, and he said without a doubt, although it may not provide as much financial benefit as portal-to-portal pay, the classification, if you will, is probably the most endearing issue to our firefighters.

They've become firefighters. They've become multitasked. Their off-season time is occupied, as far as the information we get from the field, doing fire preparedness, running on calls, planning. Of course planning is a part of any fire organization. Hiring, firing, maintaining equipment. It's evolved to the point where the preponderance of their time is now geared toward not only the fire season but preparing for fire season.

Mr. PORTER. Ryan, what do you think.

Mr. BEAMAN. I would definitely say in the classification also. You know, in working on the same line as with the Federal firefighters we respond, and Nellis Air Force Base is definitely one within the county, and we're standing side by side with them and definitely, you know, they always ask, you know, if we would like to have same type of benefits that you do. And that's why I brought forward the presumptive benefits.

Mr. PORTER. Back to the presumptive disability. As you explained your testimony, firefighters often have a difficult time proving illness obtained or work related even though many studies show that these certain illnesses are related. Can you explain how establishing this presumptive disability clause would help firefighters be protected in their work? Now, I understand from the

benefit perspective, but how will it help also for the record with the work environment?

Mr. BEAMAN. Well, they would know that their family is going to be protected if they do come down with any type of heart or lung or cancerous type of problem that they know going into that structure as a Federal firefighters for like Nellis would be known that they'd be being protected, not just themselves but their family. So it would definitely help them.

Mr. PORTER. Do you think it will change then the working conditions or environment in any way?

Mr. BEAMAN. I don't believe.

Mr. JUDD. If I could add on that.

Mr. PORTER. Please.

Mr. JUDD. Being a former DOD firefighter this is just another example of the fire service evolving. You know, we've gone from carts and horses in firefighting to EMS, hazardous materials, level A entries and so forth. Now it takes probably far more brain than brawn to be a firefighter.

And with respect to infectious diseases, the incident of training and the required training for DOD firefighters, and I'm sure for all firefighters, increased significantly over the last few years, of course with AIDS and other infectious diseases, TB.

Of course there was a recent news article that the cases of TB are skyrocketing with immigration and so forth. And while it won't stop us from doing our job, it will allow us to identify the precautions we need to take and develop the training mechanisms to ensure that we're protected as best we can.

Mr. PORTER. Do you know some individuals who have had problems.

Mr. JUDD. Oh, absolutely. McClellan Air Force Base was one of the most toxically polluted bases in the air force industry where I was stationed. They literally worked with the Nuclear Regulatory Commission during the cold war. They uncovered plutonium and uranium below our training site after the base closed. And fortunately I don't think I heard of any nastiness.

Military facilities, again because of regulation over the years, have not had to comply as private industry does. And so the incidents of making contact with these industrial sites, which, of course, have all sorts of chemicals, is extremely high. I mean, our caseload was probably more HazMat than anything else in the last few years that the base was open.

Mr. PORTER. Some day we'll talk about Yucca Mountain. That would be for the next hearing.

You had touched about—Casey, you talked about the retention problem. Can you spend a little more time on that?

Mr. JUDD. Sure. And, again, you get the full spectrum. We've got a forest in northern California, and a lot of people ask, well, is this just a California issue. Well, let's make it very clear. Wildfires is a western issue, and that's just the way it is, and California is a microcosm for the wildfire issue.

But as an example of the Six Rivers National Forest, 35 to 40 positions remain vacant. The guy can't—the deputy chief of the forest can't hire anybody. He cannot get anybody in to fill those va-

cancies. He's almost resigned to actually hiring a recruiter to be able to bring people in there.

One of the apprentice programs, one of the best in the Nation, if not the best in the Nation, is at McClellan Air Force Base now. The Forest Service apprentice can come in and learn their craft and so forth.

And while figures may demonstrate that we get a lot of recruits in, of course we have a number of settlement agreements that require a certain hiring from different demographics and so forth, we may get a number of recruits in but their retention after 2 years is suspect. I mean, most of the forests that report to me show a less than 50 percent retention rate for these folks coming into the system.

And just as with DOD firefighting, you leave the fence, you hop the fence to the municipality. I mean, you're getting better pay and better benefits out the gate. Why not take advantage of significant training at taxpayer expense courtesy of the Federal Government, put yourself on a pedestal to these municipal firefighters and they'll pluck you out in no time at all. And it's not a unique situation in wildland firefighting, but it is unique to the Federal system as a whole in a number of occupations.

So I think the OPM representative was accurate in the sense that these could be regional, but I think if you look at the west in and of itself in the 12 contiguous States, the actual figures and you go from forest to forest you'd find that there are, in fact, issues of retention and recruitment.

Mr. PORTER. How will passage of 408 decrease our dependence on cooperators.

Mr. JUDD. I'm glad you asked that. Again we're not suggesting we eliminate contractors and cooperators. They play a very vital role that we think they've become—the land management agencies have become over-reliant on them. What 408 would do is hopefully provide a direction from Congress to the land management agencies to redefine how they spend their fire suppression dollars.

They could conceivably reduce their reliance on a contractor or cooperator, hire another Federal seasonal firefighter and still save money on a daily basis, save more than enough money to provide that seasonal firefighter with health benefits.

And so that's what we see is that, you know, again, since Congress gives them as much money as they want, there is no incentive to change policies. They've consistently said, well, 408 throws money at it. No, we're suggesting that you can do this within your budget parameters now, just as we suggested with DOD in 1994 through 1998.

And they have done it within their budget parameters, but it will take a mindset change from the leadership of these agencies to say, hey, we can be more cost effective and efficient. We can improve the staffing and stem the tide of recruitment and retention and save money at the same time. And hopefully our written testimony has provided some data that allows a color picture, if you will, on how that can be achieved.

Mr. PORTER. Your written testimony, and you touched upon it verbally, was regarding the healthcare coverage for seasonal firefighters. What should we be doing different.

Mr. JUDD. I think if the government is going to hire seasonal, some are entry level, some have a number of seasons behind them, and obviously it's good to tap into their experience level. Some seasonal folks want to be permanent, some seasonal folks like to be seasonal.

But I think any time the Federal Government is going to hire somebody with the clear understanding that they're going to risk their lives on a daily basis to protect the natural resources of this country, and the taxpayers' real and personal property, No. 1, they ought to maybe bring them in at rates a little higher than GS–2; and No. 2, provide them with basic health coverage. I can't think of anything more basic than if you're going to ask somebody to not sit in an office environment and risk their lives. I can't make it any more complex than that.

Mr. PORTER. Let's say that this young man that I met earlier today that's a seasonal employee, let's say he gets a disease or has some problem, of course there's workers' compensation, but his injury could actually prevent him from becoming a firefighter full time, correct.

Mr. JUDD. Absolutely.

Mr. PORTER. Something happens to him today in the seasonal status, he could be hurt so he would not get back into the system. What would happen to him.

Mr. JUDD. Go back to washing cars I guess. I really don't know. The people that enter the Federal wildland firefighting service are a different breed. I've had the luxury of being associated with the International Association of Firefighters and structural entities and so forth. When you get to the wildland folks, when you see them, they're mountain people. You know, they just put on an aura of just real genuineness.

And they truly want to be there and doing it because of their love of nature because of the business and so forth. But at some point you can't raise a family 3,000 miles away without trying to find a way to stay in a paid status. And I touched on in the written testimony too that although there are policies in place to limit the amount of time on a fire-line, it happens, people will find a way to stay on the fire-line while they're away from home simply to be on a paid status.

What does that do? That increases the safety risks. If they're in a paid status reports have found, No. 1, you have more control over them. Again these reports are 20 years ago. You have more control over them, you have less likelihood of safety issues and so forth.

Mr. PORTER. How often do you think these individuals are away from their home portal a year.

Mr. JUDD. Well, the room would have been filled if they weren't away now. As a matter of fact, again, we were hoping to have additional written testimony. I talked to a guy that was preparing written testimony just a few days ago from the Sierra National Forest in California. He's been in Arizona for 5 days and hasn't even seen the fire camp.

Again it's a lot of pre-positioning, a lot of planning and so forth and so on, but they can, you know, 14 to 21 days, but again you can consume that 21 days, have a day or two of rest and you're right back on the fire-line.

And again these folks aren't whining. I'll be the one to whine for them. They love it. But at some point in time you've got to look at, as they said, the big picture and look at the costs associated with the skyrocketing costs of firefighting. And how do we fix it. How do we, No. 1, take care of our firefighters; No. 2, provide the service to the taxpayer. And out of those I clearly obviously disagree with OPM that 408 actually meets those.

Mr. PORTER. There has been some testimony presented even prior and some calculations run that many critics would say 408 would increase pay by 90 percent. I assume you don't agree with that.

Mr. JUDD. I don't buy it. We poured over example after example. We took our folks' pay grades and looked at it and so forth. And again I haven't seen the final version of OPM's letter. We saw the draft letter referencing something like 390 percent of this and that and so forth, and we couldn't come up with anything more than 75 percent basic pay.

Again we're not asking to throw that money at the fire service, we're asking to maybe take a little bit away from the contractors and cooperators and redirect it to our country's very own firefighters. We're not asking to add more to the transportation bill. No, it's all right. Take that off the record. At least I got a laugh out of you folks. That's why it was sensible and we have to market this to both sides of the aisle and we have to make it cost effective. But it's going to rely on the agencies to do their part.

Mr. PORTER. If I understood correctly earlier testimony, that ranges by $34,000 a year to what level would it be? I guess here's the question: What would the range be? I don't know the numbers as well. I know the GS numbers, but is it $34,000 to $60,000 or what would it be in pay for base.

Mr. VAUGHT. Mr. Chairman, I'm guessing, and maybe I can get some help here, but it would be around $25,000 to $60,000 I believe.

Mr. PORTER. $25,000 to $60,000.

Mr. VAUGHT. Up to grade GS–13.

Mr. PORTER. So what would you see, Casey, this is a question for you, with 408 where would that person making $25,000 be at the end of the year.

Mr. JUDD. Maybe $32,000. You know, as an example, our deputy chief of the Federal service, the cost to the government, which includes benefits and so forth, maybe $45 an hour. The municipal down the street that goes on a fire call, they're $190 an hour.

You know, we're hearing about the DOD firefighters and their grades are reduced because of this or because of that, they get paid for meals and sleep time. Well, that needs to be fixed too. I mean, we're in the 21st century. Firefighters, the vast majority of paid professional firefighters across the country are paid whether they go on a call or not. They're paid to be available, to respond. We're not asking any more than to be paid while we're actually on an emergency incident.

And I think Ryan would agree. You are paid to be there. And OPM's own guidelines that we put in our written testimony seem to conflict with that where they say Federal agencies can take an employee off the clock for 8 hours for meal and sleep time, yet it

says that they are so confined and enclosed to the government's location that they can't perform their own duties as normal then they would be in a paid status. So we're not the ones that wrote these things, but they seem to be conflicting as well.

Mr. PORTER. Really one more formal question then we're going to have to conclude. But, Ryan, what message should I take back to my colleagues from Nevada regarding firefighting, whether it be local or Federal, what message should I take back.

Mr. BEAMAN. We just want everybody to be treated the same, if it's professional firefighters out here, Clark County, city of Las Vegas to our brothers that are the Federal firefighters, everybody should be paid the same for doing the same type of line of work.

Mr. PORTER. Thank you. Well, I assure you that the cost question, I'm going to make that a priority. Also in working with the pay and benefits portion and the bill that you mentioned earlier, the presumptive, what's that number.

Mr. BEAMAN. That was H.R. 697.

Mr. PORTER. As a priority and working with Chairman Pombo on his bill. I think there's a lot of merit and I'll do everything I can to see that we can improve some of the benefits and pay for firefighters.

I will pass this information on to my colleagues, and I know that they're very, very interested and very concerned. And know that you're saving a lot of lives and you're also saving a lot of people's life savings and personal investments because of what you do. We really appreciate it.

I remember reading a book probably 10, 15 years ago about a fire, a wildland fire somewhere in Montana where a bunch of folks died. I don't remember the book, but it talks about the rigors of fighting the fire. And it was in Montana on the side of a mountain, and it was very vivid in its explanation of the challenges for the firefighters. So know that I'm doing what I can to help. I'd suggest you read the book if I can remember the name of it.

Mr. JUDD. I appreciate that. Of course we'd be delighted to come back to D.C. any time and chat with anybody who needs to be chatted with.

Mr. PORTER. Thank you. And with that we'll adjourn the meeting. Of course Members will have additional time to submit their testimony that have any questions forwarded to all those that testified today. Anything else I need to add for the record.

We'll adjourn the meeting. Thank you all very much.

[Whereupon, at 12:48 p.m., the subcommittee was adjourned.]

[The prepared statements of Hon. Danny K. Davis and Hon. Richard W. Pombo, and additional information submitted for the hearing record follow:]

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Statement of the Hon. Danny K. Davis
Hearing on "Tension in the Tinderbox: Finding Fairness for Federal Firefighter Compensation"

August 12, 2005

Federal wildland firefighters are employed by the Departments of Agriculture and Interior in their land management agencies. The Forest Service manages approximately 200 million acres of land in 160 national forests and grasslands and Bureau of Land Management manages about 270 million acres, primarily in the western states.

The acreage burned by wildland fires has increased in the last few decades, after having declined throughout most of the previous century due to land management practices that emphasized fire suppression. For the years 2000-2003, the annual number of acres burned was almost 6000. In response to this increase, appropriations for firefighting activities have nearly tripled in the past five years, from about $1 billion to over $2.7 billion.

H.R. 408, the "Federal Wildland Firefighter Emergency Response Compensation Act of 2005," was introduced by Rep. Pombo on January 26, 2005 and has bipartisan support. If enacted, the bill would entitle wildland firefighters to so-called "portal-to-portal pay" – compensation for the entire 24-hour period of time the firefighter is engaged in officially ordered duties in responding to a fire or other emergency. Essentially, federal firefighters would be paid for every hour of the typical two-week tour, 16 hours per day at the regular rate and 8 at the overtime rate.

Current practice is to pay federal firefighters only for the usual 12 to 16 hour shift, even though they generally remain at base camps in the vicinity of the fire while sleeping and eating. Advocates for federal firefighters maintain that nearly every paid, professional firefighter in the United States is paid for a 24 hour shift, and that the Forest Service pays contractors and cooperating state and local fire personnel on that basis. This disparity could lead to low morale and high turnover which might be addressed by H.R. 408.

Fairness indicates we should seriously consider the merits of H.R. 408. However, we must also consider the budgetary impact this bill could have, as the likely effect of the pay provisions in the bill would be to increase weekly pay for firefighters by up to 90 percent while they are actively fighting fires.

Thank you Mr. Chairman.

August 12, 2005

Statement by
Chairman Richard W. Pombo

House Government Reform Committee
Subcommittee on the Federal Workforce & Agency Organization

"Tension in the Tinderbox: Finding Fairness for Federal Firefighters."

I want to thank Congressman Jon Porter for addressing the "Federal Wildland Firefighter Emergency Response Compensation Act of 2005," an issue that impacts not only the men and women that fight wildland fires, but our Nation's readiness and ability to combat these fires. This year alone, 5.25 million acres have burned, which is already 2 million above the ten-year average. Every fire season, and throughout the year, these brave men and women work to save life and property from the destructive forces of wildland fires.

My bill, H.R. 408 "The Federal Wildland Firefighter Emergency Response Compensation Act of 2005," addresses the portal to portal pay compensation for these firefighters, which is all the more crucial during this especially tough fire season. Last year, our Nation's federal wildland firefighters risked their lives battling devastating blazes throughout the West to save life and property. These firefighters deserve our Federal support by rectifying long-standing inequities in their pay system.

The standard pay system forces these firefighters to work long and dangerous hours to receive premium overtime compensation. The high risks and poor pay not only create safety hazards, but also hurt the recruitment and retention of quality firefighters. The Federal Wildland Fire Service Association (FWFSA) reports, "whether they are 10 miles from home or 3000 miles from home, federal wildland firefighters are paid for only part of any 24 hour period while the federal Government pays all other firefighters on the same fire their full, 24 hour salaries."

Further the FWFSA says, "in many instances, our federal wildland firefighters are dispatched for up to 21 days away from home. They may go from one fire to the next without returning to their home state for 3 weeks." The firefighters whose arduous task is to fight and suppress these fires are often overshadowed by the catastrophic devastation. The Federal Wildland Firefighters Emergency Response Compensation Act of 2005 will properly compensate these firefighters for all their time on the job, and allow their retirements to be supplemented for their hazardous service. This bipartisan bill rectifies these inequities of pay, and insures that the firefighter workforce spends its time addressing the hazards of wildland fires and not discrepancies in pay parity.

Preserving and Protecting our Environment

Statement Submitted by

Deborah Miley, Executive Secretary

National Wildfire Suppression Association

To the

Subcommittee on Federal Workforce & Agency Organization On Federal Wildland Firefighter Pay, Compensation and Classification

August 23, 2005

The purpose of this statement is to clarify comments submitted for Testimony by Casey Judd, Business Manager, FWFSA before the committee on August 12, 2005.

In his statement he indicates that "Many contractors come from the ranks of the Forest Service other agencies as former federal wildland firefighters who now recognize the reality that the federal government will pay about anything for fire suppression personnel and equipment."

We would dispute that statement, in that the NWSA represents well over 175 private sector contractors that employee over 10,000 wildland firefighters in 16 different states, and many of them have been in this business for many years, and not all are from the agency. And each region hires them differently and under many different contract/agreements. In some cases the rates are set by the agencies such as EERA (Emergency Equipment Rental Agreements), other have Contracts such as the National Crew Contract which is a "Best Value Contract" and is bid. Another avenue is the example of the Region 6 Agreements for Engines & Crews which is also a bid agreement. NONE OF THESE CONTRACTORS ARE PAID PORTAL TO PORTAL NOR HAVE THEY EVER BEEN.

We believe that what Mr. Judd was referring to in his statement is based on a report from 1999 out of Region 5 (California) and the Contractors/Cooperators that he refers to are California Department of Forestry Employees and other State/Local Municipal Fire Districts which do in fact receive portal to portal pay. I cannot speak for all states but I know that Oregon Department of Forestry Employees, and Washington Department of Natural Resource Employees on fires do not get Portal to Portal either. I am attaching a copy of that report. There was a subsequent report solicited by USFS Dept of Fire & Aviation in 2003 that shows costs of Federal vs. Private Sector Contractors which I will also submit.

I think this that it is crucial for this committee to understand all facets of the wildfire service and how they are paid, and this includes that fact that to the best of my knowledge there are NO PRIVATE SECTOR WILDFIRE CONTRACTORS receiving portal to portal pay nor do we anticipate being paid portal to portal. We are paid for our travel time (documented) and for our equipment/crews time on the line only. Off time is not paid including showering, eating, and sleeping. We assume all liability for our crews/engines/shower/catering units and all associated costs in our bid rate.

We hope that this does clarify additional whom does currently receive portal to portal pay and whom does not.

We would be happy to answer any questions the committee might have regarding private sector contracting in wildfire.

COST OF FEDERAL AND LOCAL/STATE FIRE RESOURCES

September 23, 1999

The following is a comparison of the cost of local/state resources assigned to the Kirk Complex. As of September 29 there were 698 overhead personnel assigned to the Kirk Complex. Of that number, 335 were federal employees and 363 were state/local government employees.

The following daily costs were calculated using an average hourly rate for each type of employee.

	FEDERAL EMPLOYEE	STATE/LOCAL EMPLOYEE
Cost per hour	$24	$42
Cost per shift	(14-hour shift) $360	(portal-to-portal) $1,006
Daily basis fire total	$120,600	$365,904
21-day assignments	$2,500,000	$7,500,000

If the entire incident had been staffed with federal employees, the total cost for a 21-day assignment would have run $5.3 million -- a savings of $4.9 million over what was actually spent -- based on average costs from local/state agencies and including administrative surcharges.

Questions on these figures should be referred to:
Greg Greenhoe
Incident Commander, Kirk Complex
Greg.Greenhoe/r5_angeles@fs.fed.us

8/24/2005

PROJECT NAME

ANALYSIS OF AGENCY VERSUS CONTRACTOR COSTS FOR FIREFIGHTERS, EQUIPMENT, AND FACILITIES

WORK PERFORMED UNDER CONTRACT No. 53-9A72-1-1Q004
Work Order No. 02-01

CONTRACTOR

FIRE PROGRAM SOLUTIONS LLC
Estacada, Oregon

STUDY TEAM

Daniel E. Winner
Donald Carlton

8/24/2005

Executive Summary

This study was commissioned by the USDA Forest Service national Aviation and Fire Management Staff to obtain information to be used regarding the implementation of a future workforce strategy. Accurate data was needed for the agency cost of operating firefighting modules as Government hired and staffed resources. Accurate data was also needed for the cost of contracted resources.

The key objective of the study was to create a method to display and compare costs of providing agency versus contract personnel and resources, using some general resource types. This study obtained actual cost data for a Type 6 engine module, a prevention unit, a twenty (20) person Type II hand crew, and a ten (10) person hand crew. These costs were collected from modules operated in fiscal year 2001 on the Coronado National Forest in Region 3, the Cleveland National Forest in Region 5, and the Wenatchee National Forest in Region 6.

The study team was not able to find any locations that contracted for a prevention unit in 2001. The Sawtooth National Forest contracted four Type 6 engine modules from one contractor, the Okanogan National Forest contracted for one Type 6 engine module, and the Wallowa-Whitman National Forest contracted two Type 6 engine modules from two separate contractors. The Willamette forest contracted for two ten (10) person hand crews and the Wallowa-Whitman forest contracted for five (10) person hand crews. The Willamette forest contracted for one twenty (20) person hand crew. Daily costs for these contracted resources were used in this study.

The study methodology and the cost categories were developed using standard Federal Government wide cost comparison techniques prescribed in Office of Management and Budget Circular A-76. The annual cost to operate similar modules by the Forest Service and by contractors is shown in the following table. The costs shown are the total costs obtained by using the Circular A-76 process and methodology. The costs include actual expenditures, overhead assessments, and other A-76 charges to the Forest Service and the contractor costs in order to make valid cost comparisons under Circular A-76.

Module Annual Operating Costs*

Module Type	Type 6 Engine	10-Person Hand Crew	20-Person Hand Crew
Government Provided	$182,139.04	$201,061.55	$547,563.42
Contract Provided	$148,382.39	$314,353.71	$509,226.92
Potential Cost Savings	$33,756.65	($-113,292.16)	$38,336.50

*Costs are based on and normalized to a 120-day fire season and availability period.

The results from this study indicate that the Government could obtain Type 6 engine modules for preparedness activities from contractors at a cost savings to the Government. Based on a very small sample of twenty person hand crews, contractors may be able to provide some of those modules at a cost savings to the Government. The small sample of ten person hand crews indicates that Government operation would be more cost effective.

Introduction

This study was commissioned by the USDA Forest Service national Aviation and Fire Management Staff in order to obtain information to be used regarding the implementation of a future workforce strategy and facilities needed to support that desired future organization. To assist with the objective of ensuring that a range of alternatives and costs are considered in this effort, accurate data was needed for the total agency cost of operating firefighting modules as Government hired and staffed resources. Accurate data is needed for the total cost of personnel, equipment, and facilities for both contracted resources and Government operated modules. This study was performed in fulfillment of Work Order No. 02-01 of Contract No. 53-9A72-1-1Q004.

The intent of this study was to:

1. Create information that will assist in a determination of the balance between agency employee hires and contract hires necessary to provide an adequate initial attack wildland fire suppression force, a large fire suppression support force, and maintain an adequate agency workforce that provides replacements as attrition takes place.
2. Create a method to display and compare costs of providing agency versus contract personnel and resources, using some general resource types.
3. Provide an effects report from three national forests regarding a proposed Forest Policy to shift facilities costs onto functional accounts responsible for construction and maintenance of Forest Service owned facilities.

This study obtained actual cost data for a Type 6 engine module, a prevention unit, a twenty (20) person Type II hand crew, and a ten (10) person hand crew. These costs were collected from modules operated in fiscal year 2001 on the Coronado National Forest in Region 3, the Cleveland National Forest in Region 5, and the Wenatchee National Forest in Region 6. Field visits were made to each forest by the study team to collect actual module cost data.

Contractor provided module cost data was collected from the Sawtooth National Forest in Region 4, and the Okanogan, Willamette and Wallowa-Whitman National Forests in Region 6. The study team was not able to find any locations that contracted for a prevention unit in 2001. The Sawtooth National Forest contracted for four Type 6 engine modules from one contractor, the Okanogan National Forest contracted for one Type 6 engine module, and the Wallowa-Whitman National Forest contracted for two Type 6 engine modules from two separate contractors. Daily cost data for four contracted engine modules was obtained from the forests and the contractors involved and used in this study. The Willamette forest contracted for two ten (10) person hand crews and the Wallowa-Whitman forest contracted for five (10) person hand crews. Daily costs for five ten (10) person hand crews was used in this study. The Willamette forest contracted for one twenty (20) person hand crew.

A complete discussion of the cost study methodology and data collection procedures is found in Appendix E-1. The appendix describes how actual cost data was collected and how certain cost categories were developed using standard Federal Government wide cost comparison techniques prescribed in Office of Management and Budget Circular A-76. The expenditure and cost data collected for the Type 6 engine modules is found in Appendix A. Spreadsheets were developed that contain all the actual fiscal year 2001 expenditures and the other costs that have been developed using the cost comparison process found in Circular A-76. The engine module on the Cleveland National Forest analyzed was a Type 3 engine with five (5) persons seven days per week coverage. In order to make this engine comparable to a Type 6 engine module, some of the expenditures for staffing were taken out in order to make this module cost comparable to a Type 6 engine staffed with three (3) persons seven days per week as described on page four of Appendix E-1.

The expenditure and cost data collected for the ten and twenty person hand crews is located in Appendix B. The hand crew analyzed on the Coronado National Forest was a nine (9) person hand crew operated five days per week. In order to make this hand crew comparable to a ten (10) person hand crew operated seven days per week, expenditures for five additional seasonal employees was added based on the prorated cost of the original four seasonals on the crew.

The expenditure and cost data for the prevention units analyzed is found in Appendix C. The study team was unable to locate any contract provided prevention units in fiscal year 2001. The module costs of the Government operated prevention units will be presented in this report, but a cost comparison with contractor provided modules was not possible.

The cost data that was collected for all contracted modules has been summarized in Appendix F-1. Appendix G contains the spreadsheets where all of the cost data has been summarized and prepared for discussion and display in the report. These spreadsheets will be used to display the results of the cost comparison.

Type 6 Engine Module Cost Comparison

The costs to operate Government operated Type 6 engines were obtained from a sample of three engines staffed on three national forests in 2001. The detailed spreadsheets that were filled out are in Appendix A-1, A-2, A-3, and A-4. The total cost by major cost category to operate these engines is shown in Appendix G-2 and in Table No. 1. The daily cost is also shown in Table No. 1. An adjustment was made to the Type 3 engine costs on the Cleveland National Forest engine 34 to make it comparable in personnel to a Type 6 engine.

Table No. 1

Government Operated Average Costs			
Type 6 Engine Cost Comparison	Coronado	Cleveland	Wenatchee
3 persons 7 days per week	Engine 53	Engine 34	Engine 501
Days Staffed	120	130	110
Cost Category			
1. PERSONNEL	$81,531.92	$123,910.75	$93,703.56
2. MATERIAL AND SUPPLY	$1,700.00	$2,219.98	$15,772.00
3. OTHER SPECIFICALLY	$12,300.81	$23,520.31	$11,058.70
ATTRIBUTABLE			
4. OVERHEAD	$23,537.25	$31,447.72	$26,250.02
5. ADDITIONAL	$33,162.08	$33,212.08	$33,212.08
6. TOTAL IN HOUSE COST	$152,232.06	$214,310.84	$179,996.36
Daily Cost in FY 2001	$1,268.60	$1,648.54	$1,636.33

In order to obtain average costs for the three sample engines by the major cost categories, a normalized fire season of 120 days was used. It was assumed in this study that the engine modules would be staffed for this period of time out of preparedness WFPR funds. The daily cost based on the number of days staffed in 2001 was obtained and then multiplied by 120 which is the number of days in the length of fire season chosen for this study. This normalized average cost was used to conduct the cost comparison between the Government operated engines and the Contract engines. The normalized fire season costs by major cost category is shown in Appendix G-2 and Table No. 2. The values in the average costs column of Table 2 were used to perform the cost comparison with contract engines over the same 120-day hypothetical fire season.

The contract Type 6 engine daily costs and the days that they were on contract in 2001 are shown in Appendix G-1 and in Table No. 3. The average daily cost to operate contract engines was $846.83. This cost was obtained from averaging the cost of four engine contracts. The cost to operate a contract engine over a 120-day season is $101,619.60. The detailed cost comparison procedures are described in Appendix E-1 in the cost category 7 through 13 descriptions. This cost comparison process is patterned after the Federal Government policy guidelines contained in Circular A-76. The process requires that a cost of contract supervision be added to the actual contract costs.

Table No. 2

	Normalized Fire Season of 120 days			
Type 6 Engine Cost Comparison	Coronado	Cleveland	Wenatchee	Average
3 persons 7 days per week	Engine 53	Engine 34	Engine 501	Costs
Days Staffed	120	120	120	
Cost Category				
1. PERSONNEL	$81,531.92	$114,379.15	$102,222.07	$99,377.71
2. MATERIAL AND SUPPLY	$1,700.00	$2,049.21	$17,205.82	$6,985.01
3. OTHER SPECIFICALLY	$12,300.81	$21,711.06	$12,064.04	$15,358.63
ATTRIBUTABLE				
4. OVERHEAD	$23,537.25	$29,028.66	$28,636.39	$27,067.43
5. ADDITIONAL	$33,162.08	$30,657.30	$36,231.36	$33,350.25
6. TOTAL IN HOUSE COST	$152,232.06	$197,825.39	$196,359.67	$182,139.04
Daily Cost in FY 2001	$1,268.60	$1,648.54	$1,636.33	$1,517.83

Table No. 3

Contract Resources Daily Cost Summary			
Type 6 engine	Engine		Days on
	Cost/day		Contract
Sawtooth N.F.	885.00		87
Okanogan N.F.	825.41		106
Wallowa-Whitman N.F. 1	868.77		59
Wallowa-Whitman N.F. 2	808.15		69
Total	3387.33		
Average	$846.83		

The cost of supervision used is the same cost level that was included in the supervision cost category in the module cost spreadsheets in Appendix A-1 through A-4. Supervision costs were included in the total Government provided module costs being used in this cost comparison. The average supervision cost contained in the Government operated engines is shown in Appendix G-10 and Table No. 4.

Table No. 4

Government Operated Average Costs							
				Normalized Fire Season of 120 days			
Type 6 Engine Cost Comparison	Coronado	Cleveland	Wenatchee	Coronado	Cleveland	Wenatchee	Average
3 persons 7 days per week	Engine 53	Engine 34	Engine 501	Engine 53	Engine 34	Engine 501	Costs
Days Staffed	120	130	110	120	120	120	120
Cost Category							
Supervision	$8,185.84	$10,555.96	$8,326.29	$8,185.84	$9,743.96	$9,083.23	$9,004.34
Daily Cost in FY 2001	$68.22	$81.20	$75.69	$68.22	$81.20	$75.69	$75.04

The same fire season normalization process that was used for determining Government operated engine module costs was used to obtain the average cost of supervision, which is $9,004.34. When added to the contract cost, the total contract engine costs is $110,623.94. The total contract cost is calculated using the cost comparison process and the results are shown in Appendix G-6 and Table No. 5.

Table No. 5

Cost Comparison - Type 6 Engine	Cost	
IN-HOUSE PERFORMANCE		
1. Personnel	$99,377.71	
2. Material and Supply	$6,985.01	
3. Other Specifically Attributable	$15,358.64	
4. Overhead	$27,067.43	
5. Additional	$33,350.25	
6. Total In-house	$182,139.04	
CONTRACT OR ISSA PERFORMANCE		
7. Contract/ISSA Price	$110,623.94	
8. Contract Administration	$28,633.64	
9. Additional	$0.00	
10. One-time Conversion	$0.00	
11. Gain on Assets	($0.00)	
12. Federal Income Taxes	($812.96)	
13. Total Contract or ISSA	$138,444.62	
DECISION		
14. Minimum Conversion Differential	$9,937.77	10% of line 1
15. Adjusted Total Cost of In-house Performance	$182,139.04	
16. Adjusted Total Cost of Contract or ISSA Performance	$148,382.39	
17. Decision - Line 16 minus Line 15	-$33,756.65	
18. Cost Comparison Decision: Accomplish Work In-House (+) Contract or ISSA (-)		

The results of this analysis indicates that the government could contract for preparedness Type 6 engines and realize a cost savings of $33,756.65 per year per engine. The dollar amount that this study identified as the unfunded retirement, health insurance, and life insurance benefits that are paid by the Government to retired employees is $33,112.08 per engine module per year (Appendix A-1, 3, 4). The unfunded liabilities that are not readily known by managers are a large part of the difference between contract provided engines and Government provided engines. The results of this study indicate that Type 6 preparedness engines can be obtained from contractors at a less total cost to the Government. This study resulted in what appears to be a good representative sample of engine contract costs as well as a good representative sample of Government operated engine costs.

Ten (10) Person Hand Crew Cost Comparison

The costs to operate a Government operated ten (10) person hand crew were obtained from a sample of one hand crew staffed on the Coronado National Forest in 2001. The detailed spreadsheets that were filled out are in Appendix B-1 and B-2. The total cost by major cost category to operate this ten-person hand crew is shown in Appendix G-3 and in Table No. 6. The daily cost is also shown in Table No. 6. An adjustment was made to the nine person five day per week hand crew costs on the Coronado National Forest to make it comparable to a ten-person hand crew operated seven days per week. This adjustment is documented in Appendix B-2. Appendix B-1 contains the cost of operating the nine-person hand crew five days per week.

In order to obtain the costs for the ten (10) person hand crew by the major cost categories, a normalized fire season of 120 days was used. It was assumed in this study that the hand crew would be staffed for this period of time out of preparedness WFPR funds. The daily cost based on the number of days staffed in 2001 was obtained and then multiplied by 120 which is the number of days in the length of fire season chosen for this study. This normalized average cost was used to conduct the cost comparison between the Government operated ten (10) person hand crew and the contract ten (10) person hand crews. The normalized fire season costs by major cost category is shown in Appendix G-3 and Table No. 6. The values in the average costs column of Table 6 were used to perform the cost comparison with contract ten (10) person hand crews over the same 120 day hypothetical fire season.

The contract ten (10) person hand crew daily costs and the days that they were on contract in 2001 are shown in Appendix G-1 and in Table No. 7. The average daily cost to operate contract ten (10) person hand crews was $2,233.83. This cost was obtained from averaging the cost of five crew contracts. The cost to operate a contract ten (10) person hand crew over a 120 day season is $268,059.60. The detailed cost comparison procedures are described in Appendix E-1 in the cost category 7 through 13 descriptions. This cost comparison process is patterned after the Federal Government policy guidelines contained in Circular A-76. The process requires that a cost of contract supervision be added to the actual contract costs. The cost of supervision used is the same cost level that was included in the supervision cost category in the module cost spreadsheets in Appendix B-1 and B-2. Supervision costs were included in the total Government provided module costs being used in this cost comparison. The average supervision cost contained in the Government operated ten-person hand crew is shown in Appendix G-11 and Table No. 8.

Table No. 6

Government Operated Average Costs		

8/24/2005

		Normalized Fire Season of 120 Days	
10 Person Hand Crew Cost Comparison	Coronado	Coronado	Average
10 persons 7 days per week	Crew 51	Crew 51	Costs
Days Staffed	130	120	120
Cost Category			
1. PERSONNEL	$132,695.16	$122,487.84	$122,487.84
2. MATERIAL AND SUPPLY	$2,500.00	$2,307.69	$2,307.69
3. OTHER SPECIFICALLY ATTRIBUTABLE	$19,505.49	$18,005.07	$18,005.07
4. OVERHEAD	$38,131.97	$35,198.74	$35,198.74
5. ADDITIONAL	$24,984.06	$23,062.21	$23,062.21
6. TOTAL IN HOUSE COST	$217,816.68	$201,061.55	$201,061.55
Daily Cost in FY 2001	$1,675.51	$1,675.51	$1,675.51

Table No. 7

10 Person Hand Crew	Crew Cost/day		Days on Contract
Wallowa-Whitman Burnt Powder FZ	$2,419.10		62.5
Wallowa-Whitman LaGrande FZ	$2,331.38		53
Wallowa-Whitman Wallowa Mts. FZ	$2,868.25		65
Willamette Middle Fork R.D. 1	$1,830.40		41.5
Willamette McKenzie R.D. 3	$1,720		27.1
Total	$11,169.13		
Average	$2,233.83		
five crews			

Table No. 8

Government Operated Average Costs			
		Normalized Fire Season of 120 days	

8/24/2005

Ten (10) Person Hand Crew	Coronado	Coronado	Average
10 persons 7 days per week	Crew 51	Crew 51	Costs
Days Staffed	130	120	120
Cost Category			
Supervision	$8,185.84	$7,556.16	$7,556.16
Daily Cost in FY 2001	$62.97	$62.97	$62.97

The same fire season normalization process that was used for determining Government operated ten (10) person hand crew module costs was used to obtain the average cost of supervision, which is $7,556.16. When added to the contract cost, the total contract ten-person hand crew cost is $275,615.76. The total contract cost is calculated using the cost comparison process and the results are shown in Appendix G-7 and Table No. 9.

Table No. 9

Cost Comparison - Crew 10 In House Vs. Contract or ISSA Performance	Cost
IN-HOUSE PERFORMANCE	
1. Personnel	$122,487.84
2. Material and Supply	$2,307.69
3. Other Specifically Attributable	$18,005.07
4. Overhead	$35,198.74
5. Additional	$23,062.21
6. Total In-house	$201,061.55
CONTRACT OR ISSA PERFORMANCE	
7. Contract/ISSA Price	$275,615.76
8. Contract Administration	$28,633.64
9. Additional	$0.00
10. One-time Conversion	$0.00
11. Gain on Assets	($0.00)
12. Federal Income Taxes	($2,144.48)
13. Total Contract or ISSA	$302,104.92
DECISION	
14. Minimum Conversion Differential	$12,248.7810% of line 1
15. Adjusted Total Cost of In-house Performance	$201,061.55
16. Adjusted Total Cost of Contract or ISSA Performance	$314,353.71
17. Decision - Line 16 minus Line 15	$113,292.16
18. Cost Comparison Decision: Accomplish Work In-House (+) Contract or ISSA (-)	

The result of this analysis indicates that the government provided ten (10) person hand crew would cost $113,292.16 less per year than contracting the same resource. This cost comparison is based on only one sample point. If one half the cost of the Wenatchee twenty (20) person hand crew is used as another sample point and the average of the two are used in the cost comparison, the contract option would only be approximately $75,000 more costly. It would be prudent to obtain cost data from 3-4 additional ten-person hand crews to determine if this result is in the expected range or is at the low or high end of the spectrum.

Twenty (20) Person Hand Crew Cost Comparison

The costs to operate a Government operated twenty (20) person hand crew were obtained from a sample of one hand crew staffed on the Wenatchee National Forest in 2001. The detailed spreadsheet that was filled out is in Appendix B-3. The total cost by major cost category to operate this twenty-person hand crew is shown in Appendix G-4 and in Table No.10. The daily cost is also shown in Table No. 10.

In order to obtain the costs for the twenty (20) person hand crew by the major cost categories, a normalized fire season of 120 days was used. It was assumed in this study that the hand crew would be staffed for this period of time out of preparedness WFPR funds. The daily cost based on the number of days staffed in 2001 was obtained and then multiplied by 120 which is the number of days in the length of fire season chosen for this study. This normalized average cost was used to conduct the cost comparison between the Government operated twenty (20) person hand crew and the contract twenty (20) person hand crew. The normalized fire season costs by major cost category is shown in Appendix G-4 and Table No. 10. The values in the average costs column of Table 10 were used to perform the cost comparison with contract twenty (20) person hand crews over the same 120 day hypothetical fire season.

The contract twenty (20) person hand crew daily costs and the days that the crew was on contract in 2001 are shown in Appendix G-1 and in Table No. 11. The average daily cost to operate a contract twenty (20) person hand crew was $3,440.00. This cost was obtained from the one crew contract sampled in this study. The cost to operate a contract twenty (20) person hand crew over a 120-day season is $412,800. The detailed cost comparison procedures are described in Appendix E-1 in the cost category 7 through 13 descriptions. This cost comparison process is patterned after the Federal Government policy guidelines contained in Circular A-76. The process requires that a cost of contract supervision be added to the actual contract costs. The cost of supervision used is the same cost level that was included in the supervision cost category in the module cost spreadsheet in Appendix B-3. Supervision costs were included in the total Government provided module costs being used in this cost comparison. The average supervision cost contained in the Government operated twenty-person hand crew is shown in Appendix G-12 and Table No. 12.

Table No. 10

Government Operated Average Costs		

8/24/2005

		Normalized Fire Season of 120 Days	
20 Person Hand Crew Cost Comparison	Wenatchee	Wenatchee	Average
20 persons 7 days per week	Entiat Crew	Entiat Crew	Costs
Days Staffed	110	120	120
Cost Category			
1. PERSONNEL	$307,501.55	$335,456.24	$335,456.24
2. MATERIAL AND SUPPLY	$40,068.00	$43,710.55	$43,710.55
3. OTHER SPECIFICALLY ATTRIBUTABLE	$23,370.18	$25,494.74	$25,494.74
4. OVERHEAD	$80,825.28	$88,173.03	$88,173.03
5. ADDITIONAL	$50,168.12	$54,728.86	$54,728.86
6. TOTAL IN HOUSE COST	$501,933.13	$547,563.41	$547,563.41
Daily Cost in FY 2001	$4,563.03	$4,563.03	$4,563.03

Table No. 11

20 Person Hand Crew	Crew Cost/day	Days on Contract
Willamette Middle Fork R.D. 2	$3,440.00	25.8
Total	$3,440.00	
Average one crew	$3,440.00	

Table No. 12

Government Operated Average Costs			

Normalized Fire Season of 120 Days			
Twenty (20) Person Hand Crew	Wenatchee	Wenatchee	Average
20 persons 7 days per week	Entiat Crew	Entiat Crew	Costs
Days Staffed	110	120	120
Cost Category			
Supervision	$34,420.89	$37,550.06	$37,550.06
Daily Cost in FY 2001	$312.92	$312.92	$312.92

The same fire season normalization process that was used for determining Government operated twenty (20) person hand crew module costs was used to obtain the average cost of supervision, which is $37,550.06. When added to the contract cost, the total contract twenty-person hand crew cost is $450,350.06. The total contract cost is calculated using the cost comparison process and the results are shown in Appendix G-8 and Table No. 13.

Table No. 13

Cost Comparison - Crew 20 In House Vs. Contract or ISSA Performance	Cost
IN-HOUSE PERFORMANCE	
1. Personnel	$335,456.24
2. Material and Supply	$43,710.55
3. Other Specifically Attributable	$25,494.74
4. Overhead	$88,173.03
5. Additional	$54,728.86
6. Total In-house	$547,563.42
CONTRACT OR ISSA PERFORMANCE	
7. Contract/ISSA Price	$450,350.06
8. Contract Administration	$28,633.64
9. Additional	$0.00
10. One-time Conversion	$0.00
11. Gain on Assets	($0.00)
12. Federal Income Taxes	($3,302.40)
13. Total Contract or ISSA	$475,681.30
DECISION	
14. Minimum Conversion Differential	$33,545.6210% of line 1
15. Adjusted Total Cost of In-house Performance	$547,563.42
16. Adjusted Total Cost of Contract or ISSA Performance	$509,226.92
17. Decision - Line 16 minus Line 15	-$38,336.50
18. Cost Comparison Decision: Accomplish Work In-House (+) Contract or ISSA (-)	

The results of this analysis indicates that the government could contract for preparedness twenty (20) person hand crews and realize a cost savings of $38,336.50 per year per crew. This cost comparison is based on only one sample point. If two times the cost of the Coronado ten (10) person hand crew is used as another sample point and the average of the two are used in the cost comparison, the contract option would be approximately $102,000 more costly than Government operation. It would be prudent to obtain cost data from 3-4 additional twenty-person hand crews to determine if this result is in the expected range or is at the low or high end of the spectrum.

Prevention Module Cost Comparison

The costs to operate Government operated prevention modules were obtained from a sample of three prevention units staffed on three national forests in 2001. The detailed spreadsheets that were filled out are in Appendix C-1, C-2, and C-3. The total cost by major cost category to operate these prevention units is shown in Appendix G-5 and in Table No. 14. The daily cost is also shown in Table No. 14.

Table No. 14

Government Operated Average Costs			
Prevention Unit	Coronado	Cleveland	Wenatchee
1 person 7 days per week	Prevention 51	Prevention 22	Prevention
Days Staffed	130	200	90
Cost Category			
1. PERSONNEL	$24,818.02	$52,184.57	$13,287.19
2. MATERIAL AND SUPPLY	$0.00	$1,055.00	$0.00
3. OTHER SPECIFICALLY	$5,692.98	$7,639.04	$5,234.47
ATTRIBUTABLE			
4. OVERHEAD	$7,525.65	$12,788.01	$4,033.94
5. ADDITIONAL	$8,328.02	$8,294.69	$8,294.69
6. TOTAL IN HOUSE COST	$46,364.67	$81,961.31	$30,850.29
Daily Cost in FY 2001	$356.65	$409.81	$342.78

In order to obtain average costs for the three sample prevention units by the major cost categories, a normalized fire season of 120 days was used. It was assumed in this study that the engine modules would be staffed for this period of time out of preparedness WFPR funds. The daily cost based on the number of days staffed in 2001 was obtained and then multiplied by 120 which is the number of days in the length of fire season chosen for this study. This normalized average cost is documented here and was not used to conduct any cost comparison between Government operated prevention modules and contract prevention units. The normalized fire season costs by major cost category is shown in Appendix G-5 and Table No. 15.

Table No. 15

	Normalized Fire Season of 120 days			
Prevention Unit	Coronado	Cleveland	Wenatchee	Average
1 person 7 days per week	Prevention 51	Prevention 22	Prevention	Costs
Days Staffed	120	120	120	120
Cost Category				
1. PERSONNEL	$22,908.94	$31,310.74	$17,716.25	$23,978.65
2. MATERIAL AND SUPPLY	$0.00	$633.00	$0.00	$211.00
3. OTHER SPECIFICALLY ATTRIBUTABLE	$5,255.06	$4,583.42	$6,979.29	$5,605.93
4. OVERHEAD	$6,946.75	$7,672.81	$5,378.59	$6,666.05
5. ADDITIONAL	$7,687.40	$4,976.81	$11,059.59	$7,907.93
6. TOTAL IN HOUSE COST	$42,798.16	$49,176.79	$41,133.72	$44,369.55
Daily Cost in FY 2001	$356.65	$409.81	$342.78	$369.75

No further analysis was completed for prevention modules due to the lack of contact cost data.

Discussion

The current administration is proposing a legislative initiative to require agencies to pay the full Government share of the cost of the Federal Employees Health Benefits (FEHB) beginning in FY 2003. The Federal Employment Management Reform Act of 2001 was introduced in the Senate on November 6, 2001. This means that instead of merely recognizing an imputed cost for FEHB on their books, agencies will be required to actually remit those costs to OPM (OPM Benefits Administration Letter No. 02-302, January 14, 2002). These costs have apparently been paid out of OPM appropriations in the past, and not agency appropriations. It also appears that if the OPM appropriation is reduced, then the agencies appropriations would be increased a like amount. Whether this "realignment" process works is difficult to predict. The Presidents budget submitted to Congress for FY 2003 contains this proposal. The Forest Service wildland fire management Presidents proposed budget contains an estimate of 12 million dollars for benefits for former employees.

After looking at the costs of operating various preparedness modules by the Government and looking at actual contract costs for similar resources, it appears that there might be

alternative workforce configurations that merit further analysis and evaluation. In most situations, there is usually no one answer to any complex question or one best way to accomplish work. Historically, all preparedness staffing has been by Government employees with very little contract provided staffing. The answer is probably not for all preparedness staffing to be provided by Government employees any more than should all preparedness staffing be provided by contracts. Each end of the spectrum has definite benefits and costs associated with the position.

One critical benefit that can be derived from having some portion of preparedness modules staffed by Government employees is that there are entry-level positions for fire management personnel. There are also career ladder positions created where an individual can spend a few years working at the lowest level of the field fire fighting organization, work their way up to a module leader, and then into ADFMO, DFMO, and forest level fire management positions. There is not other way to obtain firefighting experience than to do it over a number of years. There is a critical need to fill fire management positions with experienced personnel who understand firefighter safety, fire suppression, and fire as an ecological process. Filling the necessary fire management leadership positions does not mean that all Most Efficient Level (MEL) preparedness resources need to be Government provided. Contract resources could provide some portion of the MEL preparedness organization. There are potential cost savings to the Government by using contract preparedness resources.

The preparedness funding level from Congress has historically been some where from 60% to 100% of the MEL preparedness resources. The high end has only been provided once in recent times. There is difficulty in managing a Government employed workforce with fluctuating budget levels. When individuals are hired under a career appointment, it is not usually desirable to reduce career employees through reduction in force (RIF) if the appropriated budget is not sufficient to fund all the positions. This process is costly, time consuming, and a morale breaker. It seems that there would be an opportunity to establish a workforce strategy that would entail a goal of providing 60-70% of the MEL preparedness organization using Government employees. The remaining preparedness resources could be contracted for in any given year based on the current year funding level provided by Congress. The number of modules could be increased or decreased from one year to the next rather easily. Having some base level of Government provided modules would ensure that essential career ladders are still intact.

Line officers in the Forest Service have dealt with this year-to-year budget uncertainty by keeping the pool of employees hired as seasonals as large as possible in order to not obligate the Government to 30 year career employees and lock in payrolls that have no flexibility other than they have to be paid. This practice has contributed to high turnover and a shortage of skilled and experienced personnel. Having a base level organization that can rely on a base level of funding over a long period of time would increase the experience level of the Government hired module personnel. Safety and supervision skills would be enhanced as well. The employees that would be hired by a contractor would have a very similar pay scale and as good as or better benefits depending on what the contractor provides the employees. Contracts contain required labor wage rates and

other fringe benefits as contract requirements. Seasonal employees hired by the Forest Service have no retirement benefit other than Social Security, no health insurance benefits, and no life insurance benefits. They also have no survivor benefits. Contractors would have the freedom to provide these benefits and even establish 401K or other retirement plans if they choose. Of course, the more benefits the contractors provide the employees, the higher the resulting contract daily cost will become as well.

There are many issues that need to be thought about when contracting for preparedness resources in addition to cost. The issue of what is inherently Governmental when contract resources are performing initial attack is one area of concern. Whether contractors can make decisions to spend fire suppression funds by ordering retardant drops etc. when performing as initial attack Incident Commanders (IC). What liabilities might the Government be agreeing to in such situations etc? The discussion and resolution of these areas are outside the scope of this study objective.

The contract crews and engines that were analyzed in this study performed work just like any agency operated resource. They performed the same variety of preparedness work as agency resources. In some cases, the module leaders served as initial attack IC's until the fire was contained or additional resources and leadership was dispatched to the fire scene. Some of the resources were provided Government housing and worked and lived side by side with Government employed personnel. The units worked together regardless of who the employer was. Contract provided module managers face the same difficult employee performance and supervision tasks that Government managers face. Some employees are not reliable, do not show up, cause trouble or do any number of things that require discipline and or termination. It seemed that in the sample of contractors that were consulted with, it was far easier to terminate employees who were performing in an unsatisfactory manner by the private contractor than is possible with Government employed personnel.

Considering that 2001 was the first time that many of the contracted resources have performed preparedness type contracts with guaranteed dollar values of various kinds, there were minimal start up problems. It can take many years to work on contract specifications and through time develop standard contract guidelines and develop contract language to solve problems that might be experienced. Most of the contractors have been providing resources to large fire support using equipment rental agreements and other call when needed (CWN) type of agreements and contracts in previous years. Those typically do not have any guarantee and usually do not perform regular preparedness work. Some of the contractors have had experience in performing other woods work for Government agencies as well in the past.

Anticipated WCF space assessments

During the field visits, the study team collected the data on the amount of space that the forests own and that will be assessed a WCF charge of $0.50 per square foot in FY 2003. The following table displays the amounts that fire management will be expected to provide funding for starting in FY 2003.

Table No. 16

Forest	Total Square Feet - FS Owned	Square Feet Fire Uses	WCF Charge @ $0.50 per Sq. Ft.	Percentage Fire Uses of Forest Space
Coronado NF	19,428	7,375	$3,687.50	38%
Cleveland NF	292,399	219,299	$109,649.50	75%
Wenatchee NF	308,219	77,055	$38,529.50	25%
Okanogan NF	154,834	38,709	$19,354.50	25%

The above amounts are the best estimate that was available at the time of the field visits. The actual amounts fire will be responsible provide funding for may be different than the amounts estimated above once the actual rules and description on how to assess the space WCF rates are finalized and followed by the forests.

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-1000

OFFICE OF THE DIRECTOR

AUG 10 2005

The Honorable Jon C. Porter
Subcommittee on the Federal Workforce and
Agency Organization
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing to share with you the views of the Office of Personnel Management (OPM) on H.R. 408, the "Federal Wildland Firefighter Emergency Response Compensation Act of 2005."

Section 2 of the bill would amend title 5, United States Code, to provide "portal-to-portal" compensation for wildland firefighters. Section 3 of the bill would make hazardous duty pay under 5 U.S.C. 5545(d) received by firefighters basic pay for purposes of retirement. Section 4 of the bill would provide that sections 2 and 3 of the bill take effect the first pay period after enactment.

We recognize the importance of the work performed by Federal wildland firefighters and their State, local, and Tribal government colleagues. We respect the difficulties inherent in the complex and intense situations they address, and express our appreciation for their efforts.

Nonetheless, as explained in the enclosed detailed section-by-section analysis, for the reasons stated therein, the Administration must strongly oppose H.R. 408.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Linda M. Springer
Director

Enclosure

Enclosure

Section-by-Section Analysis and Comments on H.R. 408

Section 2: Portal-to-Portal Compensation

Under section 2 of H.R. 408, a wildland firefighter would be entitled to compensation for "the entire period of time during which the firefighter is engaged in officially ordered or approved duties in connection with responding to a wildland fire or other emergency," subject to a limitation established under section 2(b) of the bill. We strongly oppose this proposal.

Hours of Work

It appears that the intent is to mandate that wildland firefighters be in a duty and pay status for all hours they are away from their normal duty location to fight a wildland fire, including sleep and rest time. Clarification is needed as to whether wildland firefighters would earn hours of work for time off in the fire camps or elsewhere, including meal and sleep time. If so, this would be inconsistent with the treatment of other Federal employees who are temporarily assigned to geographically isolated worksites and who are placed in a non-pay status when they are relieved from duty.

Under current law and regulations, Federal wildland firefighters generally work 12- to 16-hour duty shifts while on a wildfire assignment and are given a nonduty sleep/rest period of at least 8 hours in a designated base camp. In contrast, H.R. 408 would make the time spent at a base camp compensable, creating a 24-hour shift and generally adding 8 to 12 hours of compensable work each day. While the pay limit in section 2(b)(2) of the bill would effectively limit the number of hours that could be paid at an overtime rate to 8 for any 24-hour period, the crediting of additional hours would nevertheless result in a substantial overall pay increase, as explained below.

Basic Pay and Premium Pay

Section 2(b)(2) of H.R. 408 provides the following rule for computing pay for wildland firefighters:

> Notwithstanding any other provision of law, for any 24-hour period, the total amount in basic pay and premium pay payable to a wildland firefighter as a result of the application of this section may not exceed the amount equal to the sum of—
>
> (A) 16 times the firefighter's hourly rate of basic pay; and
> (B) 8 times the firefighter's overtime hourly rate.

This provision does not change the applicable pay rules. Instead, it establishes a pay limitation on basic pay and premium pay (including title 5 overtime pay, night pay, Sunday pay, and holiday pay). As drafted, the bill does not eliminate the biweekly or annual premium pay

limitations in 5 U.S.C. 5547; however, it is not clear whether the section 2(b)(2) limitation applies to FLSA-covered firefighters, since FLSA overtime pay is not considered to be "premium pay" under title 5. If this provision does apply to FLSA-covered firefighters, then clarification is needed regarding the meaning of the term "overtime hourly rate," since OPM's regulations provide a two-part computation of FLSA overtime pay that uses two different rates. (See 5 CFR 551.512(a).) Also, hazardous duty pay under 5 U.S.C. 5545(d) generally is not considered "premium pay" under the title 5 premium pay limitations. Given that section 3 of the bill would make hazardous duty pay creditable for retirement, we conclude that the intent is not to include hazardous duty pay in applying the section 2(b)(2) limitation.

If wildland firefighters are working 24-hour shifts, the 40-hours-per-week/8-hours-per-day overtime thresholds would not be appropriate. By comparison, GS-081 firefighters (principally structural firefighters in the Defense Department) who work 24-hour shifts are subject to a 53-hours-per-week or 106-hours-per-biweekly-pay-period overtime threshold (consistent with FLSA overtime thresholds for firefighters), with no daily overtime threshold. GS-081 firefighters also are paid at a reduced hourly rate of basic pay in recognition that the tour of duty includes sleep and other personal time. Other Federal employees with 24-hour shifts generally receive standby duty premium pay (capped at 25 percent of basic pay) for all regularly scheduled overtime work and are not subject to the 8-hour daily overtime threshold.

We estimate that H.R. 408 would result in pay increases for affected firefighters of up to 100 percent in weeks where the wildland firefighters are actively fighting fires and assigned to fire camps, depending on the number of workdays and length of duty shifts. For example, under the current rules, a wildland firefighter might be engaged in fighting fires for 7 consecutive days with a 12-hour duty shift each day. For 84 hours of work, an FLSA-exempt firefighter would receive a total amount of basic pay and overtime pay equal to 265 percent of his or her weekly rate of basic pay plus hazardous duty pay equal to as much as 52 percent of his or her weekly rate of basic pay; thus, total pay for 7 days would be more than three times the firefighter's regular weekly rate of basic pay (for the 40-hour basic workweek). Under H.R. 408, the same firefighter presumably would be credited with 168 hours of work (for seven 24-hour shifts) and would receive a total amount of basic pay plus overtime pay equal to 490 percent of his or her weekly rate of basic pay plus hazardous duty pay equal to as much as 105 percent of his or her weekly rate of basic pay; thus, total pay for 7 days would be almost six times the firefighter's regular weekly rate of basic pay. Overall, H.R. 408 would increase this firefighter's total weekly pay by about 87 percent compared to total weekly pay under current law. If the example were modified to assume a 14-hour duty shift under current rules, the overall pay increase would be about 57 percent.

We believe such potential pay increases are excessive. We do not believe wildland firefighters should receive the normal basic rate or overtime rate for sleep and rest periods. Also, we believe it would be inappropriate to provide hazardous duty pay for sleep and rest periods. Under current rules, hazardous duty pay is payable for each hour an employee is in a pay status during a

24-hour period if the employee performs qualifying hazardous duty for any amount of time during that 24-hour period.

The excessively generous pay computation provided by the bill also would result in FLSA-exempt firefighters reaching the annual premium pay cap much more rapidly, especially those at higher grades. Because employees may be required to work even after the annual cap is reached, this can generate employee dissatisfaction.

We are not aware of compelling evidence that higher pay for wildland firefighters is needed to address recruitment and retention problems. Based on quits (i.e., voluntary resignations) and employment counts reported by agencies to OPM's Central Personnel Data File (CPDF), we can compute average annual quit rates for **nonseasonal** wildland firefighters (i.e., those who work throughout the year) in occupations GS-455 and GS-462. In fiscal years (FY) 2002 through 2004, we find that the annual quit rate for full-time permanent nonseasonal wildland firefighters ranged from 2.1 to 2.5 percent, which is relatively low. The variable nature of employment levels for **seasonal** wildland firefighters (i.e., those who work only during the fire season) makes it inappropriate to compute average annual quit rates using OPM's standard methodology; however, the CPDF shows the following number of quits for full-time permanent seasonal wildland firefighters: 162 in FY 2002, 219 in FY 2003, and 262 in FY 2004. Given that the CDPF also shows peak headcounts for full-time permanent seasonal wildland firefighters of 3,273 in FY 2002 and 3,749 in FY 2003 and FY 2004, the number of quits does not seem unusually high in percentage terms for a seasonal workforce.

Section 3: Retirement Status

Section 3 of the bill would make hazardous duty pay under 5 U.S.C. 5545(d) received by firefighters basic pay for retirement purposes. We strongly oppose this proposal.

Retirement annuities are intended to replace a proportion of an individual's income earned consistently over the course of a career. For that reason, the statutory definition of basic pay generally does not include "bonuses, allowances, overtime pay, military pay, [or] pay given in addition to the base pay of the position, as fixed by law or regulation." (See 5 U.S.C. 8331(3).) Hazardous duty pay is explicitly excluded from basic pay under this definition. While there are a few enumerated exceptions to the general rule that premium pay is not basic pay, they are limited to amounts that generally are paid at a consistent and predictable rate, not only from day to day and week to week, but over the course of a typical employee's career. In these circumstances, retirement deductions are made over an entire career, and the rate of pay used in the annuity computation is representative of career pay levels; this protects the solvency of the Civil Service Retirement Fund.

This is not the case for hazardous duty pay. Hazardous duty pay varies from work day to work day, from pay period to pay period, and over the career of an employee. Some years there are many more fires than others, and so there is more time in hazardous duty pay status. Moreover,

as employees reach more senior status, they are more likely to enter positions in which they are less likely to be actively involved in hazardous work. Should hazardous duty pay be included in retirement basic pay, these inconsistent and unpredictable payment patterns would result in some employees receiving a windfall in their retirement. On the other hand, other employees would be shortchanged, receiving no additional annuity even after having paid additional retirement deductions for many years.

For example, if an employee retires at the end of a 3-year period in which he or she received greater than usual hazardous duty pay, his or her average salary would be artificially high by comparison with his or her overall career earnings. Not only would this be a windfall to the employee, such an arrangement would make individuals more likely to retire at such times, thus creating staffing difficulties. On the other hand, an experienced employee who works many seasons paying retirement deductions on hazardous duty pay and who advances to an administrative or managerial position could be disadvantaged. While such an employee would have paid substantial additional retirement deductions on an irregular basis over the course of his or her career, the employee would receive no consideration for such payments in the annuity computation, since the hazardous duty would have ended prior to the high-3 period.

Accordingly, section 3 of H.R. 408 is excessively costly, inequitable to employees, and poor public policy.

Section 4: Implementation

Section 4 of the bill would provide that sections 2 and 3 of the bill take effect immediately upon enactment. This is impractical because of the time required to inform agencies and units in the field of these changes, prepare and publish regulations and make them effective, and reprogram payroll and retirement computer systems. If unchanged, this will only result in substantial confusion, as well as complex and costly back pay litigation.

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INDEPENDENT

August 29, 2005

The Honorable Linda Springer
Director
United States Office of Personnel Management
1900 E Street, NW
Washington, D.C. 20415-0001

Dear Director Springer:

Thank you for the participation of the Office of Personnel Management (OPM) in the August 12, 2005, Subcommittee hearing titled, *Tension in the Tinderbox: Finding Fairness for Federal Firefighter Compensation.* I would like to follow up with you on an issue that arose during the hearing regarding classification of Wildland Firefighters.

As you know, Wildland Firefighters employed by the Department of Agriculture and the Department of the Interior are currently classified as either a GS-0455 Range Technician or as a GS-0462 Forestry Technician. Similar to structure firefighters (0081 Fire Protection and Prevention Series) who are primarily responsible for fires in Federal buildings and military bases, Wildland Firefighters are the Federal Government's primary source of protection for Federal lands, including our national parks and forests. According to OPM, though, these employees have duties in addition to fighting fires, and therefore their classification description indicates that the duties of these employees are: "practical technical support in forestry or range research, marketing of forest or range resources, and the scientific management, protection, and development of forest or range resources."

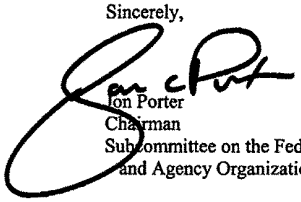
First, I believe that this definition may not adequately reflect the firefighting duties inherent in these positions. For example, a position description on the National Park Service website for a Wildland Firefighter [GS-0455/0462-04 Range/Forestry Technician (Fire)] explains that 70 percent of this type of employee's duties is related specifically to firefighting and only 30 percent of the duties is related to forest/range management. This seems to conflict with the classification description above, which indicates that forest/range "protection" is only a minor duty of a Forestry/Range Technician.

Secondly, and more importantly, I believe that this issue is fundamentally one of respect for our Wildland Firefighters who risk their lives to protect our natural resources, our property, and often our lives. It has come to my attention, at the hearing and otherwise, that the classification series title of Forestry/Range Technician may have a demoralizing effect on employees in this occupation whose duties are primarily those of a firefighter. These dedicated men and women are proud to be firefighters

and would like to be recognized as such. It is important that they be given a title that more accurately reflects the firefighting duties inherent within their positions.

I appreciate the commitment from OPM at the August 12 hearing to work with the Subcommittee on reevaluating the classification of Federal Wildland Firefighters. In light of this, I would request that OPM conduct a thorough evaluation of the duties assigned to Wildland Firefighters at each of the wildland firefighting agencies within the Department of Agriculture and the Department of the Interior for the purpose of determining if any change is appropriate in the area of classification. Thank you again for your help on this matter and I look forward to your response.

Sincerely,



Jon Porter
Chairman
Subcommittee on the Federal Workforce
and Agency Organization

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