



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL



DEC - 1 2009

Washington D.C. 20250

The Honorable Thomas J. Vilsack
Secretary of Agriculture
1400 Independence Avenue SW.
Washington, D.C. 20250

Dear Mr. Secretary:

As required by Public Law 107-203, the Office of Inspector General (OIG) of the Department of Agriculture (USDA) hereby transmits the enclosed report of investigation on the Forest Service (FS) fatalities that occurred in the Esperanza Fire in Riverside County, California, on October 26, 2006. This letter provides an overview of our findings.

I. OIG Responsibility for Investigations of Forest Service Fatalities in Wildland Fires

In 2002, Congress passed Public Law 107-203, which was codified at 7 U.S.C. 2270(b). The law requires USDA OIG to conduct an independent investigation of each fatality of an FS employee that occurs as the result of a wildfire entrapment or burnover. The statute specifically provides: "In the case of each fatality of an officer or employee of the Forest Service that occurs due to wildfire entrapment or burnover, the Inspector General of the Department of Agriculture shall conduct an investigation of the fatality. The investigation shall not rely on, and shall be completely independent of, any investigation of the fatality that is conducted by the Forest Service."

To fulfill our statutory responsibilities, OIG has created a Wildland Fire Investigation Team (WFIT). WFIT members undergo extensive training that includes attending the Basic Fire Academy located in Boise, Idaho. The Basic Fire Academy incorporates training in Incident Command, Basic Wildfire Suppression Orientation, Firefighter Training, and Introduction to Wildland Fire. Additionally, WFIT members attend the National Wildfire Investigation Training Program conducted by the Department of Homeland Security's Federal Law Enforcement Training Center as well as the Bureau of Land Management's Serious Accident Investigation Training. WFIT is supervised by OIG's Emergency Response Program Manager and is staffed by five Special Agents who are stationed throughout the United States. Many WFIT members have also visited active fires unrelated to any OIG investigation to observe firefighting operations and enhance their understanding of wildland fires. Participation on WFIT is a collateral duty for the OIG Special Agents¹ involved and requires considerable commitment due to the unique training requirements of the position.

¹ A major element of the basic training for all OIG Special Agents—prior to and separate from being selected for specialized WFIT training—is completion of the Basic Criminal Investigator Training Program at FLETC. During this training, Special Agents learn the skills to conduct criminal investigations, which include evidence collection, interviewing, and legal rights and warnings.

II. The Esperanza Fire – October 26, 2006

The Esperanza Fire was first reported to the Federal Interagency Communication Center in San Bernardino, California, shortly after 1 a.m. Pacific Daylight Time on October 26, 2006. The fire began in the town of Cabazon, located south of Interstate 10 in Riverside County, California. The scope of the Esperanza Fire was primarily bordered by Cabazon to the north and Beaumont and San Jacinto to the southwest. The fire began on lands under the jurisdiction of the California Department of Forestry and Fire Protection (CAL Fire) and spread to the San Bernardino National Forest (NF) lands in the jurisdiction of FS. The fire spread quickly due to extremely dry conditions in the dense chaparral and Manzanita vegetation and the onset of Santa Ana winds. The Esperanza Fire ultimately burned in excess of 41,000 acres and destroyed a total of 34 residences and 20 outbuildings. It burned for approximately 5 days and was considered to be under control by Federal and State firefighters on October 31, 2006. The cause of the fire was later determined to be arson.²

The Captains and crews of five San Bernardino NF Engines arrived at the Cabazon Station Incident Command Post at approximately 4 a.m. The five FS Engines deployed into the area of the small community of Twin Pines under the direction of the Incident Commander, CAL Fire's Division Chief. Under the general guidance of CAL Fire personnel, the FS Engines assisted with evacuation, engaged in structure protection, fire suppression and control, and served as lookouts, among other duties. The rapid growth of the newly active fire caused four FS Engine crews to take cover at two separate locations and wait for the fire front to pass. At approximately 7 a.m., an area ignition occurred. According to one FS Engine Captain, within 10-15 seconds, a quarter-mile area surrounding the fifth FS Engine crew's position at a hilltop home several hundred yards away erupted in fire. The five members of the crew of FS Engine 57 lost their lives in the burnover. More information about the events of the Esperanza Fire and the actions of FS and CAL Fire personnel is contained in the enclosed OIG Report of Investigation.

III. OIG's Investigation into FS Fatalities in the Esperanza Fire

Members of OIG's WFIT arrived at the site of the Esperanza Fire fatalities on Saturday, October 28, 2006, 2 days after the fatalities occurred. The site of the fatalities was secured by the Sheriff's Department of Riverside County, California.

Separate and apart from OIG's responsibility to investigate certain firefighter deaths occurring during wildland fire suppression efforts, the Occupational Safety and Health Administration requires that a serious accident investigation be conducted in the event of a serious accident or

² On March 6, 2009, Raymond Lee Oyler was convicted of 5 counts of first degree murder of five FS firefighters, 19 counts of arson, and 16 counts of possessing incendiary devices. On June 5, 2009, Mr. Oyler was sentenced to the death penalty.

fatality of agency personnel. These investigations are conducted jointly by all the agencies involved in firefighting operations. In this case, CAL Fire was the lead agency for the Serious Accident Investigation Team (SAIT) it established with FS. CAL Fire controlled all relevant evidence and records relevant to the joint CAL Fire/FS investigation.

Our investigation into the circumstances of the FS fatalities in the Esperanza Fire was the first deployment of OIG's WFIT wherein a State agency was in command of the fire and the lead investigative entity. Upon WFIT's arrival at the site of the fire, WFIT was able to take photographs of the scene and of physical evidence prior to removal of the evidence by CAL Fire. WFIT members attended the SAIT briefings conducted at the SAIT Command Post.

By early November 2006, WFIT members determined that it would be ineffective to attempt to promptly interview relevant firefighter personnel about their roles in what occurred in the Esperanza Fire. Concerns were raised by CAL Fire and FS personnel about being interviewed by two separate teams of investigators—those from SAIT as well as OIG's WFIT. Attempting to conduct OIG interviews concurrent with those of the SAIT would clearly have interfered with the work of the joint CAL Fire/FS investigative team. Therefore, our WFIT decided to postpone all OIG interviews until the SAIT report was issued. While the SAIT inquiry was ongoing, OIG's WFIT focused on reviewing documentary evidence such as training records, personnel files, and all documents relevant to the investigation.

In July 2007, after the final SAIT report had been issued, WFIT renewed its efforts to interview the firefighter and supervisory personnel. OIG was asked by CAL Fire and FS officials to postpone our interviews, primarily due to the need to assign the affected FS firefighters during the western wildland fire season. FS officials advised that the fire season would extend into November due to dry wildland conditions. Subsequently, after the wildland fire season ended and the necessary protocols were worked out with legal counsel for FS personnel, OIG conducted the majority of its Esperanza Fire interviews in January 2008 and concluded them in May 2008. WFIT interviewed a total of 23 FS firefighters, supervisors, and other agency personnel regarding what transpired at the Esperanza Fire. The WFIT was able to interview only one CAL Fire employee during our investigation—the Branch II Supervisor who had been engaged in directing and offering guidance to the FS Engine crews on scene.³ In addition to agreeing to be interviewed about his actions and observations at the Esperanza Fire, the Branch II Supervisor physically walked OIG agents through the key areas of the fire and the burnover site, explaining what had occurred in the hours leading up to the FS fatalities on the morning of October 26, 2006.

During the entirety of the separate SAIT inquiry, our WFIT did not participate in any SAIT witness interviews or other aspects of the SAIT investigative process in order to maintain the

³ Additional information about OIG's efforts to interview CAL Fire personnel is contained in the "Conclusions" section of this letter.

independence that is required for OIG's investigation. Some photographic evidence was obtained by OIG from SAIT, although additional photographs and physical evidence were taken by WFIT personnel.

IV. Conclusions

OIG investigative findings are consistent with the primary findings of FS and CAL Fire as presented in the SAIT Report. Our investigation raised no issues related to potential misconduct or unauthorized actions by FS personnel involved in the Esperanza Fire.

OIG concluded (as did SAIT) that the fatalities of FS personnel in the Esperanza Fire resulted from a convergence of events and human factors that can occur in the dynamic and pressured environment of a major fire threatening a wildland-urban interface. In the Esperanza Fire, these included rapid, unexpected fire behavior—propelled by the sudden emergence of fire-related weather phenomena—and the forward location of a FS Engine crew.

During Engine 57's determined efforts to defend a home (the "Octagon House") and serve as lookouts for their fellow firefighters, adequate situational awareness was not maintained. In the brief period that one FS Engine Captain said lasted no more than 15 seconds, Engine 57's situation deteriorated from one that was not perceived to present imminent danger to one that was overwhelmed by a burnover.

OIG did not question the SAIT Factual Report's Fire Weather Analysis. The analysis stated that a combination of increasing winds, a temperature inversion that was penetrated by a huge smoke plume, and the physical contours of a steep creek drainage channeled the fire's growth directly towards the Octagon House. The swift emergence of these weather factors combined with the dense fuels and multiple spot fires in the deployment area of the FS Engines produced an area ignition. The fire made a rapid run at the Octagon House and the crew of Engine 57.

A. Factual Discrepancies with the SAIT Factual Report

OIG's investigation produced information on several issues that was not consistent with the SAIT Report. WFIT determined that these discrepancies were not material and did not contribute to the occurrence of the fatalities.

Command Structure

According to the SAIT Report, CAL Fire and FS were in a unified command at the time of the burnover. OIG's interviews determined a unified command was not established at the time of the fatalities. A radio transmission by CAL Fire's Incident Commander (IC) at 3:10 a.m. indicated that a unified command was established with CAL Fire and FS, but FS personnel at the Incident Command Post in the early morning hours of October 26 were serving only as agency representatives. Based on FS protocols, a unified command

was not established until after the fatalities occurred. A San Bernardino NF Fire Management Officer stated that in his estimation, he became FS' first IC at the Esperanza Fire at approximately 9 a.m. OIG determined that the length of time it took for FS to join the unified command did not contribute to the occurrence of the fatalities, because the IC was not directly supervising the FS Engine Crews and the FS Engine Captains had the ability to make decisions based upon their training, experience, and judgment.

The Red Dot Map

The Poppet Flats, Pine Cove, and Idyllwild Contingency Study, also referred to as the Red Dot Map, was a study done in October 2002. The study was done to show the development and rapid growth in the area, in order to justify additional resources for fire and rescue services. The SAIT report indicated that the Red Dot Map should have been used for strategic or tactical risk assessments or plans. Our interviews determined that the map was one of many tools used by personnel in the Esperanza Fire to assist in locating structures and for evacuation and planning purposes. According to CAL Fire's Branch II Supervisor, this map was not used nor should it have been used during the Esperanza Fire to identify non-defensible structures. The Branch II Supervisor also stated that the map should not be used in the future to identify non-defensible structures.

Radio Communications

SAIT characterized the use of unassigned radio frequencies by FS personnel as a failure to follow procedures and a contributory factor to the accident. FS Engine Captains advised that Engine crews at the Esperanza Fire communicated on an unassigned FS tactical frequency due to the heavy radio traffic on the assigned CAL Fire frequencies. Several attempts by FS Engine Captains to contact CAL Fire's supervisory officials concerning burnout operations were made on the assigned radio frequencies but were unsuccessful. OIG found that all five FS Engines made the necessary adjustments and established positive communications with one another on an unassigned FS tactical frequency, while continuing to monitor the assigned command and tactical frequencies. Shortly after the burnover occurred, the Captain of Engine 52 radioed CAL Fire's Branch II Supervisor twice over the assigned Command Frequency and once over the Assigned Tactical frequency for "Emergency Traffic." All three calls went unanswered while other radio traffic continued between CAL Fire officials.

Since the assigned command frequency was in use and he could not get through, the Captain of Engine 52 switched over to an unassigned FS frequency and raised San Bernardino NF personnel for emergency assistance. At approximately 7:55 a.m., even the CAL Fire IC used Forest Net primary—an established FS frequency, but not the assigned command frequency—to inform Operations about several burn victims at the

fatality site. The use of an unassigned tactical frequency by FS Engine teams enabled them to maintain important communications during the fire. WFIT determined that the use of an unassigned tactical frequency had no effect on the outcome of the burnover.

Locations of FS Engine 57 Personnel at the Fatality Site

Based upon witness interviews, OIG's WFIT determined that the locations of two crew members of Engine 57 were not correctly shown in a diagram of the fatality site in the SAIT Report. An FS Engine Captain, who was among the first responders to the scene of the burnover, advised that the SAIT diagram did not have accurate notations about the two members of Engine 57 who received medical treatment from the EMT.

B. Limitations on Interviews with Supervisory Personnel in the Esperanza Fire

The fact that a State agency was in command of the FS personnel involved in the Esperanza Fire created jurisdictional issues that affected OIG's investigation. OIG was interested in interviewing CAL Fire personnel as part of our investigation but was largely unable to do so. In the early stages of OIG's investigation in November 2006, CAL Fire's legal counsel advised that OIG would not be permitted to interview the CAL Fire personnel involved in the fire.⁴ During mid-to-late 2007, OIG notified CAL Fire officials that our WFIT would proceed to contact individual CAL Fire personnel involved in the fire to request interviews. CAL Fire's legal counsel acknowledged OIG's objectives but advised that the agency's employees would not be directed to speak to OIG's WFIT, nor would the agency assist OIG in determining which CAL Fire personnel should be interviewed. Ultimately, all of the OIG requests for interviews that were sent individually to approximately 14 CAL Fire employees in April 2008 were declined by the employees, with the one exception being the Branch II Supervisor.

In conclusion, USDA OIG recognizes the important public service that FS wildland firefighters provide in the face of great personal danger and risk to life and property. We have the greatest respect for their professionalism and dedication to their mission, and for the sacrifices their families must bear. It is our hope that OIG's investigation will add to the understanding of agency officials, policy makers, and the public about what transpired in the Esperanza Fire. We wish to express our appreciation for the cooperation OIG personnel received from the Chief of the Forest Service, agency firefighters, and others during our investigation.

A similar letter is being sent to The Honorable Joseph R. Biden, President of the Senate, and The Honorable Nancy Pelosi, Speaker of the House. Copies will be provided to the leadership

⁴ As described in Section II of this letter, OIG subsequently delayed its interviews of FS personnel until January 2008 due to the timing and scheduling concerns.

The Honorable Thomas J. Vilsack
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of the congressional committees and subcommittees with oversight responsibility for the Forest Service.

Sincerely,

A handwritten signature in cursive script, appearing to read "Phyllis K. Fong".

Phyllis K. Fong
Inspector General

Enclosure:
USDA OIG Report of Esperanza Fire Fatality Investigation