

MEMORANDUM

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: June 24-25, 2020

From: STEVEN KECK, Chief Financial Officer

Reference Number: 4.30, Action Item

Prepared By: KC Handren, Chief
Division of Budgets

Subject: ALLOCATION FOR CANYON FIRES INVERSE CONDEMNATION
SETTLEMENTS
RESOLUTION FP-19-96

ISSUE:

Should the California Transportation Commission (Commission) approve an inverse condemnation allocation of \$4,913,630 for the settlement of individual plaintiffs' property damage lawsuits brought against the California Department of Transportation (Department) resulting from the 2017 Canyon Fires in Orange County?

RECOMMENDATION:

The Department recommends that the Commission approve an inverse condemnation allocation of \$4,913,630 for the settlement of individual plaintiffs' property damage lawsuits resulting from the 2017 Canyon Fires.

BACKGROUND:

On September 25, 2017, one or more roadway flares deployed during a Department sweeping operation were knocked into dry roadside brush by oncoming traffic, starting a fire in Anaheim, California. The fire (Canyon Fire 1) spread from the roadside and ultimately burned 2,662 acres and damaged or destroyed 6 structures and utility equipment. It was declared contained on October 4, 2017.

On October 9, 2017, windblown embers from an oak tree, still smoldering from Canyon Fire 1, ignited a second fire. This second fire (Canyon Fire 2) spread and burned 9,217 acres over the next 8 days and damaged or destroyed 80 structures. Fire investigators determined that the roadway flares were the probable cause of Canyon Fire 1, and that Canyon Fire 2 was sparked by the smoldering remnants of the first fire.

*"Provide a safe, sustainable, integrated and efficient transportation system
to enhance California's economy and livability"*

This requested settlement allocation of \$4,913,630 to the Commission concerns the following:

Hidden Canyon Home Owners Association, et al v. CA Dept of Transportation, et al.
(OCSC case no. 30-2018-01037499-CU-NP-CJC): Remaining six *Hidden Canyon* plaintiffs settled their claims arising from a total loss of a home; and damages to a Home Owner's Association property.

Scott Drew, et al. v. CA Dept of Transportation, et al.
(OCSC case no. 30-2018-01022558-CU-PO-CXC): 80 of the approximate 105 remaining *Drew* plaintiffs have settled their claims arising from damages to 21 homes; and damages to a Home Owner's Association property.

The Commission has previously approved \$27,740,000 at the December 2019 meeting, and \$7,241,600 at the May 2020 meeting, for a total of \$34,981,600 allocated to date to settle with Canyon Fire claimants.

Litigation related to the remaining Canyon Fires plaintiffs (approximately 26 individual plaintiffs and United States of America for fire suppression costs and other damages) is ongoing. It is expected that the Department may request an additional allocation(s) for these lawsuits in the future.

FINANCIAL RESOLUTION:

Resolved that \$4,913,630 be allocated from the Budget Act of 2019, Budget Act Item 2660-302-0042 for Canyon Fires inverse condemnation property damage settlements.