



**File Code:** 6570/6300  
**Route To:** (5100)

**Date:** July 26, 2007

**Subject:** Claims Resulting from Fire Suppression Activities

**To:** Regional Foresters, Station Directors, Area Director, IITF Director, Deputy Chief for Budget and Finance, Deputy Chief for State and Private Forestry

It has been recently brought to our attention that some tort claim issues have been and are being “settled” at fire incidents by personnel on Incident Command Teams, Contracting Officers, Procurement Officers, and/or others. Examples include incidents where private property has been damaged and the property owners are reimbursed or the damage is repaired before the agency leaves the fire.

We believe this may be occurring due to misinterpretation of the direction in Forest Service Handbook 6509.11g, section 51.24 (Property Damage Resulting from Fire Suppression Activity), which states:

*“Use WFSU funds for the following activities:*

*... 4. Pay for damage to State, County, and private lands and improvements caused by wildland fire suppression activities only to the minimum extent needed to immediately correct the damage to prevent further loss or injury. Examples are: patching a wire fence around a water development, placing a temporary fence to keep cattle from roaming into dangerous areas during suppression activities, or building a water bar across a fire line. Pay for other damage only through established claims procedures (FSM 6570).”*

This direction applies only to emergency actions needed to “prevent further loss or injury.”

Claims for property damage related to contracts or other official procurement instruments and covered under the Contracts Disputes Act of 1978 should be appropriately settled by applicable warranted contracting officers.

All other occurrences of damage to personal property must be handled under the official claims process, and only the Office of the General Counsel or the ASC Forest Service Claims Officer is delegated authority to adjudicate claims against the Forest Service. When individuals have inquiries related to reimbursement for damages, or when they request claim forms, they should be provided the Standard Form 95 – Claim for Damage, Injury, or Death, and/or be referred to the ASC B&F Claims Branch (877-372-7248, option 1, and then option 5). The Comp/Claims Units assigned to an incident should be able to provide this information.



All Forest Service employees must avoid approval of any expenditure of funds without the appropriate delegated authority. Such approval could result in fiscal liability claims against the employees involved.

We appreciate your assistance in ensuring that all employees, particularly those who work on fire incidents, are aware of the required authorities and processes for settling claims for property damage resulting from fire suppression activities.

Please contact Claims Branch Chief Janet Skeen at 505-563-7310, or Incident Support Procurement Analyst Ron Schilz at 406-329-1065, if you have any questions.

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