



County of El Dorado Clerk of the Board &lt;edc.cob@edcgov.us&gt;

## Fwd: Response to Questions on USFS/Airport Reimbursement for the Caldor Fire

**Kim Dawson** <kim.dawson@edcgov.us>

Mon, Aug 29, 2022 at 2:42 PM

To: County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Hey Kyle - Can you please add this email thread to item 21, print out for the papers and include it with today's GovDelivery. Thanks, Kim

----- Forwarded message -----

From: **Christopher Perry** <christopher.perry@edcgov.us>

Date: Mon, Aug 29, 2022 at 2:36 PM

Subject: Fwd: Response to Questions on USFS/Airport Reimbursement for the Caldor Fire

To: Kim Dawson <kim.dawson@edcgov.us>

Cc: Julianne Melchor <julianne.melchor@edcgov.us>, Sherrie Busby <sherrie.busby@edcgov.us>

Good Afternoon Kim,

Can you please add the below email to item #21 (Legistar 21-1542) on tomorrow's agenda, per Supervisor Parlin's request?

Thank you,

----- Forwarded message -----

From: **Christopher Perry** <christopher.perry@edcgov.us>

Date: Fri, Aug 26, 2022 at 5:15 PM

Subject: Response to Questions on USFS/Airport Reimbursement for the Caldor Fire

To: <lugertd@yahoo.com>

CC: <james.wilson.consulting@gmail.com>, <timpvf@comcast.net>, Gary Vorderbruggen <shearingguy@gmail.com>, Jeremy Gutenberger <jeremy.gutenberger@edcgov.us>, <greeneggs2spam@yahoo.com>, Jason Brand <someyawhoo@yahoo.com>, Sue Bell <sjobell@hotmail.com>, Mark Moss <mark.moss@edcgov.us>, Marc <marc@bayfour.org>, K Cooksy <cooksy@comcast.net>, Sherrie Busby <sherrie.busby@edcgov.us>, Julianne Melchor <julianne.melchor@edcgov.us>, Angelic Madson <angelic.madson@edcgov.us>, Daniel Vandekoolwyk <daniel.vandekoolwyk@edcgov.us>

Good Afternoon Mr. Lugert, Airport Advisory Committee Members, and Airport Users,

Below you will find detailed responses to questions raised in Mr. Lugert's email dated August 19, 2022. The Board of Supervisors will consider this item on consent on Tuesday, August 30, 2022. For reference, item #21 (Legistar 21-1542) can be found [here](#).

Have a great weekend.

### 1) What were the specifics contained in the "developed additional alternative reimbursement proposal of \$130,390" e-mail?

Every item that goes to the Board of Supervisors works through an internal review process up to and including the Chief Administrative Office (CAO) who is tasked with working with the Board on development of the overall agenda. In the process of working with CAO, an additional alternative dollar amount was created based on the overall costs to run the airport (based on the annual Airport budget) and the number of days of use by USFS. With an annual operating budget of \$1.4 million dollars, 34 days of use equals \$130,390. This is the last proposal staff shared with the USFS.

### 2) To which elements of the "proposal" did the USFS "balked at"? And why?

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The USFS responded to staff indicating that they “did not use the airport at its full capacity for the 30 days (they) were there.” And further noted that they cannot sign an agreement for that proposed amount as they did not utilize all of the amenities it took to run the airport while they were there.

**3) Why is the planning and building department asking only for \$10,417 and \$543.20 reimbursement? Did the USFS agree to certain elements of the proposal? And why?**

The Placerville Airport is a federally obligated Airport. This means that we must comply with a series of grant assurances from the FAA. Grant Assurance No. 27 requires the Airport to be made available to aircraft of the United States for use by Government aircraft at all times without charge, unless the Secretary of Transportation determines the use is substantial and then we may charge for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. The full language of Grant Assurance No. 27 is set out below:

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

This right is mentioned in all ground leases relating to the Placerville Airport. In the most recent leases, it is under Article 14(G) and reads as follows:

“During time of war or other national emergency, the right to enter into an agreement with the United States Government for military or naval use all or part of the Airport. If any such agreement is executed, the provisions of this lease instrument are suspended to the extent they are in conflict with that agreement.”

In older leases, this was found as paragraph 8 of Exhibit C to the lease.

In addition, as a public agency, we cannot charge any fee for the use of a facility unless that fee is authorized by the Board at the time of the use of the facility. As discussed with the Airports Advisory Committee and airport user attendees, after discussions with County Counsel, Fiscal, and CAO staff, it was determined that fees charged to the USFS must be found on the Board-approved Airport Fee Schedule. In order to determine what was the most appropriate fee type to charge, we looked at what fee reflected a reasonable share, proportional to the use, of the cost of operating and maintaining the Placerville Airport relating to how it was used by USFS. It was determined that tie downs and vehicle parking rates reflected the reasonable share and were proportional to the use of the cost of operating and maintaining the Placerville Airport relating to how it was used by USFS as compared to all the fees found on the Airport Fee Schedule. This discussion occurred at each of the following Airports Advisory Committee Meetings: September 22, 2021, November 17, 2021, January 19, 2022, April 21, 2022, May 19, 2022, and July 13, 2022. The USFS agreed to pay \$10,417 for tie downs and vehicle parking, in addition to the \$543.20 for damage to two taxiway edge lights

**4) If “the public items” were removed - do they add up to \$119,430?**

No. Please see the response to question #1 above.

**5) What level of authority did the USFS representative hold? Were they empowered and knowledgeable of the circumstances specific to the Caldor fire?**

The USFS representative runs contracts and reimbursements for the USFS. The USFS works many incidents across the United States and their representative specifically worked on the Caldor Fire.

**6) Were the conditions of the “Emergency Declaration” for the airport facility appropriation recognized as part of this review with the USFS representative? The Emergency Declaration deemed the USFS as the lead responsible agency.**

It is unclear from this question which emergency declaration is being referenced - local, state, or federal - and how it relates to this item. If reference is being made to a federal disaster declaration, please see the response to question #3 above.

**7) Was the Fourth District of California Congressional Representative Tom McClintok’s office contacted for input and guidance in this USFS settlement?**

Congressman McClintock’s Office was not consulted for the USFS reimbursement. The agreement is between El Dorado County and the USFS and does not involve a Congressional Office. The USFS was fully responsive to all inquiries from the Airports Division.

**8) Why has it taken 10 months to reach this stage of USFS agreement and only 3 working days remaining to BOS authorization without clarification for airport users?**

As discussed in all Airports Advisory Committee meetings since September 2021, conversations were had both externally with the USFS and internally with County Counsel regarding the appropriate fee to charge for the use of Placerville Airport by USFS as it relates to the Airport Fee Schedule. The tie down and vehicle parking fees were identified at the November 2021 Airports Advisory Committee meeting as the only defensible fee on the fee schedule to seek reimbursement on. That had not changed during any of the subsequent discussions with the Committee. Additionally, since two taxiway lights were damaged as a result of aircraft fighting the Caldor Fire, USFS requested that one reimbursement item (both for fees and damages) be brought forward as opposed to separate reimbursement efforts. As noted in the staff report on the Board agenda: “Despite contacting numerous vendors as well as the manufacturer, due to supply chain issues, Department staff was unable to obtain a price for the taxiway edge lights until June 3, 2022. The USFS requested that the County submit one invoice for the Emergency Facilities & Land Use Agreement (Agreement), so Department staff has been waiting for the price on the taxiway edge lights to bring this Agreement forward to the Board.”

**9) Why has the decision not yet occurred as to how the tenants and leaseholders will be reimbursed for lost use of our “federally appropriated” airport?**

This is discussed in the “Alternatives” portion of the staff report to the Board on the reimbursement item. It reads as follows: “Several Airports Advisory Committee members and other airport tenants have expressed to County staff that the County should reimburse leaseholders and tenants for a portion of their leases and rentals to cover the period while the airport was closed to general aviation. Airport hangar tenants were able to utilize their hangars for aircraft storage and were not restricted from accessing their hangars, and airport tie-down tenants were able to access their aircraft, but hangar and tie-down tenants were not allowed to fly into or out of the airport for 29

days. Airport hangar and tie-down tenants argue that they should receive a refund of a prorated portion of their annual lease payments or their monthly tie-down or rental fees for the 29 days that they were unable to fly in and out of the airport. Should the Board decide on this alternative, refunds would total approximately \$16,086.00. There would also be a cost to the Placerville Airport Enterprise Fund for staff time to prepare and administer the refunds.”

In addition, as described above, all Airport uses were informed in their lease agreement that the Placerville Airport may be made available during war or other national emergency and that during such period the provisions of the lease are suspended to the extent they conflict with the use. Grant Assurance No. 24 also requires the County to maintain a fee and rental structure at the Placerville Airport that will make the airport as self-sustaining as possible. The Placerville Airport does not currently have a surplus of funds to pay for the proposed reimbursement and that would have to come from the General Fund. That is inconsistent with our requirements under Grant Assurance No. 24. For those reasons, staff is not recommending that reimbursement be made here.

### **10) Shouldn't said reimbursement element be part of the USFS agreement and settlement?**

Please see response to question #9 above as staff is not recommending the reimbursement. In addition, if the reimbursement were to occur, it would need to come directly from the General Fund and it is not an appropriate charge to be made on USFS.

\*\*\*\*As a reminder of previous Advisory Committee discussions, the Airports Division does not currently have a fuel flowage fee on the Fee Schedule. Therefore, it is not possible to retroactively charge a fuel flowage fee on the USFS. However, staff are currently working on an emergency use agreement to include fees related to emergency use and are investigating an appropriate fuel flowage fee rate, as applicable. These discussions will continue in the forthcoming Airports Advisory Committee meetings in consultation with County Counsel and in conjunction with appropriate FAA regulations.\*\*\*\*

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