

Talking Points

Francis Marion National Forest

Escaped Fire Vanilla Bay

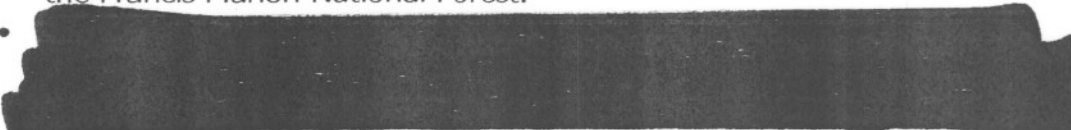
December 14, 2005
(For Internal Use Only)

Background: On March 5, 2004, Congressman Henry Brown conducted a prescribed burn on his South Carolina property. The fire escaped from his land onto the Francis Marion National Forest, burning 20 acres. Since then, a legal review of the case has been underway to determine what actions the agency should take to resolve this case and recover costs. Subsequent to the initial legal review, a violation notice was issued to Congressman Brown. These key messages outline agency actions and legal advice in regard to recovery of billable costs for suppression and damages.

Key Message 1:

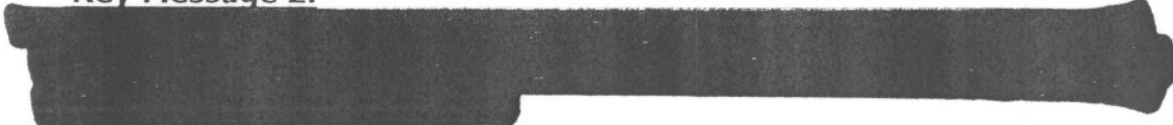
The Forest Service has issued a bill totaling \$4747 to Rep. Henry Brown, in an effort to recover costs for damages resulting from a fire, which escaped from his property and burned 20 acres of National Forest land.

Talking Points

- This bill follows a violation notice, which was issued to Congressman Brown last September for an escaped fire that burned 20 acres of land on the Francis Marion National Forest.
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- This bill for collection includes billable costs for suppressing the fire and damages to resources—in accordance with the agency's regulations and handbook.

(b)(5)


Key Message 2:



(b)(5)



Talking Points

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- There was, among other findings, a failure to utilize a backing fire and maintain due vigilance over perimeters of the fire. Thus, Mr. Brown is liable for all billable costs.

Key Message 3:

The Forest Service sought a legal review and opinion of this case before taking actions to ensure we consistently and fairly interpreted and applied policies on trespass fires. These legal opinions serve as the basis for actions to issue first a citation and finally a bill to recover costs.

Talking Points

- Based on current laws and regulations, the legal opinion outlines what items should be billed for cost recovery.
- The opinion also includes a thorough review of the investigation reports to ensure our actions take place in accordance with state laws, which differ in cases of trespass fires.

Key Message 4:

It is the agency's policy to seek recovery or repayment of costs of damages that result from trespass or escaped fires.

Talking Points:

- For each case, we take necessary time and effort to fully review cases and ensure consistency and fairness in establishing liability, interpreting and applying policy.
- All reviews and subsequent actions on these cases will take place within the legal statute of limitations of three years.

Billing for Trespass Fires
Francis Marion & Sumter National Forests

Chronology of Events

Not responsive

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

3/5/04 Vanilla Bay Fire (Congressman Brown) occurs (FMNF 20.6 acres). LEO investigates and consults w/AUSA, but no violation noticed issued.

3/15/04 [Redacted] (b)(5)

3/15/04 FMS NF letter clarifies process for collecting costs for suppressing trespass fires.

3/26/04 Brown contacted by J. Thomas & A. Sadler and told a VN would be issued.

4/21/04 Letter to Brown from Chief Bosworth stating the law requires a VN be issued. The letter goes on to say that he will discuss w/LE to determine if there is opportunity for discretion based on changed weather conditions.

9/04 Congressman Brown is issued and pays violation notice for allowing a fire to escape.

12/15/04 Letter to Brown from Mark Rey stating that we do not have any discretion in the civil process and those responsible for a fire must be billed for the costs.

- 1/28/05 Recommendation made to the Forest Supervisor on 58 fire related claims for the government based on evaluation by the FMS Trespass fire review team.
- 1/28/05 Cong. Brown issued bill by FMS for FS suppression costs of \$4747.
- 1/31/05 Brown submits a claim against the government in the amount of \$9040 for a wildfire that had occurred on NF land and spread to his land in 1989.
- 2/22/05 The claim was reviewed by OGC and denied because the statute of limitations (2 yrs) had run out.
- 4/12/05 FMSNF staff met with WO/RO claims personnel and R8 OGC to review 54 fire related claims for the government (same cases reviewed 1/05).
 - o [REDACTED]
 - o [REDACTED]
 - o [REDACTED]
 - o [REDACTED]
- 5/19/05 Bryant, Sadler, Crane and Wells met to review cases requiring further investigation. LE to provide additional information for these cases by 6/30/05. A 2nd request for LE to provide additional information was made on 10/14/05. No information has been received to date. [REDACTED]

(b)(5)
- 11/21/05 Lynn Mighton migrated 16 cases to ASC claims for billing.

The 1/28/05 bill for \$4747 issued to Congressman Brown has not been paid. This case was turned over to Janet Skeen, ASC Claims Branch Chief, for further action. To be prepared:

John Twiss - move on
 Krasner - get other bills out
 New players: John Twiss
 old players:
 Steve Bott
 Janet Skeen

a claims collection Litigation Report - Done
 review by Janet
 sent
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 OGC
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 [REDACTED]

The FMS currently has the following new cases that need to be processed:

- 2005: 11 cases
- 2006: 11 cases