

June 23, 2025

The Honorable Ben Bowman, Chair
House Committee on Rules
Oregon State Capitol
900 Court Street, NE
Salem, OR 97301

House Bill 3984 (-4 and -5 Amendments) – Opposition

Chair Bowman and Members of the Committee:

This testimony concerns the – 4 and – 5 Amendments to House Bill 3984. The – 4 and – 5 Amendments contain several provisions that concern PacifiCorp, but this testimony focuses on Section 1, subsection (2) (“Subsection 1(2)”), the tax liability provision.

– 5 Amendments

Subsection 1(2) generally would permit plaintiffs in certain wildfire litigation to file a motion for entry of a supplemental judgment “for any additional tax liabilities” that the plaintiff may owe on a final judgment in that litigation. As a result of the definitions of both “electric company” and the time limitation in Section 2, the additional tax liability provision would only apply to litigation involving PacifiCorp—specifically, litigation against PacifiCorp arising out of the Labor Day 2020 fires. Subsection 1(2) thus seeks to shift all potential tax liability arising out of a specific final judgment to PacifiCorp. In any similar circumstance or lawsuit, that shift would not occur. In effect, Subsection 1(2) would change existing substantive and procedural law only in specific ongoing litigation for the purpose of imposing additional (potentially significant) liability on a single defendant.

Subsection 1(2) is fundamentally flawed as both a legal and policy matter. First, it is special legislation and would violate Article IV, section 23, of the Oregon Constitution. As Legislative Counsel determined with respect to a similar provision in SB 926A, Subsection 1(2) would change “a judgment that has already been entered to provide for an additional money award in the amount of taxes owed,” and “there is a persuasive argument that it regulates the practice of courts” in violation of Article IV, section 23 “because such action “implicates one of the ‘formal steps’ in [an] action.” Put simply, retroactively changing the rules governing a single, ongoing

case for a single defendant—as Subsection 1(2) does—is inconsistent with the Oregon Constitution’s restriction on special legislation.

In addition, because it targets only PacifiCorp and imposes unique and special liability on PacifiCorp only (in a single case), Subsection 1(2) would also implicate several federal constitutional provisions. It is likely a bill of attainder that violates Article I, section 10, of the United States Constitution. It also retroactively changes the rules governing judgments for only a single defendant and only in certain wildfire litigation. The imposition of retroactive liability in those circumstances violates the Due Process Clause. For similar reasons, changing court processes in the middle of litigation to impose additional, unprecedented liability on one specific company would be inconsistent with the Equal Protection Clause and the principle that legislative distinctions must have some basis other than a discriminatory and punitive purpose.

Subsection 1(2) imposes a financial penalty on PacifiCorp because it continues to exercise its right to due process in the context of the *James* class action. Critically, however, PacifiCorp has not been the impediment to resolving those claims. To date, PacifiCorp has worked with nearly a dozen law firms to settle over 1,000 claims associated with the Slater, Archie Creek, Two-Four-Two, Obenchain, Echo Mountain Complex and Beachie Creek Fires. Over 400 of the claims that PacifiCorp has resolved relate to the Echo Mountain Complex Fire alone.

In addition, on March 19, 2025, the State of Oregon’s own fire expert, the Oregon Department of Forestry (ODF), acting on behalf of the State of Oregon, released its official investigation of the 2020 Santiam Canyon fire, concluding that utility-caused spot fires in the canyon were promptly suppressed and did not contribute to the spread of large fires in the Santiam Canyon. The attached ODF report narrative (Section A) supports PacifiCorp’s longstanding assertion that electrical equipment was not the cause of widespread property damage in the Santiam Canyon during the 2020 wildfires. According to the ODF’s findings, all identified ignitions potentially linked to electrical equipment were promptly suppressed by local residents and/or local municipal fire departments. The Santiam Canyon fire represents the majority of plaintiffs in the ongoing *James* class litigation, which is the litigation that HB 3984 seeks to affect midway through the litigation and appeal process. Subsection 1(2) seeks to punish PacifiCorp notwithstanding those facts.

Subsection 1(2) is also flawed as a policy and practical matter. The tax liability provision envisions a process by which the plaintiff will seek a court determination of what the plaintiff’s tax liability presently is, and what the plaintiff’s tax liability would have been, at two points in time. The problems with that process are swiftly apparent. Taxes are rarely a simple mathematical matter. Subsection 1(2) would require the trial court and the parties (with the possible assistance of experts, accountants, or other professionals) to wade into a morass of potentially complex tax provisions and assumptions to calculate actual and hypothetical tax liability. Subsection 1(2) would apply to any plaintiff—including corporations, other entities,

and owners of large income-producing properties. Determining federal and state tax liability for every plaintiff based on various scenarios, deductions, assumptions, and otherwise—all given the shifting landscape of federal tax policy—would be a time- and resource-intensive process, would potentially result in inconsistent outcomes, and would exhaust the court system and the parties to the exclusion of other priorities.

– 4 Amendments

The - 4 Amendments suffer from similar problems outlined above and introduces new ones. First, although the - 4 Amendments include both PacifiCorp and PGE (as both are an “electric company” defined in Section 1), the definition is still targeted in a way that changes the substantive and procedural law for only a class of two defendants. It is still special legislation in violation of the Oregon Constitution. And it still singles out only certain electric companies in ways that implicate federal constitutional protections.

In addition, the – 4 amendments suffer from additional flaws. First, the tax liability is much broader and fatally ambiguous. It would apply to “any taxes” that a plaintiff “owes” (not actually paid) on any “other recovery” “in relation to “the civil action or allegations.” This expansive text would conceivably apply to any recovery from anyone based on any “allegations”—insurers, other responsible parties, or anyone else. This provision would be a sea change with significant implications, introducing all types of costly disputes over what tax liability can be shifted to electric companies, when, and in what amounts. Must a plaintiff simply allege that they might owe taxes in the future? Can the motion be filed in any civil action, even if the payment occurs at a different time from a different source? What is “other recovery” and when is it “in relation to” a civil action or “allegations”? How will taxes “owed” on a settlement be determined? The – 4 amendments deepen the morass that Subsection 1(2) creates because it would disincentivize settlement of cases.

The Negative Impacts of the Amendments on Oregonians

Finally, the – 5 and – 4 Amendments demonstrate an approach to wildfire litigation and mitigation that will negatively impact PacifiCorp’s (and other electric companies’) ability provide safe and reliable electric service to Oregonians. PacifiCorp’s capacity to provide its customers reliable energy and to invest in the community and environment depends on its ability to raise capital and attract investment. Legislation that singles out electric companies for the punitive purpose of imposing unprecedented additional liability impairs economic development and the ability to take needed steps for future wildfire mitigation.

This is a real and present concern. The potential outcome associated with these provisions means that PacifiCorp is actively considering contingency measures, including, but not limited to, indefinite suspension of substation upgrades and new construction, asset replacement, new

customer connections over 1 megawatt, transmission reconductoring, transmission development and system hardening. The company's entire Oregon service territory may be impacted, but particularly Central Oregon due to a substantial need for investment resulting from a 40% increase in summer peak load since 2021.

The risks associated with catastrophic wildfires require a systematic and reasonable policy approach. Imposing additional costs on a single electric company undermines investment, destroys opportunities for economic development, raises the cost of capital necessary to protect the electric grid against wildfires, and ultimately results in higher rates for Oregon customers. The policy reflected in Subsection 1(2) is the opposite of what is needed at this critical time.

PacifiCorp supports taking reasonable steps to mitigate the present and future risks associated with wildfires and to provide meaningful, fair compensation—consistent with constitutional guarantees and fair processes—to persons affected by catastrophic wildfires. Unfortunately, for the reasons outlined above, Subsection 1(2) is fundamentally inconsistent with those goals.

Please contact Annette Price at 971-284-6996, Elizabeth Howe at 503-910-3270 or Shawn Miller at 503-551-7738 if you have questions.

Section A

Report Narrative

Incident Investigation Report

For all STATISTICAL INCIDENTS that MEET OR EXCEED \$10,000 in *estimated* suppression cost, have reportable injuries or fatalities, or potential claims against the agency.

The Oregon Department of Forestry reserves the right to revise this report if additional information or facts are brought to the attention of investigators.

Incident Synopsis

The Santiam Canyon, located within the protection boundaries of the North Cascade District of the Oregon Department of Forestry (ODF), was impacted by fire on September 7 and 8, 2020. On these dates there was an extreme wind event affecting the Santiam Canyon. **(Section B, Pg. B3 Protection Boundary Map)**

The Beachie Creek Fire was discovered on August 16, 2020, at 11:18 AM burning in the Willamette National Forest, Detroit Ranger District, Marion County, Oregon. This location is within the Opal Creek Wilderness. The size was estimated at 10 acres. **(Section F, Pg. F54 Incident Status Summary (ICS209) 08/21/2020)** ODF did not investigate the Beachie Creek Fire because the United States Forest Service (USFS) was the authority having jurisdiction (AHJ).

ODF investigators did not conduct any investigations in the Santiam Canyon until September 14, 2020. While onsite at the Gates Incident Command Post (ICP), investigators were informed of reports of other ignitions throughout the canyon. The reported ignitions were within ODF protection boundaries. **(Section B, Pg. B3 Protection Boundary Map)** At that time they were unaware of the information in the Northwest Incident Management Team 13 (NWIMT13) press release (below):

“...Originally named the Beachie Creek fire, it has been renamed the Santiam Fire acknowledging that the Beachie Creek Fire no longer was the main cause of rapid fire growth and was instead fed by a series of small fires largely caused by downed power lines and other ignition sources throughout the area”. **(Section F, Pg. F59 USFS press release 09/09/2020)**

Part of the ODF investigation was to determine where fires started, and the cause of ignition associated with those fires. Multiple fires were suppressed by rural fire protection districts (RFPD), that were reported by USFS as having been caused by power lines.

“...Fire managers have now determined that at least 13 new fires were started between Detroit and Mehama from downed powerlines during the peak of Monday’s wind event and then on Tuesday a large front of wind-driven fire ran through the city of Detroit from the east.” **(Section F, Pg. F60 USFS press release 09/10/2020)**

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ODF investigators did not find any evidence that reported powerline ignitions had contributed to the overall spread of the fire in the Santiam Canyon.

ODF's investigation was impeded and delayed because the USFS would not allow their employees to be interviewed by ODF. The investigators were only provided with written statements from USFS employees (the last of which was received in July 2024), and the investigators were not allowed to interview them in person.

ODF was unable to analyze electrical equipment and powerline hardware in the Gates/Mill City area. This was due to PacifiCorp and their contract crews work of repairing and restoring power, including the removal of damaged electrical equipment. The specific items and quantity of hardware removed is unknown; the potential evidentiary value of this equipment is unknown as well.

Additionally due to the fires spread of over 190,000 acres, and the unprecedented wind event that occurred, finding reliable witness accounts of potential origin areas and determining the cause, was time consuming and laborious. The investigation team reviewed thousands of pages of documents and conducted over 180 interviews with 105 witnesses.

The spread of the fires through the Santiam Canyon was primarily affected by the east wind event which occurred on the evening of September 7th and morning of September 8th, 2020. Over 1,500 structures were damaged or destroyed, and 4 lives were lost in the fire.

The final acreage of the Santiam Canyon Fires was estimated at over 193,000 acres.

Fire Weather Information

The fire weather conditions for the North Cascades District (NCAS) were warm and dry. Fire season for NCAS was in effect **(Section F, Pg. F42, Declaration of Fire Season)**, and the fire danger rating forecast for that area on September 7 was very high for Fire Danger Rating Area 606 and 608. **(Section F, Pg. F96, National Fire Danger Rating System)** There was a red flag warning for strong east winds and low relative humidity issued by National Weather Service (NWS). **(Section F, Pg. F97, Fire Weather Planning Forecast)**

Weather Information is from the closest weather stations: Boulder Creek Remote Automated Weather Station (RAWS) and Jordan RAWS. The Boulder Creek RAWS station is located 4 miles ENE of Idanha, OR, and is situated at 3750 feet elevation. The Jordan RAWS station is located 10.7 miles WSW of Mill City and is situated at an elevation of 738 ft. It would be more representative of the weather conditions in the Gates/Mill City area on the night of September 7th and morning of the 8th, 2020. **(Section B, Pg. B1, Weather Station Locations Map)**

The Beachie Creek Fire was burning northeast of the Santiam Canyon, prior to the historic east winds event of September 7, 2020.

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On Wednesday, September 9, 2020, the Santiam Fire Update provided by the NWIMT13 states that “originally listed at 469 acres, the fire has grown overnight to over 131,000 acres driven by high winds and extremely dry fuels”. **(Section F, Pg. F59 USFS press release 09/09/2020)** Please note that on September 10, 2020, the NWIMT13 updated the name of the fire back to Beachie Creek Fire. **(Section F, Pg. F60 USFS press release 09/10/2020)**

According to the Collective Timeline prepared by Team 13, “Winds were fairly steady at 20-30 mph, with one gust that fire personnel thought might be closer to 50. Jordan Valley RAWS station in the local area recorded winds up to 39.” **(Section F, Pg. F77, USFS Collective Timeline)**

According to InciWeb information about the Beachie Creek Fire which was downloaded on March 25, 2022, “The unique wind event on September 7th created an extreme environment in which the fire was able to accelerate. The winds were 50-75 miles per hour, and the fire growth rate was about 2.77 acres per second in areas of the Beachie Creek fire. This allowed the fire to reach over 130,000 acres in one night”. **(Section F, Pg F80 InciWeb Information Incident Overview)**

The peak gust weather readings for the Boulder Creek RAWS on September 8, 2020 at 01:00 am.

Boulder Creek (RAWS)

Temp:59°
RH(low):.....15%
Wind:9-G32
Wind Dir:....NE

(Section F, Pg. F104-106 RAWS)

The peak gust weather readings for the Jordan RAWS on September 7, 2020 at 11:00 pm.

Jordan (RAWS)

Temp:72°
RH:12%
Wind:22-G39
Wind Dir:....E

(Section F, Pg. F107-109 RAWS)

ODF Fire Fighter Observations

No official on-site weather observations were reported to have been taken during the initial attack of the fire, however, several ODF fire personnel were on site and have shared their observations of the weather and fire environment, as recapped below:

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From Little North Fork Canyon the following observations were made while the fire was advancing:

- Eric Perkins (**Section E, Pg. E2, Perkins ODF Interview**)
 - Strong winds
 - Trees down on the road
 - 10:00pm - softball sized embers
 - Ember shower above tree level
 - ...the first powerline we saw wasn't until Elkhorn substation. There was not fire there. Never saw an arc or spark.
- Scott West (**Section E, Pgs. E4, E5,& E7, West ODF Interview**)
 - Debris flying across the road
 - No fire coming over the ridge to Gates, OR
 - Trees in the road
 - Slow road travel 20-25 mph
 - Debris was hitting the top of the truck
 - "Don said, 'man this is spooky', it felt like we were in hyper-speed with the stuff coming at us and the smoke and stuff. Wind was blowing and stuff was coming down"
 - Did not observe any arcing of powerlines

From Potato Hill the following observations were made on the night of September 7, 2020:

- Scott West (**Section H, Video 20200907_222759**)
 - Shared video which shows active fire, strong winds and ember showers
- Levi Hopkins (**Section E, Pg. E9, Hopkins ODF Interview**) and (**Section H, Video HopkinsIMG-0811, HopkinsIMG-0814, and HopkinsIMG-0815**)
 - Trying to get to Potato Hill and there were trees blocking the way
 - There were fire brands and ember casts in the field area northwest of Potato Hill causing spot fires
 - Shared video from HopkinsIMG-0811 and HopkinsIMG-0814 showed high winds, embers and a spot fire
 - Video HopkinsIMG-0815 was taken while driving north on Mad Creek Road and showed wind blowing embers across the road

From Horse Camp the following observations were made on the night of September 7, 2020:

- Don Everingham (**Section E, Pg. E11, Everingham ODF Interview**)
 - After 10:00 pm arrived at Horse Camp
 - Saw ten small unstuffed fires on both sides of the road driving back to Gates, OR
 - Unknown cause of the fires
- Scott West (**Section E, Pg. E6, West ODF Interview**)
 - Had to get out of the truck to get debris out of the road

From Gates ICP the following observations were made on the night of September 7, 2020:

- Don Everingham (**Section E, Pg. E11, Everingham ODF Interview**)
 - Hotshots (firefighters) were putting out spot fires

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- Power lines were down in the area

Fire Behavior Modeling

Fire Behavior Analyst (FBAN) Boone Zimmerlee, ODF

“Beachie Creek fire started Aug 16, 2020. The fire remained on the landscape with little growth until September 8, 2020 when a significant weather event impacted the geographic region and brought unseasonable high temps, low RH's and strong east winds. This weather event with high temps and strong east winds that enhanced the spread was being referred to as a 1 in 50 to a 1 in 100-year event. The weather event, combined with the dry available fuels and terrain that aligned with the winds, resulted in erratic and extreme fire behavior with rapid rates of spread to the west.

Attempting to model the fire behavior using current readily available modeling programs is possible but has limits in accuracy and reliability. Accuracy in the models decline as weather input parameters reach extremes. These models were designed under peak normal fire season conditions and not 1 in 50 to 100-year events.

Rothermel's surface fire spread equation is the basis for fire modeling in readily available modeling programs. Rothermel indicated that the accuracy of his spread model output, given average season conditions, is somewhere between .5 and 2 times the observed behavior. This difference between outputs and observed behavior, alone can be seen as wide range when predicting fire behavior. With respect to the Beachie Creek fire, much of the observed spread rates when compared to modeled fire exceeded the .5-2 times range of accuracy by multiple magnitudes and emphasizes the decreased accuracy and increased error due to the extreme weather parameter inputs.

While a map can be created that could reasonably match the final perimeter, however the observed fire behavior including the source(s) of the fire spread that led to the final perimeter are not likely to be accurately reflected or represented. This is largely due to limitations within the models (surface, crown, and spotting) and their ability to handle the extremities of the weather input parameters.

These limitations are further compounded by the models in-ability to account for external influences such as stability in the atmosphere (convective lift), influences and interaction of multiple fires caused by spots and other sources, and the unpredictable nature of when and where new fires are/were started by spots and other causes. Modeling produced under these extreme weather conditions and without accounting for external influences would produce results that would be considered unreliable.” **(Section F, Pg. F51, Santiam Fires FBAN Report)**

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Version 2005

Scene Protection

Due to the size of the impacted area and numerous reports of ignition sites; scene protection was not feasible.

Investigation Narrative

ODF is authorized, by Oregon Revised Statute (ORS) chapter 477, to investigate all fires that originate on ODF protected land. This authority requires that ODF investigates to determine origin, cause and responsible party. The Beachie Creek Fire initially was not in the jurisdiction of ODF. The original reports coming from USFS were that the cause of ignition was lightning strikes in Opal Creek Wilderness. Due to the unprecedented Labor Day Fire events, emerging reports of new ignitions, and with the complexity of the incidents; ODF determined that it was necessary to begin investigating reported ignitions in the Santiam Canyon. The historic number of fires burning at the same time throughout Oregon put a tremendous strain on the ODF resources and contributed to a delay in investigative response.

The Executive Summary of Team 13, covering September 4 through September 16, 2020, states that "a significant East wind event occurred causing numerous new fire starts in the Highway 22 corridor, many of these fires are believed to be caused by downed power lines". **(Section F, Pg. F62 USFS Executive Summary)** ODF made two Freedom of Information Act (FOIA) requests to the USFS, on December 17, 2022 and September 6, 2024. The requests asked, "for all investigative reports, memoranda of interviews and other documents related to the USFS investigation of the Beachie Creek Fire that started on or about August 16, 2020 in the Opal Creek wilderness and spread though the Santiam Canyon, Oregon, on or about September 7 and 8, 2020". On November 26, 2024, the USFS released a redacted Report of Investigation of the Beachie Creek Fire, which was dated on April 20, 2023.

ODF was prevented from conducting face to face interviews of USFS employees, who were direct witnesses to the Beachie Creek Fire. The USFS only provided written answers from eight USFS employees. ODF investigators were unable to ask follow-up questions of these employees.

The Beachie Creek Fire was discovered on August 16, 2020, at 11:18 AM burning in the Willamette National Forest, Detroit Ranger District, Marion County, Oregon. The fire was reported by the Coffin Mountain Lookout. The fire was burning approximately 2 miles south of Jawbone Flats. The specific latitude and longitude listed on the official USFS Incident Status Summary (ICS209) as Latitude 44°49'16" N, Longitude 122°11'17" W. This location, according to the USFS, is within the Opal Creek Wilderness. Further it was reported to be burning in heavy timber on steep slopes. The size was estimated at 10 acres. **(Section F, Pg. F55 ICS209 08/21/2020)**

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A team of ODF investigators were first mobilized to the Santiam Canyon on Monday, September 14, 2020. They were asked to respond to the ODF incident command post at the Department of Public Safety Standards and Training (DPSST) facility in Aumsville, OR for assignment to the fire at Gates School.

While onsite at the Gates School, investigators were informed of reports of other ignitions throughout the canyon. The span of the investigation was expanded to determine which, if any, of the reported ignitions, investigated by ODF, contributed to the fire that burned through the Santiam Canyon. A number of reported ignitions were investigated by ODF.

Investigation of Reported Ignitions

The information summarized below is inclusive of ignitions that were discovered during the investigative process. The information compiled by ODF came from 911 calls, PacifiCorp customer call records and statements from local residents and responding fire department personnel.

9/07/2020:

1. 6:52 pm - 11006 WinStanley Rd. SE, Lyons OR - The transformer blew and the debris burning on the ground under the power lines. Reported fire suppressed by locals. The investigation concluded that this fire did not contribute to the fire that burned through the Santiam Canyon. **(Section F, Pg. F84-86, National Fire Incident Reporting System (NFIRS) 770 Stayton FD)**
2. 7:04 pm - 11263 Fir Grove Ln. NE, Stayton OR - This was a separate fire caused by a branch blown into a power line and then off the power line and into the field to the west. The fire was reported originally at 11263 Fir Grove Lane, ODF and local municipal fire departments responded to the location and contained the fire at approximately 3-5 acres. This fire scene was examined by ODF investigators. The investigation concluded that this fire did not contribute to the fire that burned through the Santiam Canyon. **(Section F, Pg. F87-89, NFIRS 771 Stayton FD)**
3. 8:37 pm - 51330 Gates Bridge East, Gates OR - A tree branch broke off, fell into a powerline causing arcing, which ignited the grass under the powerline. The fire was suppressed by the Gates RFPD. The investigation concluded that this fire did not contribute to the fire that burned through the Santiam Canyon. **(Section F, Pg. F31-36, METCOM CFS 5548)**
4. 9:09 pm - Hwy 22 near MP35 and the vicinity of Schroeder Rd., Gates OR - Laura Whitaker saw branches blocking highway, no fire, but sparking on pole. There was also a reported ignition that was examined by ODF investigators, by observation they were able to locate a section of power line near milepost 35 on Hwy 22 which showed signs of recent repair. However, they were not able to locate any evidence of an ignition

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below where the line had been repaired. The entire area surrounding this location was burned. The investigation concluded that this incident probably did not contribute to the fire that burned through the Santiam Canyon. **(Section E, Pg. E13, Whitaker interview)** and **(Section F, Pg. F37-39, METCOM CFS 5562)**

5. 9:20 pm - Potato Hill 39969 Mad Creek Rd., Gates OR - This ignition occurred in a recently harvested timber sale unit on Potato Hill. **(Section F, Pg. F43-50, Notification of Operations/Permit to Operate Power-Driven Machinery (NOAP 2017-582-12382C/P200 Timber Sale-ODF))** There was no active logging operation at the time of the fire. There are no power lines within the timber sale unit, and there is no road access to the origin area, this makes it probable that the fire was started by fire brands from the fire that burned through the Santiam Canyon. Randy Walker stated that there were embers falling out of the air, but they were not from the fire on Potato Hill as the wind was blowing toward the west, away from their house. This fire was never suppressed due to the inability of fire apparatus to reach the fire. **(Section E, Pg. E14, Walker interview)**
6. 9:30 pm - 157 Dogwood Dr., Gates OR - Chris Grom, service drop pulled off house, saw arcing, but no fire. The investigation concluded that this fire did not contribute to the fire that burned through the Santiam Canyon. **(Section E, Pg. E15, Grom interview)**
7. 9:49 pm - "Old" Gates School (occupied by Upward Bound Inc.) 40151 Gates School Rd., Gates OR **(Section F, Pg. F90-95, NFRS 2020-176 Mill City FD)** - Brian Gales was the IC for the fire on September 7th. The ICP was located in the field next to the Gates School, Gales stated "He watched a branch from a tree along the perimeter fence fall onto powerlines causing fire along the fence." **(Section E, Pg. E16, Gales interview)** Prior to their evacuation, USFS initially assisted the local municipal fire departments in suppressing the fire. Volunteer fire fighter Breen stated that "at this point the fire at the school grounds was nearly out and seemed well under control... No other structures or equipment at the school had burned as far as I could tell. The only damage I saw inside the school fence was burned grass" and in another statement, "that he was unaware of any other powerline ignitions other than Gates School." **(Section E, Pg. E17, Breen statement and E21, Breen interview)** In an interview with Mill City Fire Chief, Leland Ohrt, he told investigators that "After a time, his department and others fighting the fire brought it under control. The only thing that had burned was grass. When he left there was no active fire and no buildings or tents had been lost. Several hours later he was driving a tanker by the location as the main fire advanced on the town of Gates. That is when the buildings and the tent city burned. **(Section E, Pg. E22, Ohrt interview)** The investigation concluded that this fire did not contribute to the fire that burned through the Santiam Canyon.
8. 10:00 pm - 33733 Railroad Ave., Gates OR - Shannon Stevens saw and heard transformers "blow", saw a fire at the base of a neighbor's pole, she suppressed it, no other reports of fire at that location. The investigation concluded that this fire did not

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contribute to the fire that burned through the Santiam Canyon. **(Section E, Pg. E23, S. Stevens interview)**

9. 10:59 pm - 39781 SE 4th St., Mill City OR - Michelle Sisk reports fire in field to the north of the house, no powerlines in the area. ODF investigators went onsite and confirmed the field had burned but was not contiguous to other fires. The investigators determined that the probable cause was fire brands from the fire that burned through the Santiam Canyon. **(Section E, Pg. E24, Sisk interview)**
10. 11:00 pm - 49925 Kingwood Ave., Mill City OR - This location is just west of the Fairview cemetery. The fire was northeast of the house burning in grass, brush and an old apple orchard. There were no power lines in the vicinity of this fire. The investigators determined that the probable cause was fire brands from the Beachie Creek Fire. This fire was suppressed by Engine 796 from the Mill City Fire Department, which responded to this fire from the Gates School. The investigation concluded that this fire did not contribute to the fire that burned through the Santiam Canyon. **(Section E, Pg. E17, Breen statement)**
11. 11:13 pm - 1090 SW Alder St., Mill City OR - Dane Briock reported numerous spot fires to the south of his house, but no power lines in the vicinity. This was the first of two calls reporting a fire at or near this location. The investigators determined that the probable cause was fire brands from the fire that burned through the Santiam Canyon. **(Section E, Pg. E25, Briock interview)**
12. 11:30 pm - 33613 Railroad Ave., Gates OR - Judy Cram left at 11:30 PM. Power was on when she left. She did not see any fire in the neighborhood when she left. Mount Horeb, 3 miles north of her property, was on fire when she was leaving. **(Section E, Pg. E26, Cram interview)**
13. 11:32 pm - SE Alder St./Hwy 22, Gates OR - While conducting witness interviews, ODF investigators were talking with Nate Acuff, onsite, when he pointed to a spot east of Kelly's lumber, and stated that was where he saw a fire, with no power lines near it. The fire was on the north side of the highway. The investigators determined that the probable cause was fire brands from the fire that burned through the Santiam Canyon. **(Section E, Pg. E27, Acuff interview)**
14. No ignition reported to METCOM 911 - 880 N Santiam Hwy W, Gates OR - Interview with resident Hunter Stroud who stayed to protect his home and identified the fire as coming down the hill from the north. The investigation concluded that this incident did not contribute to the fire that burned through the Santiam Canyon. **(Section E, Pg. E28, Stroud interview)**
15. No ignition reported to METCOM 911 - 814 N Santiam Hwy W, Gates OR - The investigation revealed that Billy Edge had witnessed arcing lines along the highway but

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no ground fire. The investigation concluded that this incident did not contribute to the fire that burned through the Santiam Canyon. **(Section E, Pg. E29, Edge interview)**

16. No ignition reported to METCOM 911 - 770 NW Alder St., Mill City OR - Michael Barnhurst reported a fire at the base of a pole, when a fuse blew on a pole near his house, neighbors suppressed the fire. The investigation concluded that this incident did not contribute to the fire that burned through the Santiam Canyon. **(Section E, Pg. E30, Barnhurst interview)**

09/08/2020:

17. 4:00 am - Mad Hatter - Mad Hatter was an active timber sale which was occurring southeast of Gates, OR. ODF investigators interviewed a member of the logging crew that was camping at the timber sale area on September 7th, 2020. He told them that when they went to bed, they could see the fire in Gates to the west of their location. They did not see any fire to the east or south of their location. He told investigators that they were awakened at approximately 4:00 AM on the 8th with fire coming over the ridge from the east which forced them to evacuate their trailers and equipment from the timber sale area. The investigators determined that the probable cause was fire brands from the fire that burned through the Santiam Canyon. **(Section E, Pg. E31, King interview)**
18. 4:07 am - Gates School Bus Barn - Mill City Fire was dispatched to a fire burning at the bus barn. All the power in Gates had been out since 12:09:35 am, when PacifiCorp de-energized the entire town. The investigators determined that the probable cause was fire brands from the fire that burned through the Santiam Canyon. **(Section E, Pg. E32, Mill City Fire interview)** and **(Section F, Pg. F112, PacifiCorp Fusesaver Data document line 66)**
19. 8:00 am - Mount Horeb Baptist Church, Gates OR - Firemen at Mill City Fire responded to a fire at the church and reported spot fires around this time period going from building to building. All the power in Gates had been out since 12:09:35 am, when PacifiCorp de-energized the entire town. The investigators determined that the probable cause was fire brands from the fire that burned through the Santiam Canyon. **(Section E, Pg. E32, Mill City Fire interview)** and **(Section F, Pg. F112, PacifiCorp Fusesaver Data document line 66)**

Interviews

- Residents
- Oregon State Fire Marshall (OSFM)
- Oregon State Police (OSP)
- Oregon Department of Transportation (ODOT)
- ODF
- United States Fish and Wildlife Services

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- Bureau of Land Management
- National Oceanic and Atmospheric Administration
- Local Fire Department personnel

Documents and other resources reviewed

- NFIRS
- ICS 214 (unit log)
- ICS 209
- Incident Action Plan (IAP)
- OSP video
- National Weather Service reports
- Electrical utility documents
- Trial transcripts – James, et al v. PacifiCorp
- Deposition transcripts and exhibits
- Evidence analysis
- Hosting evidence exams
- FOIA requests
- Team 13 Executive Summary
- Team 13 incident press releases
- METCOM 911 dispatch logs
- National Aeronautics and Space Administration (NASA) satellite sensors
- Google Earth
- USFS employee questionnaire
- Press reports

OSP Dashcam Videos

An investigator with law enforcement telecommunications system security clearance was allowed to review dashcam videos from the OSP units that were in the Santiam Canyon area on the night of the 7th and the morning of the 8th of September, 2020. Over 135 individual segments of dashcam video were reviewed. These recordings varied in length from several minutes to over an hour.

The purpose of the review was to determine if there was any evidence of downed or arcing power lines on any of the recordings. The investigator was not allowed to take any screen shots from the OSP videos.

Only one video showed any possible arcing power lines. That video showed OSP officer(s) directing traffic in front of Kelly Lumber Sales on Hwy 22 in Mill City. Kelly Lumber Sales is located on the north side of Hwy 22. In a Google Maps photo from May of 2018 a power line service drop can be seen stretching from a transformer pole on the south side of Hwy 22 to a service entrance head on the west side of the Kelly Lumber Sales building. In the OSP video

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south bound evacuating civilian vehicles are driving over something which the investigator presumed to be the downed service drop cable. At the time there is clearly already fire well established in the Kelly Lumber Sales building which could have caused the cable to fail, falling onto the roadway. All of the arcing observed was underneath the vehicles and confined to the roadway, not impacting any wildland fuels.

Findings

1. The ignitions in the Santiam Canyon, described above, occurred within the Protection Boundary of the NCAS of ODF. **(Section B, Pg. B3, Protection Boundary Map)**
2. These ignitions originated during declared fire season. **(Section F, Pg. F42, Declaration of Fire Season)**
3. These ignitions originated during declared public regulated use restrictions. **(Section F, Pg. F52-53, Regulated Closure Proclamation)**
4. The area in the Santiam Canyon, where these ignitions occurred, was at very high fire danger level. **(Section F, Pg. F96, NFDR)**
5. The NCAS was in Industrial Fire Precaution Level (IFPL) 3. **(Section F, Pg. F40-41, IFPL 3 Closedown Order)**
6. The power to Gates, OR was completely de-energized at 12:09:35 am on September 8, 2020. **(Section F, Pg. F112, PacifiCorp Fusesaver Data document line 66)**
7. ODF investigators determined seven of the reported ignitions in the Santiam Canyon were caused by powerlines but did not contribute to the spread of the fire in the Santiam Canyon. (Old Gates School, Fir Grove Lane, Schroeder Rd, WinStanley Rd., 51330 Gates Bridge East, 33733 Railroad Ave, 770 NW Alder St).
8. The investigators determined that the remaining ignitions were probably caused by fire brands from the fire in the Santiam Canyon.
9. ODF investigators found no evidence of powerline ignitions contributing to the spread of the fire in the Santiam Canyon.
10. The Beachie Creek Fire originated on property under the jurisdiction of USFS. **(Section F, Pg. F55, ICS209 08/21/2020)**
11. The USFS determined that the Beachie Creek Fire originated at Latitude 44°49'16" W, Longitude 122°11'17" N, also referenced as the legal description of NE ¼ of the

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SW ¼ of Section 3, T9S, R5E, Willamette Meridian. **(Section F, Pg. F55 ICS209 08/21/2020)**

12. The fire in the Santiam Canyon burned property of numerous landowners.
13. The Beachie Creek Fire was first reported by the Coffin Mountain Lookout to the Eugene Interagency Dispatch Center (EICC) at 11:18 hours on August 16, 2020. **(Section F, Pg. F1, EICC WildCAD (Computer Aided Dispatch) Incident Card)**
14. Lightning strike reports for the period prior to the detection of these ignitions document that there was no lightning detected within a 30-day period, prior to these ignitions. **(Section B, Pg. B5, Lightning Map)**
15. ODF made two FOIA requests to the USFS, on December 17, 2022 and September 6, 2024. The requests asked, “for all investigative reports, memoranda of interviews and other documents related to the USFS investigation of the Beachie Creek Fire that started on or about August 16, 2020 in the Opal Creek wilderness and spread though the Santiam Canyon, Oregon on or about September 7 and 8, 2020”. On November 26, 2024, the USFS released a redacted Report of Investigation of the Beachie Creek Fire, which was dated on April 20, 2023.

The investigation found no evidence that these general human causes were a factor in the spread of the fire in the Santiam Canyon:

- Arson
- Debris and open burning
- Equipment and vehicle
- Firearms and explosives use
- Fireworks
- Misuse of fire by a minor
- Power generation/transmission/distribution
- Railroad operations and maintenance
- Recreation and ceremony (including campfires)
- Smoking
- Other causes
 - Spontaneous combustion
 - Electric fences
 - Glass refraction – reflection/magnification
 - Structures

The ODF investigation found no evidence that these natural causes were a factor in the spread of the fire in the Santiam Canyon:

- Lightning
- Volcano

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- Meteorite
- Coal seam

Conclusion

There were wildland fire starts caused by down powerlines in the Gates and Mill City area. All of these ignitions, which were investigated, were suppressed by local residents and/or local municipal fire departments. No evidence was found that these powerline ignitions significantly contributed to the spread of the fire in the Santiam Canyon.

There were other ignitions in areas where no roads or powerlines were present. The most probable explanation for these ignitions is spot fires from the main Beachie Creek Fire, which was burning upwind of the ignitions in the Santiam Canyon.

With a megafire fire, such as those that occurred prior to and through Labor Day weekend 2020, the rising heat and gases can create a large convection column that may carry fire brands away from the fire and start spot fires. A spot fire is a fire that is ignited outside the perimeter of the main fire by a fire brand. These fire brands can be carried miles away by strong winds. According to NWCG's publication:

"Short-Range Spotting is not generally considered as significant in the growth of wildfires, because the advancing fire usually overruns the developing spot fire. Based on that, the assumption is that short-range spotting is typically accounted for in the spread model outputs. Long-Range Spotting is differentiated from short-range spotting, primarily because firebrands are being lofted by a convection column and carried beyond the immediate fire area."

(Section G, Pg G1, National Wildfire Coordinating Group (NWCG) Printed Material Section (PMS) 437)

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Interviews

- ☒ Witness Statements
☐ Investigative Depositions
☐ Voluntary Statements
☒ Recorded Statements: ☒ Audio ☐ Video
☐ Records by Subpoena/Warrant:

Document Index

- ☐ Investigator's activity chronology
☒ Status of notes ☐ Destroyed ☒ Stored by investigation team
☐ ODF Supplemental Report(s)
☒ Other Agency Reports (pending USFS report)
☒ Photo Logs and Photo Exhibits
☒ Sketches and Diagrams
☒ Lightning Maps and Data
☒ Weather Reports
☒ Dispatch Log
☐ Record of Fire
☒ Permits/Notices/Waivers
☐ Autopsy or Blood Analysis
☐ Uniform Citations
☐ Other:

Further Action

Disposition: ☒ Closed ☐ Ongoing ☐ Re-opened

Recommended Investigative follow-up Action:
None

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Signature: _____

Date:

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