

Memo

Date: October 24, 2012
To: County Council
From: Kevin Callahan, Public Works Director
Subject: Appeal of Fire Recovery Cost for July 4 Echo Canyon Fire

Background

Wildland fire is identified as among the most significant natural hazards facing Summit County in the adopted Mountainlands Hazard Mitigation Plan. That assessment was especially true this year with over 120 wildland fires to date within the County. Recognizing this danger, Summit County was proactive in adopting Ordinance 773 in June prohibiting fireworks and open fires for the fire season (until October 31st). The County also updated its cost recovery procedure in Chapter 4 of the County code governing Emergency Services. The new procedure notes that where liability can be established the County Manager shall notify the responsible parties to recover the costs of suppressing the wildland fire.

On July 26th, the County Manager notified Mr. Robert Lund of his responsibility to repay the County \$3,000 incurred in fighting a fire. That letter and Mr. Lund's response as well as the reports from the County Sheriff and County Fire Warden are attached. The reports by two Sheriff Officers indicate that Mr. Lund's son had been responsible for starting the fire in violation of county ordinance prohibiting the use of fireworks. The County Fire Warden's report indicates that the fire consumed about 2.5 acres and cost an estimated \$3,800 to suppress.

In his letter of response, Mr. Lund asserts he is not responsible for repayment of the costs associated with fire suppression for the following reasons:

- Although his son admitted to lighting fireworks, other individuals in the area at the time could have also started the fire;
- He was unaware that his son possessed a firework or that he had the disposition or means to use it;
- He disputes the assertion that the fire took four hours to extinguish and cost \$3,000 because not everyone who was dispatched to the scene participated in the fire suppression effort; and
- Finally under common law he asserts that a parent cannot be held accountable for the negligence of their children.

The reports by Deputy Forman and Sergeant Hemingway note that in an interview between Tyler Lund and Sergeant Hemingway, Tyler Lund (Robert Lund's son) admitted to lighting fireworks and starting the fire. In that same report it is noted that Sergeant Hemingway noted that he recovered firework remnants where the Lund vehicle had been parked. In staff's view, this evidence eliminates Mr. Lund's first objection that his son started the fire.

Legal Analysis of Claim

Helen Strachan of the County Attorney's Office provided the following response to Mr. Lund's claim of non-responsibility:

Pursuant to Summit County Code Section 5-4-10, the County is empowered to recover expenses incurred by virtue of the County's response to an aggravated fire emergency. An aggravated fire emergency is defined as a fire proximately caused by the owner or occupier of property that presents a direct and immediate threat to public safety and requires immediate action to mitigate the fire and the fire is, among other things, a direct result of a deliberate act in violation of county ordinances or regulations. In June of this year, Summit County adopted Ordinance 773 which prohibited fireworks and open fires for the entire fire season. Hence, intentionally discharging the fireworks and the subsequent fire caused by Mr. Lund's minor son was a violation of county ordinance. Also, under Utah law, Section 78A-6-1113, a parent is liable for damages sustained to property not to exceed \$2,000 when the minor intentionally damages and defaces, destroys or takes the property of another.

Mr. Lund claims that he is not liable for the negligent actions of his son. However, Mr. Lund's own actions, of fleeing the fire and letting it spread, make *him* liable for the total suppression costs. Under Utah law, UCA 65A-3-4, a person who negligently, recklessly or intentionally causes or spreads a wildland fire shall be liable for the cost of suppressing that wildland fire. Likewise, UCA 76-6-104.5 assesses criminal liability to individuals who leave a fire without first completely extinguishing it and with the intent not to return to the fire and states that a person is liable for the suppression costs. The attached report states that a witness saw the occupants of Mr. Lund's vehicle discharge fireworks. Trooper Daems also observed smoke and flames in the grass and watched Mr. Lund reverse rapidly and attempt to flee the area. The evidence demonstrates that Mr. Lund's own actions, of fleeing the fire and letting it spread, is sufficient to make him liable for the suppression costs of the fire.

Fire Warden's Report

The attached report for the County Fire Warden tabulates that the direct cost of suppressing this fire was \$3,796. This dollar figure was an estimate prepared at the conclusion of the fire. The actual billings from agencies that responded (North Summit Fire District, Summit County Public Works, Uinta County Fire and the State of Utah) totaled \$3,036.88. Since this fire was outside of the jurisdiction of any structural fire district, these agencies are entitled to the full reimbursement of their expenses.

Staff Recommendation

Since the vast majority of the wildland fires in Summit County this last year have been human caused and many of these as a result of negligence, staff feels that it is imperative that we proceed with cost recovery of those fires which have occurred as a result of a violation of County ordinances and the responsible party can be determined.

Staff would therefore recommend that the Council uphold the County Manager's determination of responsibility and direct that Mr. Lund be assessed for the recoverable costs from the Echo Creek Fire.

Attachments

July 4 State Fire Report

July 9 Statement from Sergeant Hemingway

July 16 Sheriff's Incident Log

July 26 County Manager Letter

August 15 Letter from Robert Lund

September 25 letter from Helen Strachan

Summit County Ordinance 773

Summit County Code Chapter 4 Emergency Services

Utah Forestry, Fire and State Lands Fire Report

State ID: 59827-2012
 Fire Name: CASTLE ROCK 1
 County Fire #: SU-69-12
 Prepared By: DUSITN CLEGG
 Federal #1: PNGOSX
 Federal #2: UTNWS000426
 Incident Project #:
 # of Injuries: 0
 # of Fatalities: 0

Fire Reported Date: 07/04/2012
 Fire Reported Time: 1400
 Fire Out Date: 07/04/2012
 Fire Out Time: 1800
 Initial Attack: State
 Under Investigation:
 Overhead Team:
 Date of Takeover:

Township: 5.0 N
 Range: 6.0 E S (Base Meridian)
 Section of Origin: 31
 Other Sections:

County: SUMMIT

UTM Zone 12 GPS Coordinates:

Easting: 483960
 Northing: 4551894

General Cause: MISCELLANEOUS
 Person: VISITOR
 Fire Type: WILDLAND

Specific Cause: FIREWORKS
 Activity: RECREATION
 Fire Class: B

Acres Burned By Ownership

State & Private Acres		Federal Acres	
Pvt Burn	0	BIA	0
Other Burn ¹	0	BLM	0
State Sitla	0	DOD	0
State Udwr	0	NPS	0
State P&R	0	USFS	0
State Udot	2.5	Other Fed ²	0
State Sov	0	Total Fed	0
Total S&P	2.5	Grand Total	2.5

S&P Acres Burned By Fuel Model

- | | |
|----------------------------|---|
| 1 - Short Grass | 8 - Shallow Short Needle/Litter |
| 2 - Grass/Open Shrub Lands | 9 - Shallow Long Needle/Hardwood Litter |
| 3 - Tall Grass (rare) | 10 - Deep Litter |
| 4 - Tall Brush | 11 - Light Low Slash |
| 5 - Short Young Brush | 12 - Heavy Deep Slash |
| 6 - Short Older Brush | |

Fuel Model	Acres
6	2.50

Utah Forestry, Fire and State Lands Fire Report

State ID: 59827-2012 Fire Name: CASTLE ROCK 1

Cost Share Agreement:

Costs Recoverable: Yes

Air Cost	Supply Cost	³ Other Cost
\$0	\$0	\$0

Agency	Remarks	Person Rate	Person Hours	Equip Rate	Equip Hours
State	401+1	\$39.00	4	\$80.00	3.5
Fire Dept	m1	\$0.00	0	\$113.00	2.5
Fire Dept	m2	\$0.00	0	\$113.00	2.5
Fire Dept	eng8	\$0.00	0	\$210.00	2.5
Fire Dept	wt1	\$0.00	0	\$109.00	2.5
Fire Dept	b21	\$0.00	0	\$113.00	3
Fire Dept	b22	\$0.00	0	\$113.00	3
Fire Dept	r22	\$0.00	0	\$113.00	3
Fire Dept	w21	\$0.00	0	\$109.00	3
Fire Dept	w22	\$0.00	0	\$109.00	3
Fire Dept	wt401	\$0.00	0	\$109.00	3

State	County	Fire Dept	Other	BLM	USFS	Other Fed	Total Fire Cost
\$436	\$0	\$3,360	\$0	\$0	\$0	\$0	\$3,796

Resources Damaged

Type	Cost
FORAGE	\$2
TOTAL	\$2

Resources Saved

Type	Cost
FORAGE	\$4,000
TOTAL	\$4,000

DISPATCHED TO A BRUSH FIRE. UPON ARRIVAL PROVIDED INITIAL ATTACK. AFTER SUPPRESSION OF THE FIRE INVESTIGATION WAS STARTED. THERE WAS FIREWORKS FOUND BY UHP. AND UHP STATED THEY HAD A CAR ON VIDEO THAT DROVE AWAY ONCE THE FIRE WAS STARTED. THE FIRE IS STILL UNDER INVESTIGATION. ALL COSTS ARE AN ESTIMATE 41 07 05.4 111 11 27.9 CASE#3437



COOPERATORS USE INVOICE

Administrative Office:
 Utah Division of Forestry, Fire & State Lands
 1594 W North Temple, Ste 3520
 Salt Lake City, UT 84114-5703
 801-538-5555 (phone) · 801-533-4111 (fax)
 www.ffsl.utah.gov

1. Cooperator Name & Address State of Utah Warden 1775 South Hoytsville Road Coalville Utah, 84017				2. Area Office NEA			3. Area Phone # (435)671-5088				
				4. Incident Name / Land Ownership Castle Rock 1- Private and State UDOT							
				5. Incident Number / Resource Order Number PNG0SX							
6. EIN/SSN				7. Agreement Number							
8. Date of Hire 7/4/12			9. Date Released 7/4/12			10. Supplies furnished by: <input type="checkbox"/> Cooperator <input type="checkbox"/> Government			11. Operator furnished by: <input type="checkbox"/> Cooperator <input type="checkbox"/> Government		
12. Date MM-DD-YY	13. Description		14. FF/EQ	15. Day/ Hr/Mi	16. Units	17. Rate	18. Total Earned	19. Guarantee or one-time rate	20. Amount (greater of 18 or 19)		
7/4/12	E-6401		EQ	Hr	3	79.00	\$237.00		\$237.00		
7/4/12	3-A-401		FF	Hr	4	29.47	\$117.88		\$117.88		
							\$0.00				
							\$0.00				
							\$0.00				
							\$0.00				
							\$0.00				
							\$0.00				
							\$0.00				
							\$0.00				
21. Revenue / Expenditure Codes Forestry, Fire and State Lands Use Only							22. Total Amount This Page		\$354.88		
Org	Approp	Activity	Account	Project	Amount		23. Amount Forwarded (Total Due from Previous Page)				
							24. Running Total Amount (Carry over to continuing page)				
							25. Deductions (see attached) (Make entry on final page only)				
							26. Additions (see attached) (Make entry on final page only)				
27. Remarks							28. Net Amount Due (Make entry on final page only)				
							29. Audit Initials				
Note: In consideration of receipt of payment in the amount shown on "Net Amount Due" line 28. Cooperator hereby releases the Government from any and all claims arising under this Agreement except as reserved in "Remarks" block 27.											
30. Cooperator Representative Name (Type or Print)					31. FFSL Representative Name (Print)						
32. Cooperator Representative Signature			33. Date		34. FFSL Representative Signature			35. Date			



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1. Cooperator Name & Address North Summit Fire District P.O. Box 187 Coalville Utah, 84017				2. Area Office NEA			3. Area Phone # (435) 671-9088				
				4. Incident Name / Land Ownership Castle Rock 1 Private and State UDOT							
				5. Incident Number / Resource Order Number PNG0SX							
870560589				7. Agreement Number							
8. Date of Hire 7/4/2012			9. Date Released 7/4/2012			10. Supplies furnished by: <input type="checkbox"/> Cooperator <input type="checkbox"/> Government			11: Operator furnished by: <input type="checkbox"/> Cooperator <input type="checkbox"/> Government		
12. Date MM-DD-YY	13. Description		14. FF/EQ	15. Day/ Hr/Mi	16. Units	17. Rate	18. Total Earned	19. Guarantee or one-time rate	20. Amount (greater of 18 or 19)		
7/4/12	WT-22		EQ	Hr	3	105.00	\$315.00		\$315.00		
7/4/14	R-22		EQ	Hr	3	113.00	\$339.00		\$339.00		
7/4/12	B-22		EQ	Hr	3	113.00	\$339.00		\$339.00		
7/4/12	WT-21		EQ	Hr	3	105.00	\$315.00		\$315.00		
7/4/12	B-21		EQ	Hr	3	113.00	\$339.00		\$339.00		
							\$0.00				
							\$0.00				
							\$0.00				
							\$0.00				
							\$0.00				
21. Revenue / Expenditure Codes Forestry, Fire and State Lands Use Only							22. Total Amount This Page		\$1,647.00		
Org	Approp	Activity	Account	Project	Amount		23. Amount Forwarded (Total Due from Previous Page)				
							24. Running Total Amount (Carry over to continuing page)				
							25. Deductions (see attached) (Make entry on final page only)				
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 www.ffsl.utah.gov

1. Cooperator Name & Address Summit County Public Works 1755 South Hoytsville Road Coalville Utah,84017				2. Area Office NEA			3. Area Phone # (435) 671-5088					
				4. Incident Name / Land Ownership Castle Rock 1						5. Incident Number / Resource Order Number PNG0SX- Private and State UDOT		
				6. EIN/SSN						6. Agreement Number		
8. Date of Hire 7/4/12		9. Date Released 7/4/12		10. Supplies furnished by: <input type="checkbox"/> Cooperator <input type="checkbox"/> Government			11. Operator furnished by: <input type="checkbox"/> Cooperator <input type="checkbox"/> Government					
12. Date MM-DD-YY	13. Description		14. FF/EQ	15. Day/ Hr/Mi	16. Units	17. Rate	18. Total Earned	19. Guarantee or one-time rate	20. Amount (greater of 18 or 19)			
7/4/12	WT-401		EQ	Hr	3	73.00	\$219.00		\$219.00			
							\$0.00					
							\$0.00					
							\$0.00					
							\$0.00					
							\$0.00					
							\$0.00					
							\$0.00					
							\$0.00					
							\$0.00					
21. Revenue / Expenditure Codes Forestry, Fire and State Lands Use Only							22. Total Amount This Page		\$219.00			
Org	Approp	Activity	Account	Project	Amount		23. Amount Forwarded (Total Due from Previous Page)					
							24. Running Total Amount (Carry over to continuing page)					
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 www.ffsl.utah.gov

1. Cooperator Name & Address Untia County Fire and Ambulance 236 9th Street Evanston WY. 82930				2. Area Office			3. Area Phone #					
				4. Incident Name / Land Ownership Castle Rock 1- Private and UDOT						5. Incident Number / Resource Order Number PNG0SX		
				6. EIN/SSN			7. Agreement Number					
8. Date of Hire 7/4/12		9. Date Released 7/4/12		10. Supplies furnished by: <input type="checkbox"/> Cooperator <input type="checkbox"/> Government			11. Operator furnished by: <input type="checkbox"/> Cooperator <input type="checkbox"/> Government					
12. Date MM-DD-YY	13. Description	14. FF/EQ	15. Day/ Hr/Mi	16. Units	17. Rate	18. Total Earned	19. Guarantee or one-time rate	20. Amount (greater of 18 or 19)				
7/4/12	Mini 1	EQ	Hr	2	113.00	\$226.00		\$226.00				
7/4/12	Mini 2	EQ	Hr	2	113.00	\$226.00		\$226.00				
7/4/12	Engine 8	EQ	Hr	2	73.00	\$146.00		\$146.00				
7/4/12	WT-1	EQ	Hr	2	109.00	\$218.00		\$218.00				
						\$0.00						
						\$0.00						
						\$0.00						
						\$0.00						
						\$0.00						
						\$0.00						
21. Revenue / Expenditure Codes Forestry, Fire and State Lands Use Only						22. Total Amount This Page	\$816.00					
Org	Approp	Activity	Account	Project	Amount	23. Amount Forwarded (Total Due from Previous Page)						
						24. Running Total Amount (Carry over to continuing page)						
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07/16/2012
10:38

Summit County Sheriff's Office
LAW Incident Table:

203
Page: 1

Incident Number: 12-L14751

Nature: Fireworks Case Number: Image:
Addr= 185 I80 EASTBOUND Area: 80WAS I80 WAHSATCH
City: Coalville ST: UT Zip: 84017 Contact:
Complainant& UHP401
Lst: Daems Fst: Jeffery Mid: Lynn
DOB: 06/26/1979 SSN: - - Adr: Section 7
Rac: Sx: M Tel: (435)615-3500 Cty: ST: Zip:

Offense Codes: FIRE Reported: FIRE Observed: FIRE

Circumstances:

Rspndg Officers: Daems J Richey R Forman J &
Rspnsbl Officer: Forman J Agency: SCSO CAD Call ID: C12-46107
Received By: Bischoff J Last RadLog: 10:04:48 07/06/2012 CMPLT
How Received: T Telephone Clearance: LF Long Form Report
When Reported: 14:19:12 07/04/2012 Disposition: CMP Disp Date: 07/09/2012
Occurrd between: 14:00:00 07/04/2012 Judicial Sts:
and: 14:19:00 07/04/2012 Misc Entry:

MO:

Narrative: (See below)
Supplement: (See below)

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
NM	198255	07/05/2012	Lund, Robert Alan	Involved/Father
NM	198256	07/05/2012	Lund, Trevor	Involved/Witness
NM	198257	07/05/2012	LUND, Tyler	Juvenile Suspect
NM	198258	07/05/2012	Lund, Tessa	Involved/Witness
NM	198259	07/05/2012	Smith, Megan	Involved/Witness
NM	UHP401	07/04/2012	Daems, Jeffery Lynn	*Complainant
VH	25912	07/05/2012	WHI 1999 HOND ACCORD UT	Involved vehicle
CA	C12-46107	07/04/2012	14:19 07/04/2012 Brush Fire	*Initiating Call
PR	12-P02947	07/09/2012	BLK Fireworks \$0.01	Evidence
PR	12-P02948	07/09/2012	BLK Fireworks \$0.01	Evidence
DS	8938	07/16/2012		DCFS Referred

LAW Incident Offenses Detail:

Seq	Code	Offense Codes	Amount
1	FIRE	Fire	0.00

LAW Incident Responders Detail

Seq	Name	Unit
1	Daems J	401
2	Richey R	96
3	Forman J	K30

Responding Officers

Seq	Name	Unit
4	Middaugh L	376
5	Duke S	244
6	MacFarlane B	K49
7	Hemingway J R	K22

Main Radio Log Table:

Time/Date	Typ	Unit	Code	Zone	Agnc	Description
10:04:48	07/06/2012	l	401	CMPLT	UHP	UHP incid#=12-U00710 Completed cal
10:04:17	07/06/2012	l	401	ASSGN	UHP	UHP Assigned to a call call=541
10:04:10	07/06/2012	l			UHP	UHP Call type 1 reopened and assig
16:24:02	07/04/2012	l	K22	CMPLT	UHP	SCSO incid#=12-L14751 Completed cal
16:24:02	07/04/2012	l	K30	CMPLT	UHP	SCSO incid#=12-L14751 Completed cal
16:20:09	07/04/2012	l	401	CMPLT	UHP	UHP Completed call call=1731
15:56:01	07/04/2012	f	3A401	CMPLT	UCFD	USFW incid#=12-F03438 Completed cal
15:54:42	07/04/2012	l	401	ENRT	UHP	UHP Enroute to Castle Rock disp:CN
15:49:10	07/04/2012	l	K30	ENRT	UHP	SCSO incid#=12-L14751 Enroute to Ec
15:48:59	07/04/2012	l	401	ENRT	UHP	UHP Enroute to Echo Port disp:CNA
15:48:48	07/04/2012	l	K22	ENRT	UHP	SCSO incid#=12-L14751 Enroute to Ec
15:48:34	07/04/2012	l	K22	ARRVD	UHP	SCSO incid#=12-L14751 Arrived on sc
15:48:20	07/04/2012	f	K22	ENRT	UCFD	SCSO incid#=12-F03439 Enroute to Ec
15:43:32	07/04/2012	f	WT401	CMPLT	UCFD	USFW incid#=12-F03438 Completed cal
15:36:40	07/04/2012	f	WT21	CMPLT	UCFD	NSFD incid#=12-F03437 Completed cal
15:33:49	07/04/2012	f	UCFD	CMPLT	UCFD	incid#=12-F03440 Completed cal
15:32:00	07/04/2012	f	B21	CMPLT	UCFD	NSFD incid#=12-F03437 Completed cal
15:31:49	07/04/2012	f	B22	CMPLT	UCFD	NSFD incid#=12-F03437 Completed cal
15:31:49	07/04/2012	f	R22	CMPLT	UCFD	NSFD incid#=12-F03437 Completed cal
15:31:49	07/04/2012	f	WT22	CMPLT	UCFD	NSFD incid#=12-F03437 Completed cal
15:27:55	07/04/2012	l	376	CMPLT	UHP	UHP Completed call call=1731
15:14:28	07/04/2012	f	K22	ARRVD	UCFD	SCSO incid#=12-F03439 Arrived on sc
15:14:16	07/04/2012	l	K30	ARRVD	UHP	SCSO incid#=12-L14751 Arrived on sc
15:03:07	07/04/2012	f	WT21	ARRVD	UCFD	NSFD incid#=12-F03437 Arrived on sc
14:59:15	07/04/2012	f	WT21	ENRT	UCFD	NSFD incid#=12-F03437 Enroute to a
14:57:19	07/04/2012	f	WT21	CMPLT	UCFD	NSFD incid#=12-F03437 Completed cal
14:52:52	07/04/2012	f	WT401	ARRVD	UCFD	USFW incid#=12-F03438 Arrived on sc
14:52:04	07/04/2012	f	3A401	ARRVD	UCFD	USFW incid#=12-F03438 Arrived on sc
14:49:41	07/04/2012	f	WT22	ARRVD	UCFD	NSFD incid#=12-F03437 Arrived on sc
14:48:55	07/04/2012	f	3A400	CMPLT	UCFD	USFW incid#=12-F03438 Completed cal
14:48:46	07/04/2012	f	WT401	CMPLT	UCFD	USFW incid#=12-F03438 Completed cal
14:45:18	07/04/2012	f	B22	ARRVD	UCFD	NSFD incid#=12-F03437 Arrived on sc
14:45:07	07/04/2012	f	R22	ARRVD	UCFD	NSFD incid#=12-F03437 Arrived on sc
14:42:46	07/04/2012	l	96	CMPLT	UHP	UHP Completed call call=1731
14:42:39	07/04/2012	l	244	CMPLT	UHP	UHP Completed call call=1731
14:41:55	07/04/2012	f	B21	ARRVD	UCFD	NSFD incid#=12-F03437 Arrived on sc
14:37:00	07/04/2012	f	UCFD	ARRVD	UCFD	incid#=12-F03440 Arrived on sc
14:36:55	07/04/2012	f	WT21	ENRT	UCFD	NSFD incid#=12-F03437 Enroute to a
14:33:05	07/04/2012	l	244	ENRT	UHP	UHP Enroute to a Call call=1731
14:29:36	07/04/2012	f	WT22	ENRT	UCFD	NSFD incid#=12-F03437 Enroute to a
14:29:15	07/04/2012	l	376	ARRVD	UHP	UHP Arrived on scene call=1731
14:28:44	07/04/2012	l	401	DLINQ	UHP	UHP MDC: dl=146975228 state=UT
14:28:43	07/04/2012	l	401	NMINQ	UHP	UHP MDC: dl=146975228 state=UT
14:28:24	07/04/2012	f	NSFD	CMPLT	UCFD	NSFD incid#=12-F03437 Completed cal
14:27:54	07/04/2012	f	WT401	ENRT	UCFD	USFW incid#=12-F03438 Enroute to a

Time/Date	Typ	Unit	Code	Zone	Agnc	Description
14:26:53	07/04/2012	f	3A400	ENRT	UCFD	USFW incid#=12-F03438 Enroute to a
14:24:54	07/04/2012	f	B21	ENRT	UCFD	NSFD incid#=12-F03437 Enroute to a
14:24:54	07/04/2012	f	B22	ENRT	UCFD	NSFD incid#=12-F03437 Enroute to a
14:24:54	07/04/2012	f	R22	ENRT	UCFD	NSFD incid#=12-F03437 Enroute to a
14:23:52	07/04/2012	f	UCFD	ENRT	UCFD	incid#=12-F03437 Enroute to a
14:23:16	07/04/2012	f	K22	ENRT	UCFD	SCSO incid#=12-F03439 Enroute to a
14:23:07	07/04/2012	l	K30	ENRT	UHP	SCSO incid#=12-L14751 Enroute to a
14:23:03	07/04/2012	l	96	ENRT	UHP	UHP Enroute to a Call call=1731
14:23:03	07/04/2012	l	K30	ENRT	UHP	SCSO incid#=12-L14751 Enroute to a
14:21:06	07/04/2012	f	3A401	ENRT	UCFD	USFW incid#=12-F03438 Enroute to a
14:21:06	07/04/2012	f	NSFD	ENRT	UCFD	NSFD incid#=12-F03437 Enroute to a
14:21:05	07/04/2012	l	401	ARRVD	UHP	UHP Arrived on scene call=1731
14:20:44	07/04/2012	f	3A401	PAGED	UCFD	USFW incid#=12-F03438 Paged call=17
14:20:44	07/04/2012	f	NSFD	PAGED	UCFD	NSFD incid#=12-F03437 Paged call=17

Narrative:

Synopsis:

This is a fireworks case in which a juvenile male accidentally started a small brush fire by lighting fireworks near very dry grass and brush in the area of Castle Rock on I80 eastbound. The juvenile admitted to having started the fire with fireworks while his father was away from the vehicle. This case was screened with the County Attorney no arrests or referral were completed. The fire was quickly extinguished by Evanston and Uinta County Wyoming Fire personnel as well as North Summit Fire Department.

Narrative:

At approximately 14:10 on 07/04/2012 I responded to the area of Castle Rock on I80 eastbound located at approximately mile marker 186, for a report of a brush fire. Trooper Daems had observed a whit Honda Accord (UT 775WSB) parked on dirt frontage road on the south side of the off ramp just before the fire started. Trooper Daems reported that when he observed smoke and flames in the grass the white Honda reversed rapidly and attempted to leave the area. Trooper Daems then stopped the Honda and spoke to the driver identified as Robert Lund. (10/12/1965) Trooper Daems then called for fire personnel to respond to extinguish the fire. Fire personnel responded from Evanston and Uinta County Wyoming as well as from North Summit Fire Department. The fire was quickly extinguished by fire personnel and was contained to an area of approximately one (1) acre.

When I arrived Trooper Daems told me that he believed, based on his observations, that Robert had lit the fire and was trying to flee the area. Trooper Daems told me that Robert had denied having started the fire and stated that he did not have fireworks in his possession. Trooper Daems also told me that Robert was now refusing to speak with him and wanted to speak to a deputy. A witness, Kenneth LAIRD stated that he had seen a vehicle similar to Roberts in the area of Wahsatch Road near mile marker 191 on I80. LAIRD said the occupants of the vehicle he had seen at Whasatch had been lighting fireworks and seemed to flee the area when they saw him. I then approached Robert and asked him to explain what had happened. Robert told me that he had to stop in the area to use the restroom and had parked on the frontage road on the south side of I80 so he could walk a short distance from the vehicle and use the restroom. Robert said he later returned to his vehicle and began leaving the area when he was stopped by Trooper Daems. Robert said he had noticed the smoke from the fire, but had not used any fireworks and had not started the fire. Robert had several

children in his vehicle identified as Trevor Lund, (04/11/1995) Tyler Lund, (08/28/1998) Tessa Lund, (08/25/2001) and Megan SMITH. (10/17/2001

Sergeant Hemingway then began speaking with Robert and I approached Trevor in order to obtain a statement. Trevor refused to speak with me and told me Robert would handle the situation. Robert then asked that I not speak with the other children in the car. Trooper Daems then told Sergeant Hemingway and me that fire personnel had located several firework remnants on the frontage road near the area where Robert had parked his car and the fire had started. Fire personnel had gathered the firework remnants and Trooper Daems had placed them in plastic bags as evidence. Trooper Dames gave the firework remnants to Sergeant Hemingway to be placed in evidence. Sergeant Hemingway and I then accompanied Robert to the area where he had parked his car when he went to the restroom. Robert was unable to show us exactly where he had parked his car then stated that he believed the fire had travelled to the west after it started. However the wind was blowing from the west to the east making it highly unlikely that the fire travelled from east to west. When I explained this to Robert he stated he couldn't remember which way the fire had actually travelled.

Based on Robert's statements it became apparent that there was a possibility that one of his children had lit the fireworks accidentally causing the fire. However Robert refused to allow officers to speak with the children. Sergeant Hemingway the screened this case the County Attorney's Office and was advised to obtain a warrant for Robert's vehicle. Because the children in Robert's vehicle now needed to use the restroom it was decided that Robert would be escorted to the port of entry where a warrant would be drafted. When we arrived at the port of entry Tyler exited the vehicle and spoke with Sergeant Hemingway. Tyler then admitted that he had lit some fireworks which in turn started that grass and brush on fire. Trooper Daems responded to the area of Whasatch Road with LAIRD and obtained photographs of tire tracks matching the tread on Robert's tires. Trooper Daems also located firework remnants identical to those located at the scene of the fire. These firework remnants were also collected and given to Sergeant Hemingway to be placed in evidence. Sergeant Hemingway told me that he had spoken to County Attorney Brickey and had been advised to screen the case. For further information concerning this case see supplemental reports by Trooper Daems and Sergeant Hemingway.

Deputy Forman
Special Enforcement Unit
07/05/2012, 17:35

Investigation Narrative

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
1 Hemingway J R	18:46:34	07/09/2012

Supplement Report
12-L14751
Sergeant J. Hemingway

On 7/4/12 Summit County Dispatch advised of a brush fire at the Castle Rock off ramp near the frontage road. Trooper 401 (Daems) advised he had a vehicle stopped that was leaving the area where the fire started.

I responded to the area. When I arrived I found that Uintah County Fire and North Summit Fire were on scene dealing with the fire. The fire had been contained prior to my arrival and had burnt approximately an acre of grass.

Corporal Forman had also arrived on scene and was speaking with an older male LAIRD who had witnessed the suspect vehicle in the area. Near Corporal Forman was another white passenger vehicle that was parked. There was a male sitting outside the white passenger car and four more juveniles inside the white passenger vehicle.

Trooper Daems approached and advised that while he was sitting on the overpass, he observed the white passenger vehicle travel up the dirt frontage road and park. After a few minutes Trooper Daems observed a fire near where the white vehicle was. The white vehicle backed down the dirt frontage road past the fire and began coming across the over pass towards Trooper Daems. Trooper Daems stopped the vehicle.

The driver of the white passenger car who was sitting outside was identified by a Utah Driver License as Robert Lund. Inside the white passenger car were three of Robert's children and another family member.

After speaking with Trooper Daems I spoke with Robert Lund. Robert stated that he had recently been visiting family in Evanston, Wyoming. Robert left his relatives home in Evanston on 7/4/12 at an unknown time (Robert couldn't remember). Robert stated he did not stop anywhere between his family members home, and this location (Castle Rock exit #185 I-80 WB). Robert stated he pulled off at this exit to find a suitable place to go to the bathroom. Robert was unable to hold it any longer. Robert exited the interstate and turned left to the south. Robert then turned right, west, onto a dirt road. Robert went down the dirt road a ways and stopped the vehicle. Robert exited the car and walked until he couldn't be seen by anyone in the car he was driving. Robert then defecated on the side of the dirt road and began walking back to his vehicle. While walking back Robert noticed that the grass was on fire. Robert got into his vehicle and began backing out of the area and that is when the Trooper stopped him. Robert stated he had nothing to do with the fire.

Corporal Forman went to the front passenger in the white car who was the 16 year old son of Robert. Corporal Forman stated that the juvenile would not talk with him.

Robert desired to have us drive him to the area where he parked so he could show us where he was. Robert was placed into the rear seat of my patrol vehicle un-restrained and transported across the overpass. Robert showed us the area where he was parked and it was consistent with his story.

I told Robert that he may not have had anything to do with the fire, but what about the kids in his vehicle. I asked Robert if there were any fireworks inside his car. Robert stated "Not that I know of". I asked Robert if the kids had any fireworks. Robert stated again, "Not that I know of". I asked Robert if we could talk with his children about the incident. Robert stated that we already had. I advised Robert that his 16 year old son declined to speak with us. Robert stated he would go and talk with his kids.

After having time to speak with his kids, Robert returned and advised

that his children would not speak with him. Robert did say that his 13 year old son was shaking and obviously nervous. I asked Robert if we could search his vehicle and his children for fireworks. Robert responded that he didn't want that. Robert also stated if his kids did have fireworks he didn't want them to have a juvenile record. Robert stated his kids also needed to use the restroom. I advised we would follow Robert and his vehicle to the Port of Entry (five miles west) where they could use the restroom and I would contact the County Attorney's Office.

I called the on call County Attorney and explained the incident. I was advised to get a warrant for the vehicle to search it for fireworks. As we arrived at the Port of Entry Station, I met with Robert again. Robert stated that his 13 year old son, Tyler, had told him something that he needs to tell me. Robert asked if I would still need a warrant if Tyler spoke to me. I advised that I would not. Tyler came out of the vehicle and approached me. I asked Tyler what he wanted to tell me. Tyler stated that while Robert was out of the vehicle going to the bathroom, Tyler got out of the car and lit the fireworks that started the fire. Tyler stated that he got back into the car.

I contacted the on call County Attorney with this new information. A warrant was not sought for the search of the vehicle. Tyler was not referred to the Juvenile Court due to him being under 14 years of age. The information will be provided to the fire marshal for information and the cost recuperation of fighting the fire.

I received some spent fireworks that Trooper Daems recovered from the dirt roadway near where Robert's vehicle was parked. I booked those items into the evidence room at the Summit County Sheriff's Office.

Nothing further
Sergeant J. Hemingway K22
Mon Jul 09 19:08:07 MDT 2012
Charlie Platoon

COUNTY MANAGER



ROBERT JASPER

July 26, 2012

Mr. Robert Lund
14009 Timber Ridge Drive
Draper, Utah 84020

Dear Mr. Lund

My purpose in this correspondence is to obtain a recovery of a portion of the costs associated with the I-80 eastbound wildfire located at mile marker 186, which occurred on July 4, 2012.

The Summit County Code empowers the County to recover expenses incurred in response to an aggravated fire emergency from the individual who caused the emergency. An aggravated fire emergency is defined in part as "a fire which threatens public safety and occurs as a direct result of a deliberate act in violation of the ordinances and regulations of the county". Summit County Code §5-4-10.

Based upon the attached Summit County Sheriff's report and the associated fire report, it is evident that your minor son, Tyler Lund, set off fireworks on July 4, 2012 which resulted in a 2.5 acre wildfire. At the time, Summit County had a ban on the lighting of personal fireworks. Consequently, the fire occurred as a result of the direct violation of the attached county ordinance.

This wildfire required the response of multiple agencies, which took them approximately four hours of concerted effort to extinguish. As a result, Summit County incurred a cost of approximately \$3,000.00, which must be paid to these outside agencies from the County's fire suppression fund. As the responsible adult in the party that caused this fire in violation of a county ordinance, you are legally responsible for the repayment of these costs. If it is necessary, we may provide you with a repayment plan. Please contact the County Treasurer, Corrie Forsling at 435.336.3266 to work out the details of your repayment plan.

If you dispute your responsibility for this incident, you do have the option of appealing my determination to the Summit County Council. Your appeal must be in writing and directed to the County Manager's office and be received within 30 days of your receipt of this letter.

Sincerely,


Robert Jasper
County Manager

Enclosure: Ordinance No 773

c: Summit County Council
Corrie Forsling, Treasurer
Dave Thomas, Chief Civil Attorney

ROBERT A. LUND
14009 Timber Ridge Drive, Draper UT 84020

August 15, 2012

Mr. Robert Jasper
County Manager
Summit County
60 North Main
P.O. Box 128
Coalville, UT 84017

RE: Financial Recovery

Dear Mr. Jasper:

In response to your letter dated July 26, 2012, seeking financial recovery related to a fire which occurred in Summit County on July 4, 2012, I must very respectfully decline the request to cover costs associated with the fire suppression. My opposition relates to several factors which stem from my view of fundamental fairness.

As a matter of historical common law, absent their own negligence, parents have not traditionally been held financially liable for the negligent torts of their children. Our jurisprudence over many generations advanced the policy that individuals who bore no fault in a particular incident, including parents, should not be held accountable for the negligence of another. In the instant case, I did not cause the fire, I did not contribute in any way to the cause of the fire, I did not observe the cause of the fire, and I was not present when the fire started. Based on those facts, it seems inherently unfair that I should be held financially liable for an event over which I had no involvement and no control.

On the day in question, after spending a couple days in Wyoming for the holiday, I was traveling home on I-80 when I made a brief but emergent stop to use the restroom. While I was out of the area for a very short period of time, the fire occurred. Although my minor son admitted to lighting a firework while I was away, other individuals in the area at the time could also have started the fire. Therefore, the proximate cause of the fire remains unknown. As a non-resident of Summit County, I was unaware of the firework ban. I was also unaware that my son possessed a firework or that he had the disposition or means to use it. As I was not negligent in any way in my parental responsibilities, a recovery from me appears grossly misplaced.

Because I did not receive the attachments referenced in your letter, I have not reviewed any formal materials. However, it appears that significant errors may exist in the official reporting. As I was present during the entire time frame, I know that it did not take the responding agencies four hours to extinguish the fire. I also witnessed that many emergency personnel responded to the scene who did not participate at all in the suppression efforts. Some

responded after the fire was completely extinguished. Additionally, given the unique geographical area of the fire, the existing roads prevented it from spreading beyond a relatively small area. Based on the content of your letter, I conclude that the official reporting must necessarily also exaggerate that the size of the area affected by the fire. Those facts lead me to doubt the reliability of the cost estimate.

As a person who has worked in the law enforcement community for the past 20 years, I greatly respect the personnel who responded to the incident and I very much appreciate their competence and professionalism. While I am extremely sorry and deeply troubled that these individuals expended their time and resources to address this situation, I strongly feel that providing that service is one of the primary and fundamental responsibilities of government.

Finally, given unique circumstances occurring in my personal life, I simply do not have the funds to pay the requested restitution. Based on these various considerations, I very respectfully request that the County Manager's Office reconsider pursuing this issue against me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Lund", written in a cursive style.

Robert A. Lund

DAVID R. BRICKEY
COUNTY ATTORNEY

Criminal Division

JOY NATALE
Prosecuting Attorney

MATTHEW D. BATES
Prosecuting Attorney

RYAN P.C. STACK
Prosecuting Attorney

SUMMIT
COUNTY
Summit County Courthouse • 60 N. Main • P.O. Box 128 • Coalville, Utah 84017
Telephone (435) 3363206 Facsimile (435) 3363287
email: (first initial)(last name)@summitcounty.org

Civil Division

DAVID L. THOMAS
Chief Deputy

JAMI R. BRACKIN
Deputy County Attorney

HELEN E. STRACHAN
Deputy County Attorney

Via Certified Mail

September 25, 2012

Robert Lund
14009 Timber Ridge Drive
Draper, UT 84020

Re: Fire Cost Recovery

Dear Mr. Lund:

My name is Helen Strachan and I am a Deputy County Attorney for Summit County. This letter is in response to your letter dated August 15, 2012 to the Summit County Manager, Bob Jasper. I understand that in response to his letter dated July 26, 2012, that you are asking Summit County to reconsider its attempt to recover costs related to our fire suppression efforts. Pursuant to our Summit County Code §5-4-10, I am treating your letter as an appeal of Mr. Jasper's determination. I have included a copy of the applicable code section for your reference. This appeal is to be heard by the Summit County Council and has been scheduled for **October 17, 2012**. I will notify you of an exact time on that date within the coming weeks. We have been unable to find a working telephone number for you, so please call me at (435) 336-3206 so that I may coordinate the time of that appeal. In the event the decision seeking cost recovery is upheld by the County Council and you still fail to pay or arrange to enter into a payment plan, Summit County shall initial legal action in court to recover these expenses, including reasonable attorney fees.

Sincerely,


Helen E. Strachan
Deputy Summit County Attorney

Enclosure

cc: Kevin Callahan
Robert Jasper

**DAVID R. BRICKEY
COUNTY ATTORNEY**

Criminal Division

JOY NATALE
Prosecuting Attorney

MATTHEW D. BATES
Prosecuting Attorney

RYAN P.C. STACK
Prosecuting Attorney

SUMMIT
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Summit County Courthouse • 60 N. Main • P.O. Box 128 • Coalville, Utah 84017
Telephone (435) 3363206 Facsimile (435) 3363287
email: (first initial)(last name)@summitcounty.org

Civil Division

DAVID L. THOMAS
Chief Deputy

JAMI R. BRACKIN
Deputy County Attorney

HELENE E. STRACHAN
Deputy County Attorney

Via Certified Mail

September 27, 2012

Robert Lund
14009 Timber Ridge Drive
Draper, UT 84020

Re: Fire Cost Recovery

Dear Mr. Lund:

By now you should have received my first letter regarding the hearing scheduled for October 17, 2012 regarding your fire cost recovery appeal. Please be advised that said hearing has been moved to **October 24, 2012**, at a time to be determined. As mentioned in my first letter, I do not have your contact phone number, so please call me at (435) 336-3206 so that I may coordinate the time of that appeal. As also mentioned previously, in the event the decision seeking cost recovery is upheld by the County Council and you still fail to pay or arrange to enter into a payment plan, Summit County shall initial legal action in court to recover these expenses, including reasonable attorney fees.

Sincerely,



Helen E. Strachan
Deputy Summit County Attorney

Enclosure

cc: Kevin Callahan
Robert Jasper

ORDINANCE NO. 773

**AN ORDINANCE PROHIBITING THE USE OF FIREWORKS, OPEN FIRES,
AND USE OF CERTAIN AMMUNITION WITHIN SUMMIT COUNTY DURING
THE FIRE SEASON 2012**

WITNESSETH

WHEREAS, the governing body of Summit County, Utah, in conjunction with the Park City Fire District, the South Summit Fire District and the North Summit Fire District, have a desire to reduce the threat of wild fires within the County; and

WHEREAS, based upon the forecasted drought, and the history of wild fires thus far in Utah, the fire risk for the year 2012 is expected to be high from June 25, 2012 through October 1, 2012; and

WHEREAS, Summit County and each of the fire districts desire to reduce the risk of wild fires which may cause extensive damage within the county; and

WHEREAS, the use of explosive and other fireworks, as well as open fires and certain ammunition within the county substantially increase the risk of wildfires; and

WHEREAS, the State of Utah has created the Utah Fireworks Act as found in UTAH CODE ANN. § 53-7-220 - 225 which prohibits the sale and use of fireworks except on specific days; and

WHEREAS, Summit County has determined that the increased fire risk and risk to the health, safety and welfare of its citizens and their property warrant the need to restrict the use of fireworks, open fires, and discourage use of certain ammunition completely during the high risk period;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL
OF SUMMIT COUNTY, UTAH, AS FOLLOWS:**

Section 1. Summit County hereby finds and determines that the high risk fire season for the year 2012 shall be from June 25, 2012 through October 1, 2012.

Section 2. The use of any and all class "C" fireworks, shall be prohibited during the entirety of the 2012 high risk fire season. Class "C" fireworks as defined by UTAH CODE ANN. § 53-7-202(4)-(6) include:

- a) a firecracker, cannon cracker, salute, cherry bomb, or other similar explosive;
- b) a bottle rocket, skyrocket or any device other than a model rocket that uses combustible or explosive material;
- c) a roman candle or other device that discharges balls of fire;

- d) a tube or cone aerial firework that propels comets, shells, salutes, flash shells, or similar devices; and
- e) a chaser, whistler, or similar device.

Section 3. All open fires are prohibited during the 2012 high risk fire season. An open fire is defined as a fire which is not contained in a receptacle or structure specifically designed to contain the fire and prevent its spread outside the receptacle or structure. The receptacle or structure must be designed and located such that heat from the fire is precluded from starting a fire outside the receptacle or structure.

Section 4. The firing of the following ammunition is strongly discouraged: steel jacketed bullets, incendiary bullets, and tracer bullets.

Section 5. Violations of this Ordinance shall be deemed a class B misdemeanor and shall be punishable by a fine not to exceed \$1,000.00 for persons or \$5,000 for corporations, and/or imprisonment for a term not to exceed six (6) months.

Section 6. All resolutions, ordinances, orders, and regulations or parts thereof heretofore adopted or passed which are in conflict with any of the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 7. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health and safety of the county and the county's inhabitants this Ordinance shall become effective immediately upon its approval and passage and posting at the courthouse door.

APPROVED, ADOPTED AND PASSED this 25th day of June, 2012.

COUNTY COUNCIL
SUMMIT COUNTY, UTAH

By: David The
Chair

ATTEST:

Kent Jones
County Clerk

David L. Thomas
Approved as to Form
David L. Thomas
Chief Civil Deputy



VOTING OF COUNTY COUNCIL:

Councilmember Elliott	<u>Absent</u>
Councilmember Robinson	<u>Aye</u>
Councilmember Ure	<u>Aye</u>
Councilmember Hanrahan	<u>Aye</u>
Councilmember McMullin	<u>Absent</u>

5-4-10: RECOVERY OF COSTS FOR RESPONDING TO EMERGENCIES:

Recovery for recovering costs incurred by the county for assistance rendered by the county in responding to hazardous materials emergencies, aggravated fire emergencies and aggravated emergency medical responses.

A. Definitions:

AGGRAVATED FIRE EMERGENCY: A fire proximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire:

1. Is caused or contributed to by the failure to comply with an order from any county agency, department or official, or
2. Occurs as a direct result of a deliberate act in violation of the ordinances or regulations of the county, or
3. Is caused by arson, or
4. Is an alarm that results in a county fire unit being dispatched, and the person transmitting, or causing the transmission of, the alarm knows at the time of said transmission that no fire or fire related emergency exists.

AGGRAVATED MEDICAL EMERGENCY: An alarm that results in a county fire unit or a county emergency medical unit being dispatched, and the person transmitting, or causing the transmission of, the alarm knows at the time of said transmission that there are no reasonable grounds for believing that a medical emergency exists.

EXPENSES: The actual costs of government and volunteer personnel including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal and the costs of any contract labor and materials.

HAZARDOUS MATERIALS EMERGENCY: A sudden or unexpected release of any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

B. Procedure For Recovery Costs: The county is hereby empowered to recover expenses incurred by virtue of the county's response to a hazardous materials emergency, aggravated fire emergency or an aggravated medical emergency from any person, corporation, partnership or other individual or entity who caused such an emergency, pursuant to the following procedure:

1. The county shall investigate the circumstances of the emergency. Where liability can be assessed, the county manager shall notify the responsible party by mail of the determination of responsibility and the expenses to be recovered.
2. The county manager may provide for a payment plan to recover the costs of the emergency from a responsible party.

3. A responsible party may appeal the determination of the county manager de novo to the county council within thirty (30) calendar days of receipt of the mailed determination.

C. Liability: The payment of expenses determined owing under this chapter does not constitute an admission of liability or negligence in any legal action for damages or a criminal fine.

D. Civil Suit To Collect Expenses: In the event the parties determined to be responsible for the repayment of expenses incurred due to the county's response to such an emergency fail to make payment to the county within thirty (30) calendar days after a final administrative determination of any appeal to the county or thirty (30) calendar days from the deadline for appeal in the event no appeal is filed, the county may initiate legal action to recover from the determined responsible parties the expenses determined to be owing, including the county's reasonable attorney fees. (Ord. 777, 7-18-2012)