

U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

In the Matter of: U.S. Forest Service
OSHA No.(s): 310136577

INFORMAL SETTLEMENT AGREEMENT

The undersigned Employer and the undersigned Occupational Safety and Health Administration (OSHA), in settlement of the above Notice of Unsafe or Unhealthful Working Conditions that were issued on July 19, 2007, hereby agree as follows:

1. The Employer agrees to correct the violations as cited in the above Notice of Unsafe or Unhealthful Working Conditions or as amended below.
2. The Employer and OSHA agree that the following violations in the Notice of Unsafe or Unhealthful Working Conditions are not being amended:

This paragraph is not applicable to this settlement agreement. Changes are made to each notice issued.

3. OSHA agrees that the following violations in the Notice of Unsafe or Unhealthful Working Conditions are being amended as shown below:

Notice 1 Serious Item 1 is withdrawn. The agency agrees to emphasize the importance of timely weather information and to facilitate access to this data in the annual fire refresher training.

Notice 1 Serious Item 2 the alleged violation description is changed as follows:

29 CFR 1960.8(a): The agency head did not furnish places and conditions of employment that were free from recognized hazards that were causing or were likely to cause death or serious physical harm in that employees were exposed to the hazards of burns, smoke inhalation, and death from fire-related causes:

- (a) Esperanza Fire, Gorgonio View Road: On October 26, 2006, U.S. Forest Service (USFS) Firefighters were directed to evacuate residents and provide structure protection of the Twin Pines Community, exposing them to the hazardous condition of a burnover. Branch Director's instruction was either poorly communicated, or misunderstood by USFS Firefighters. The fire festered in the drainage below and the crew of Engine 57 continued their assigned mission to evacuate residents and provide structure protection of the Twin Pines Community. The crew of Engine 57 was exposed to a burnover.

Note: Both parties agree this item has been abated by the actions taken in recommendation # 4 of the Esperanza Accident Review Board Action Plan.

Notice 1 Serious Item 3 the alleged violation description is changed as follows:

29 CFR 1960.8(a): The agency head did not furnish places and conditions of employment that were free from recognized hazards that were causing or were likely to cause death or serious physical harm in that employees were exposed to the hazards of burns, smoke inhalation, and death from fire-related causes:

- (a) Esperanza Fire, Gorgonio View Road: On October 26, 2006, U.S. Forest Service (USFS) Firefighters were directed to evacuate residents and provide structure protection of the Twin Pines Community, exposing them to the hazardous conditions of a burnover. USFS Firefighters were not equipped with maps to familiarize them with the area and terrain.

Note: Both parties agree this item has been abated by the actions taken in recommendation # 01A of the Esperanza Accident Review Board Action Plan.

Notice 1 Serious Item 4 the alleged violation description is changed as follows:

29 CFR 1960.8(a): The agency head did not furnish places and conditions of employment that were free from recognized hazards that were causing or were likely to cause death or serious physical harm in that employees were exposed to the hazards of burns, smoke inhalation, and death from fire-related causes:

- (a) Esperanza Fire, Gorgonio View Road: On October 26, 2006, U.S. Forest Service (USFS) Firefighters were directed to evacuate residents and provide structure protection of the Twin Pines Community, exposing them to the hazardous conditions of a burnover. USFS Firefighters were positioned in front of the fire attempting to protect a residential home. The fire festered in the drainage below which left Engine 57 lined up with the fire and Santa Ana winds directly in front of their position when the area ignition occurred. This unknowingly left Engine 57 in an indefensible position. The fire and Santa Ana winds lined up directly in front of their position creating an area ignition which resulted in a burnover.

Note: Both parties agree this item has been abated by the actions taken in recommendation # 4 of the Esperanza Accident Review Board Action Plan.

Notice 1 Serious Item 5 the alleged violation description is changed as follows:

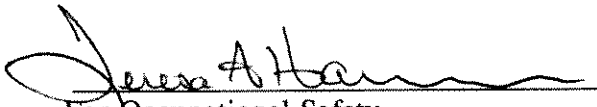
29 CFR 1960.8(a): The agency head did not furnish places and conditions of employment that were free from recognized hazards that were causing or were likely to cause death or serious physical harm in that employees were exposed to the hazards of burns, smoke inhalation, and death from fire-related causes:

- (a) Esperanza Fire, Gorgonio View Road: On October 26, 2006, U.S. Forest Service (USFS) Firefighters were directed to evacuate residents and provide structure protection of the Twin Pines Community, exposing them to the hazardous conditions of a burnover. The residential home was surrounded by vegetation which helped fuel the fire. The firefighters were in a chimney facing the wind direction, on a slope with vegetation between them and the fire which resulted in a burnover.

Note: Both parties agree this item has been abated by the actions taken in recommendation # 4 of the Esperanza Accident Review Board Action Plan.

Notice 1 Serious Item 6 is withdrawn. The Regional Forester agrees through letter to all employees, to emphasize the agency's policy regarding personal protective equipment. A copy of this letter will be furnished to the Regional Administrator, OSHA Region IX. In addition, the Regional Forester agrees to remphasize this policy through the annual fire refresher training.

4. The Employer agrees to immediately post a copy of this Settlement Agreement in a prominent place accessible for employee viewing. This Settlement Agreement must remain posted until the violations cited have been corrected, or for 3 working days (excluding weekends and Federal Holidays), whichever is longer.
5. The Employer agrees to continue to comply with the applicable provisions of the Executive Order 12196 of February 26, 1980, and the applicable safety and health standards promulgated pursuant to the Occupational Safety and Health Act of 1970.



For Occupational Safety
And Health Administration
Teresa A. Harrison
Acting Regional Administrator, OSHA Region IX



1/24/08

For The Employer Date
Randy Moore
Regional Forester, Region V



1-24-08

Employee Representative Date
Dan Duefrene, Regional Vice President, NFFE

NOTICE TO EMPLOYEES

The law gives you or your representative the opportunity to object to any abatement date set for a violation if you believe the date to be unreasonable. Any contest to the abatement dates of the citations amended in paragraph 4 of this Settlement Agreement must be mailed to the U.S. Department of Labor Area Office at 90 7th Street, Suite 18100, San Francisco, CA 94103, within 15 working days (excluding weekends and Federal Holidays) of the receipt by the Employer of this Settlement Agreement. You or your representative also have the right to object to any of the abatement dates set for violations, which were not amended, provided that the objection is mailed to the office shown above within the 15-working-day period established by the original citation.