

‘We’re going to run out of cash’: 2017 North Bay fire victims’ trust administrator talks fund gap, public criticism

Press Democrat

The Fire Victim Trust has the systems in place to settle the financial claims of long-suffering victims of the 2017 North Bay firestorm and the 2018 Camp Fire by the end of the year — if it only had the money — the fund’s administrator said Friday amid fresh debate over the pace of distributions and the trust’s operating expenses.

But the fund, which was supposed to amount to \$13.5 billion, has always been handicapped by a controversial deal struck during Pacific Gas and Electric Company’s bankruptcy where the utility made half of its \$13.5 billion payment in stock shares. The company’s stock price has remained depressed, leaving the Fire Victim Trust unable to sell shares sufficient to make fire victims whole.

Over the 15 months since it began taking claims, the trust has processed them for around 65% of the fire victims — roughly 162,000 claims — trust administrator and retired appellate judge John Trotter said in an interview Friday. The fund was formed in July 2020, but did not begin taking claims until March 2021, Trotter said.

It was created to address the losses of as many as 70,000 people in connection with 24 different fires.

“This is going as quickly and probably more quickly than we imagined,” he said, rejecting criticism that the fund has been slow to pay victims but quick to rack up high administrative fees.

The trust, however, is only paying 45% of a claim’s value in an effort to preserve funds until it can sell PG&E stock to cover the difference. “Sooner or later, we’re going to run out of cash,” Trotter said.

Trotter's interview with The Press Democrat comes six weeks after a Fire Victim Trust lobbying effort to persuade state officials to help make up its funding gap got off to a rocky public start, with the sudden end of a \$15,000-a-month lobbying contract with Patrick McCallum, a 2017 Tubbs fire victim and retired higher education lobbyist who is at the center of a Sonoma State University sexual harassment scandal.

It also comes amid fresh debate over the trust's spending on operating expenses, compared to what critics see as an excruciating pace toward even partially compensating those who lost everything to fires sparked by PG&E equipment. Trotter sparred publicly last week with Butte County supervisors and the editorial board of the Chico Enterprise Record over spending that includes his \$130,000 a month salary.

The trust faces other questions about its spending in the federal bankruptcy court in San Francisco.

Judge Dennis Montali, who appointed Trotter, has scheduled a Tuesday hearing to discuss a request by 2017 Tubbs Fire victim and advocate Will Abrams that seeks more detailed financial disclosures from the trust.

"We were sold a \$13.5 billion settlement that would be managed and administered in a trust on our behalf with appropriate oversight and transparency," Abrams said in a statement to The Press Democrat, but "this has not occurred in any way, shape or form.

"While many victims live hand-to-mouth and await money to rebuild their homes and their lives, the Fire Victim Trust has been leveraged to benefit investors, attorneys and other stakeholders on our backs and through a veil of secrecy," he said.

But Trotter appeared unconcerned by those criticisms Friday.

He said the \$93 million the trust has spent to date on administration, consulting, lobbying and legal fees was part of an expensive process to build a more than 400-employee system dedicated to evaluating and paying claims. Critics, he added, misunderstand the scale and challenge of the effort.

"The trust's job is not to answer criticisms, the trust's job is to pay the victims," he said. "People who criticize, they're free to criticize. I would hope that they knew a little bit more than they seem to know ... my concern is the victims."

To pay victims more than 45% of their claims' value may require a state intervention, and goodwill from lawmakers, however. McCallum told The Press Democrat the trust was seeking a loan of as much as \$1.5 billion, from state coffers flush with a \$100 billion surplus. Such a loan would allow the trust to continue paying victims while waiting for PG&E stock prices to improve.

If the stock value reached a level where the trust could sell its shares for a profit, the fund could then reimburse the state for the loan — taking the burden of the controversial bankruptcy deal off victims' shoulders.

The trust cut ties with McCallum a day after two prominent North Bay lawmakers told The Press Democrat he should not be a voice for wildfire victims amid allegations of sexual harassment made against him by several female employees of Sonoma State. The trust faces other questions about its spending in the federal bankruptcy court in San Francisco.

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The trust’s new liaison with state lawmakers is Darby Kernan, who previously lobbied for the California State Association of Counties.

Like McCallum, Kernan worked on wildfire legislation in the wake of the 2017 and 2018 catastrophic fires. Trotter declined to say if the goal was still a \$1.5 billion loan, but said the trust sought financial assistance from the state.

Senate Majority Leader Mike McGuire, D-Healdsburg, and Sen. Bill Dodd, D-Napa, were the two lawmakers who called for McCallum to be fired. This week, both senators said they wanted to help fire victims but had not taken a position on a loan.

Throughout its lifespan, the trust has been criticized by fire victims and public officials for its high administrative expenses — it spent \$93 million on such costs in 2021 and paid out \$1.69 billion to victims. The largest expenses are on claims for administration costs, but the trust also spent nearly \$10 million on legal fees, close to \$5 million on financial professionals and \$782,849 on consultants.

Trotter received \$1.5 million in 2021. His salary was set by the court, he said, and justified by his experience and the scale of the task assigned him.

In its first year, as trust administrators worked to get the trust running, it spent \$51 million on lawyers' fees, claims administrators and financial professionals, while only paying out \$7 million in claims, according to a May 2021 report by Bay Area NPR-affiliate KQED that prompted widespread outrage among victims, lawmakers and others.

Critics do not understand the scope of the trust's work, Trotter said. Lawyer fees have gone to defend the fund in two expensive lawsuits, he said. They have also paid for a series of lawsuits brought by the trust against vegetation management companies, and former PG&E directors, and the damages from those lawsuits could bolster the trust's ability to pay out victims, Trotter said.

"We're talking about billions and billions of dollars (to distribute) and all of the issues that the trust faces," he said.

The operating costs are high but the trust is performing as intended, Amy Bach, the executive director of a consumer group called United Policyholders, said. Bach sits on the trust's oversight committee. Trust administrators are "working very hard to try and get money to people in a deal that was not great from the get go," she said.

"I'm not saying there couldn't have been more thrifty decisions," she said, but large-scale bankruptcies in the United States are known for big attorney fees.

"That is the way it goes down" she said, "even if I don't like it."

But many victims, and politicians who represent them, are frustrated by the expenses after years of suffering financial losses incurred by the fires. Last week, the Butte County Board of Supervisors addressed a sharply worded letter to Trotter seeking more information about the trust's trajectory and spending.

"This fund was intended to compensate fire survivors for the losses they suffered, not become a well-paying job for massive legal teams," the supervisors wrote.

Trotter responded with a voicemail to a county official where he dismissed the letter as an "offensive, uninformed political statement." The voicemail was subsequently published in a scathing editorial in the Chico Enterprise-Record.

“My staff of 400 claims processors, evaluators, and experts work hard every day to bring some small bit of justice to those who are affected by the fires,” Trotter wrote in a response published on the trust’s website. “My frustration is fueled by the fact that the information sought by this letter was and is readily available. All they needed to do was ask.”

Abrams, the Tubbs Fire victim-turned-activist, has asked — via a filing in bankruptcy court that seeks a more detailed accounting than the seven-line budget breakdown in the trust’s annual report.

He also seeks answers from the trust about how it selected McCallum as a trust lobbyist, and a court hearing where he and other victims can question Trotter on expenses and hiring practices.

“My motion puts forward a process to allow victims to get their questions asked and answered by the trust and to ensure contracts and other activities executed on our behalf are shared for our review,” Abrams said.