

January 31, 2008

To: Montana Fire Suppression Committee

Re: Fire Suppression

The following are my comments:

A. Management Policies

1. More emphasis needs to be returned to building and securing fire line at the base of the fire and progressing around the flanks. A Point Protection Policy has been instituted, which does not allow for total perimeter control. This is leading to more incidents of abandonment of the fireline as fire behavior increases.
2. Night operations are not used as extensively as in the past. It is critical to establish line when conditions are in the firefighters favor, i.e. less wind, lower temperatures, and higher relative humidity.
3. Crews are unnecessarily abandoning the line where there are minor flare-ups or even single tree torching. This indicates a lack of experience and training of basic fire behavior.
4. The incident bases have become dependent on technology which means they are located too far from the fireline. The travel time has increased to the point that resources are arriving on the Divisions mid-morning. Spike camps need to be established to reduce travel and time lost by not working on the fireline.
5. Many of the non-local Incident management Teams are not familiar with the local conditions. I recommend a local Operations Advisor be assigned to the teams to assist with the suppression tactics.

B. Efficient uses of resources

1. With more homes being built in areas subject to wildland fires, structural protection is overwhelming the Incident Management Teams. Resources are being assigned to reduce fuel loads around dwellings at taxpayers expense. The property owners need to be responsible for expenses incurred developing the defensible space. Another option is to not provide protection if the property does not meet an acceptable standard for the terrain and adjacent fuels.
2. In Eastern Montana, there needs to be better coordination with the local ranchers. Their grass pasture and livelihood are at risk; therefore, they need to be involved in tactics and the suppression effort. Just because they don't own a Nomex shirt, doesn't mean they should be stopped from helping protect their property.

C. Effective use of private resources.

1. There are still comments circulating regarding assignment of contract equipment. The contracting section in the Lolo Forest needs to be more user-friendly.
2. I question the rural Fire Departments sending their equipment all over the State. It becomes a moneymaker, and they buy more equipment so they can continue to be dispatched out of their home area.

D. Management Policies

1. Currently, I'm double taxed for fire suppression. We have the State Fire Protection, based on acreage, and at the same time, a mil levy on entire property evaluation goes to the local fire department. The State Fire Protection fee has increased by 43.6% since 2003, incidentally.
2. Air quality restrictions need to be relaxed to provide for more burning of range and forest lands. This is particularly true east of the Continental divide, where there is increased forest encroachment on grasslands.

3. More education is needed about the benefits of prescribed burning on grazing allotments and on private land.
4. The diseased and dying forests need to be harvested and treated as long as it is economically feasible.
5. The National appeals process needs to be repealed, and then revised so only local stakeholder input is recognized.
6. Our forests and rangelands need to be managed for the long run (100+ years), not for the next ten years.
7. The Federal Government should be allowed to salvage timber before it is of no value.

Thank you for the opportunity to comment.

William E. Meadows  
168 Little Beaver Cr Rd  
Trout Creek, MT 59874  
409/827-3578

**Heisel, Leanne**

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**From:** paul boylan [pboylan@theglobal.net]  
**Sent:** Thursday, January 31, 2008 8:25 AM  
**To:** Heisel, Leanne  
**Cc:** paul boylan  
**Subject:** Fire Suppression Committee  
**Attachments:** Fire Suppression Committee.doc

Dear Ms. Heisel:

Please find attached my thoughts and opinions concerning Montana wildfire suppression/control. Please do not hesitate to call me with any questions you might have regarding this topic.

Thank you,

Paul

1/31/2008

Paul F. Boylan, Jr.  
1037 Boylan Road, #4  
Bozeman, MT 59715

January 30, 2008

Fire Suppression Committee  
c/o Leanne Heisel  
Legislative Services Division  
PO Box 201706  
Helena, MT 59620

Dear Committee Members:

I am an owner of record of approximately 2,600 acres of private land that was seriously impacted by the Derby Mountain fire in the summer of 2006. The subject property is adjacent to U.S. Forest Service land located on the Upper Deer Creek in Sweetgrass County. Due to my experience with this fire incident, and information gathered subsequently, I would like to offer my comments and observations to the Fire Suppression Committee.

This fire was started by natural causes on U.S. Forest land approximately 6 miles S.E. of my property on Derby Mountain on August 22, 2006. The fire spread N.E and reached its southern most point along Interstate 90 at its intersection with Bridger Creek Road on September 1, 2006. This was a distance of nearly 15 miles, of which 8 miles was through private land. To my knowledge, no attempt was made to control the progress of this fire, but numerous homes and out buildings on Bridger Creek Road, Cow Face Hill Road, Spring Creek Road, and the Stillwater River Road were protected while some others were destroyed. The fire burned itself out on private ground on the north and east side on September 1, 2006.

On September 1, 2006 I talked with the incident commander and asked what plans they had, if any, to control the fire. He showed me a map with a backfire line that started on private property at the Iron Mountain Road and went west to the Main Boulder Road; a distance of 6 miles all on private land. When I raised an objection, I was told that the fire was now under the control of FEMA and that landowners had no say in if or how the land was used to control the fire.

The western edge of the fire, which had been rather dormant during this time, started to spread to the west from its northern and eastern edge. A large amount of equipment and fire trucks from all over the U.S. and Canada were staged along what the Forest Service erroneously labeled on the map as Lower Deer Creek Road. The equipment and fire trucks had been located along the road for several days but no attempt was made to widen the natural break provided by the Iron Mountain Road. The Iron Mountain Road is a Sweetgrass County road until it crosses into the Forest Service boundary several miles south of its intersection with Four Creeks Lane. Past this point, it becomes a Forest Service road for many more miles to the south. On September 2, 2006, a neighbor and I spent most of one day showing the division commander places where a

fire line could be built along an east west line just south of the forest boundary that was almost entirely free of any significant fuel supply for the fire. This plan was rejected for reasons that were never explained. We were also told that if any fire lines were cut in this area by our equipment, none of these lines could be on Forest Service land. A dozer road was cut and a backfire started on the SW side of Four Creek Lane in the evening of September 2, 2006. The fire was allowed to jump the Iron Mountain Road and then it proceeded to spread toward the west over the next 3 to 4 days. At this time, numerous airdrops of fire retardant were used to keep the backfire from spreading north of the backfire line, but none were used to keep the fire from spreading west of the Iron Mountain Road. Dozens of pieces of large equipment were staged along the road with around twenty or so fire trucks from various locations around the U.S., including Alaska. There were also two busloads of Native American fire fighters present. One bulldozer was used to cut the backfire line on the east side of Iron Mountain Road and a backfire was ignited, which then was allowed to cross over the road and proceed into timber stands on private land. None of the available trucks, equipment, or fire crews were put into service to restrict the fire from crossing the road. The fire was dormant for the most part of Sept 3<sup>rd</sup>.

On Sept 4 and 5<sup>th</sup> the progression was generally to the northwest and was closing on the Main Boulder Road to the west. The crews and equipment had been sent over to the Boulder Road side of the fire from about the 3<sup>rd</sup> of September on, until the only personnel left on the northern perimeter were the back burn crews. The residents of the Main Boulder area had been told to evacuate during the previous week and dozers and blades were used to widen the private ranch roads on the northern edge of the fire. This was on the same line that had been indicated by management personnel a week earlier. No attempt, even minor, was made to contain the fire anywhere on U.S. Forest Service property. As the fire progressed to a couple of ridges south of the designated fire lines, the backfires were set on September 6<sup>th</sup>. The irony of this situation is that there was nothing between this fire line and the existing fire in most places that would support a fire and the crews had to keep relighting the backfire to get a burnt out area. The few areas that did have fuel and were backfired destroyed hundreds of thousands of dollars worth of mature stands of fir. There was no way that the natural fire would have reached these timber patches, as it had to cross rocky cliffs, bare ground, and a wide green creek bottom to do so. An inspection of the area, after the fire had burned itself out, bore this fact out. Even if the fire had crossed these areas, there was nothing to the north in the area of the fire line to burn and the fire would have burnt itself out for lack of fuel. During the time of the backfire, the radio traffic was abuzz with orders to "fire the damned thing", and get over to the Boulder Road to protect the cabins and houses. I would like to add that where the natural fire burned, it did so in a mosaic pattern where some land and timber was burned, but an almost equal amount was not burned due to the topography of the ground. However the areas that were backfired were completely destroyed.

The sad reality is that the Forest Service can't and won't fight fires to protect property that is not either a home or a structure. At considerable expense, several of the property owners in this area hired a private fire behavior expert to review the damage and to evaluate the way that the fire fighting was handled. The following significant facts were brought to light from this examination:

1. If a fire is attacked in the first 10 to 20 hours, the success rate in containing the fire is around 97%. The crews that are used to do this are termed “I-A Initial Attack Crews” and they are extremely efficient and well trained. Aerial fire suppression is also a very effective tool at this time. Unfortunately only 1½% of the aircraft that are thought to be available at any one time are operational. A study done in 1996 pointed out the need for newer and more airworthy fleet of retardant bombers, but the idea was scrapped due to the high costs involved. In 2007 this “National Air Tanker Study” was revisited, but it is not known at this time what the findings or conclusions of the study were. Once the fires are allowed to get too large for the I-A crews they are almost impossible to control under current Forest Service fire fighting rules.

2. There are various reasons and opinions why the fires are uncontrollable from this point on. One prevalent opinion is that fires have in the past, until twenty-five years ago, been put out early, thus increasing the amount of fuel left in the forest. This was the thinking that led to the “let it burn policy” that has been in effect since then. This has proven to be a not quite valid assumption as some of the Montana and Idaho fires, during the past two years, have been over areas that were burned in the previous 20 years. The reality is that the extended drought and heat of the last few years has dried out the re-growth brush and grass that has grown back after the initial fires. This has become a dangerous source of potential fuel in itself in these dry years.

3. The above items notwithstanding, there are several more reasons that fires are not being controlled after the initial attack phase. The next type of classification for fire control and suppression is called “the extended attack phase”. Over the past twenty years or so, in an effort to control costs, the Forest Service has steadily reduced the numbers of in-house full time fire fighters and supervisors. They now rely on outside fire crews and fire trucks, both structural and wild fire types. Supervisors are recruited from among former Forest Service employees with previous fire fighting experience. Crews that are hired to fight fires do have to be certified by the Forest Service. This is where a problem arises; some of the crews are well qualified and well supervised, while others are not. The experienced fire management people that I have talked with quite candidly told me that independent crews are in large part more of a danger to themselves and those around them, than they are useful in the actual control of wild fires. The structural crews would appear to be somewhat more competent. It was indicated by people with extensive fire management experience, that they would be comfortable with, at the most, 65% of the trucks and their crews that are supplied to them. It is also interesting to note, that by far, the largest amount of funds expended on fire suppression in the wild fire arena are spent on these extended attack resources. There is also a big shortage of qualified supervisory personnel available. On the Derby and several other fires that I have observed over the past few years there are fire trucks from all over the U.S. and Canada. In my experience, they are hardly ever utilized, but they are apparently there just in case. Further investigation into this area revealed the following:

- A. Trucks with their crews are sent out to the Forest Service for particular fires.
- B. The moneys received by these various fire districts go a long way to supplement the budgets of these fire companies. It would appear that all of this is a subsidy provided to fire departments all over the U.S. as I have never observed them doing anything but driving up and down the road or parking along the road in case they were ever needed.

4. The shortage of experienced supervisors is due to several factors. The first is that at the time that the Forest Service reduced the number of full time fire fighters, a like reduction in supervisors was made. For many years these people were then available for hire as private contractors during the fire season. However, as with all people, these people grew older and no longer wanted to do this type of work. Another factor that comes into play is the liability factor. If something goes wrong in a fire operation, the blame can be shifted onto the supervisors and away from the Forest Service. Contract employees do not have the immunity from prosecution enjoyed by government agencies; supervisors have been held liable for both loss of life and loss of property and thus many qualified people do not want to assume the risk. The Forest Service has also responded to these situations in their own way. People were lost fighting fires in areas where there was fuel for the fire so crews were no longer used to build fire lines in areas where there is fire fuel, except for back burning. Wild fires lay quite dormant during the night and early mornings due to lower temperatures and higher humidity and this is the ideal time to try to control them. However, there have been people killed and injured fighting fires at night so this is not now an allowable option.

5. I also have been in contact with insurance company representatives since the fire incident. I was interested in what their position was on homes and cabins built in proximity to national forest, as well as, on private timberland. The situation is this; prior to 1982, structures in what is now commonly called the interface area were insured on the same basis as any other dwelling or cabin. After 1982, structures without fire mitigation provisions would not be insured. Their experience showed that buildings with a set back from tall trees, a green lawn, under growth removed from the surrounding area, and a water supply for wetting the area down, has kept buildings from being burnt in a wild fire. They do charge much higher premiums and require much higher deductibles on buildings located in these areas and they will only insure these structures to a maximum of \$3,000,000.

In conclusion, if fires are not controlled at the very beginning, then they are impossible to manage due to the present fuel conditions in our wild lands and the worker safety restrictions now in place.

The money spent on the extended attack phase to protect private property other than structures, is a complete waste. On the Derby Mountain Fire, scores of

fire trucks, crews, and heavy pieces of equipment were staged along the road for several days and utilized for nothing at all.

The bulk of the resources available on a particular fire are used to protect structures and homes or cabins. No attempts are made to contain the fire to Forest Service lands. Indeed, private property is sacrificed to control the fire and free up resources for structure protection. I will point out here that structures can be and are insured, but there is no insurance available to insure view-scape, timber or wild life habitat that is a large part of the value of this type of land. The same is true of infrastructure, such as fences and water tanks necessary to graze livestock on these lands.

Aerial fire retardant drops, while spectacular, are almost useless and are nothing more than public relation displays, unless used in the initial attack phase. The funds and resources spent during this phase would be better spent on such endeavors as thinning, fuel control projects, and compensation to adjacent landowners for damage due to unchecked fires. It is worth mentioning here that landowners who border public lands can be held responsible for fire fighting costs arising from fires that are allowed to spread onto public lands from private holdings. There is no reverse liability here. The Forest Service is not liable for damage caused to private property from fires originating on public ground, whether or not any measures to control the fire were used.

Another point to be made here is that the level of priority that wild fires have varies from national forest to national forest. It would seem that the farther one is removed from southern California, the lower the priority that is given to fire prevention and control. The main priorities in the national forests in Montana are timber sales and recreation. The year round employment of qualified fire personnel who could be used in fire mitigation projects in the off-season could be of some help.

I would like to close by saying that the people of Montana are not getting much bang for their buck when an interagency fire agreement with the federal government is signed. If my thoughts or observations would be of any interest to your committee, I would be happy to present my testimony at any hearings that might be held. I can be reached at 406-582-4524 and my email address is [pboylan@theglobal.net](mailto:pboylan@theglobal.net).

Sincerely,

*Paul F. Boylan*

Paul F. Boylan

# MONTANA STATE SENATE

SENATOR JERRY O'NEIL

HELENA ADDRESS DURING SESSION:  
PO BOX 200500  
HELENA, MONTANA 59620-0500  
406-444-6799

HOME ADDRESS:  
985 WALSH ROAD  
COLUMBIA FALLS, MONTANA 59912  
406-892-7602; 406-892-7603 FAX



SESSION COMMITTEES:  
JUDICIARY  
PUBLIC HEALTH, WELFARE  
AND SAFETY  
LOCAL GOVERNMENT

ONEIL@CENTURYTEL.NET

January 31, 2008

Montana State Legislature  
Fire Suppression Interim Committee  
State Capitol  
Helena, Montana 59620

Dear Committee Members:

If Al Gore is correct, we need to selective log the Bob Marshall Wilderness and all other government owned forests in order to prevent the oceans from rising 20 feet and killing millions of people.

In order to reduce the amount of greenhouse gases and avoid Al Gore's predictions of global flooding and devastation, we no longer have the luxury of allowing infernos to burn in the Bob Marshall Wilderness, such as the 40,500 acre Skyland Fire and the 44,181 acre Ahorn Fire in 2007.

We are also responsible for allowing conditions to deteriorate to the point where we also had the: 26,421 acre Brush Creek Fire, 76,000 acre Chippy Creek Fire, 20,800 acre Jocko Lakes Fire, 32,608 acre Fool Creek Fire, 7,850 acre Conger Creek Fire and the 3,158 acre Railley Mountain Fire last fall. These fires spewed forth greenhouse gases from the consumption of at least 215,518 acres of timberland in Northwest Montana. And this is a pittance compared to the half-million acres burned in 2003.

When one acre of forest in the Bob Marshall Wilderness burns in a catastrophic forest fire, it will produces approximately 9 tons of CO, 0.6 tons of hydrocarbon particulates, and 400 pounds of nitrous oxide. When one acre of forest which has recently been managed by logging becomes consumed by forest fire the level of consumables will be much less, making the fire much less likely to be catastrophic and the greenhouse gas contribution much less.

In 1995, according to the U.S. Environmental Protection Agency, forest fires in the United States contributed over 126 million metric tons of carbon dioxide to the atmosphere. It appears more will be contributed by forest fires this year. Other than by forest fires, we know that growing forests consume carbon dioxide and exhale oxygen. Past mature forests consume oxygen and give off carbon dioxide.

According to the Energy Information Administration of the U.S. Government, "the contribution to the total heating rate in the troposphere is around 5 percent from carbon dioxide

and around 95 percent from water vapor. In the stratosphere, the contribution is about 80 percent from carbon dioxide and about 20 percent from water vapor." Water vapor is the predominant greenhouse gas.

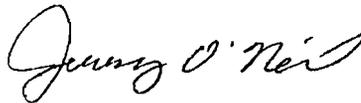
We can reduce water vapor going from our forest lands directly to the atmosphere by managing our forests. A 2006 study by Grace, Johnny M., III; Skaggs, R. W.; and Chescheir, G. M., found that mean daily water outflow doubled and peak flow rates increased 40% on the thinned watershed in relation to the control. In studies in Australia it has been found that timber harvesting in the form of thinning can substantially counteract the impact of fire regrowth on water yield. In Melbourne's catchments, strip-thinning trials have shown that up to 2.5 million litres a year of additional run-off can be generated from each hectare of thinned regrowth. This is moisture going to our rivers and lakes for the benefit of endangered species of fish, community water systems, agriculture and recreation, rather than going directly to atmosphere as a greenhouse gas in the form of water vapor.

When I went to the Flathead National Forest open house on the Sheppard Creek Fire, the rangers informed me that the areas within the boundary of the fire that had been managed by logging experienced significantly less devastation in the fire than those areas which had never been managed.

According to Malcolm North, a research scientist with the Sierra Nevada Research Center, and a professor at UC Davis, a combination of moderate forest thinning, followed by controlled burning, can lead to less catastrophic fires. This two-step process, thin and burn, can help reduce anticipated future catastrophic wildfires with their consummate massive emissions of greenhouse gases and ecosystem devastation. This can result in less emissions of greenhouse gases including carbon dioxide, nitrous oxide and water vapor and greater forest health as a whole.

It would not be surprising to me if you don't believe Al Gore enough to think we need to do everything possible, including log the Bob, to prevent the oceans from rising 20 feet. Even if we don't log the Bob, we have a responsibility to manage our other forests to provide for man and to protect our environment. In the past our government wasted too many chances to diminish the severity of forest fires. Hopefully we can do better in the future. If we want to decrease global warming, we need to manage our forests.

Yours truly,

A handwritten signature in cursive script that reads "Jerry O'Neil". The signature is written in black ink and is positioned above the printed name.

Jerry O'Neil

**Thomas G. Ray**  
General Manager - Northwest Region

Plum Creek Timber Company, Inc.  
500 12<sup>th</sup> Avenue West  
PO Box 1990  
Columbia Falls, MT 59912  
406/892-6238 Fax: 406-892-6171  
email: tom.ray@plumcreek.com



January 31, 2008

Fire Suppression Committee  
c/o Leanne Heisel  
Legislative Services Division  
P.O. Box 201706  
Helena, MT 59620-1706

RE: RECOMMENDATIONS TO THE FIRE SUPPRESSION COMMITTEE

Dear Ms. Heisel,

This letter is in response to your request for recommendations on matters concerning wildfire suppression issues in Montana as per your letter of December 14, 2007. This topic will certainly generate a lot of input to the FSC and we wish you the best in sorting out solutions to this complicated issue.

One of the committee's objectives seems to be related to the most efficient use of limited firefighting resources, including equipment and personnel. We will limit our comments on this committee objective since this dialogue should logically center with the primary fire suppression agencies, such as DNRC, Forest Service, and local fire districts. However, "costs of suppression" are probably central to some of that discussion and without getting into too much detail; we would support some type of equitable tax "surcharge" or "user fee" linked to structures located in the WUI. The revenue would help fund the added costs of fire suppression associated with existing dwellings threatened by wildfire.

Another concept that we would like FSC to explore is a firewise certification program for new developments in the WUI. Perhaps a set of standards could be developed related to desired construction materials, subdivision design, covenants, and vegetation treatments to provide "mitigated" development in the WUI. Particular developments or properties adhering to the standards or guidelines could be "Firewise Certified" by DNRC or another agency charged with wildfire suppression duties.

A final suggestion relates to forest management. We support the concept of active forest management on private, state, and federal lands to reduce fuel loading in the forests. Fire suppression efforts on managed forests may be more "manageable", less destructive, and prone less to rapid expansion than forests with high fuel loading.

Thank you for the opportunity to comment and we look forward to your continued review and consideration of this important topic. Please contact us directly if we can assist your committee in any way with your daunting task.

Respectfully submitted,



**Michael L. Koehnke**  
**P.O. Box 506**  
**Townsend, Montana 59644-0506**  
**Phone (406) 949-3522**

January 31, 2008

Fire Suppression Interim Committee  
c/o Leanne Heisel  
Legislative Services Division  
P.O. Box 201706  
Helena MT 59620-1706

Dear Members of the Fire Suppression Interim Committee:

Attached are five recommendations for the Committee to consider. I make these recommendations as a *private citizen* and do not represent nor speak for any fire service agency that I belong to.

I have developed these proposals from my experience as a *firefighter* with the Broadwater County Rural Fire District (18-years), a retired county *firewarden* and a county *disaster and emergency services (DES) coordinator* (4-years), past *member of the board of trustees* of a rural fire district, a *liaison officer* with a Northern Rockies Incident Management Team, and as a private *emergency preparedness planning consultant*. I have been involved with many large and complex wildfires, and numerous evacuations. I am also a *landowner* and *farmer* who have done a lot of controlled burning over the years.

The first priority with fire suppression is *life safety*. This means the safety of firefighters, law enforcement and the public during fire emergencies. It is all about risk management; the following is taken from the Montana Fire Services' Mutual Aid, Command and Field Operations Guide (p. 8):

1. Response is initiated on the assumption that lives and property can be protected from imminent danger.
2. Firefighters will risk their lives a lot to protect savable lives.
3. Fighters will risk their lives a little to protect savable property.
4. No risk to firefighters will be allowed to protect lives or properties that are already lost.

I hope the following recommendations are of some use to your investigation. Please contact me if you have any questions or if I can be of any assistance.

Sincerely yours,



Michael Koehnke

**Recommendations to  
Fire Suppression Interim Committee  
60<sup>th</sup> Montana Legislature**

**Recommendation No. 1 -**

- **Legislation is needed to update and clarify the Rural Fire Protection statutes relating to local governing body to protect range, farm and forest resources (Title 7, Ch. 33, part 22).**
  - Parts of the current law were enacted in 1945, amended in 1955, 1971, 1977, 1989, 1991 and 1997.
  - There is some confusion between the authority/responsibility of rural fire districts, and fire service areas, and the authority/responsibility of the county governing body regarding wildfire suppression in the various jurisdictions.
  - Current statute does not address:
    - Coordination and *unity of effort* among suppression agencies
    - The use and role of *Incident Management Teams* (IMT)
    - The need for *unified command* (unity of management)
    - *Structure protection* responsibilities within a wildland fire emergency
- **Elements to consider:**
  - A state policy statement is needed to promote and require *unity of effort* and *coordination* among all local emergency services (fire, law, EMS, DES) and state and federal fire management agencies to suppress wildfires.
  - Define these terms, which are often used in wildfire suppression, but have different means to different people:
    - “appropriate management response” (AMR)
    - “delegation of authority”
    - “incident management team” (IMT)
    - “point protection”
    - “population protection”
    - “rural areas”
    - “structure protection”
    - “unified command”
    - “urban/wildland interface”
  - *Require coordination and unity of effort* by all local, state and federal emergency services (fire, law enforcement, emergency management, DES, EMS, public works) under a *unified command* to suppress wildfires safely and effectively.
  - Authorize county governing bodies to participate in *the delegation of authority process with Incident Management Teams*, and clarify that such delegation of authority does not constitute abrogation of their statutory powers as a county governing body (Title 7, Ch. 1, part 21).

- Clarify the role, powers and duties of the *county rural fire chief* authorized by 7-33-2203, and its relationship to the other fire chiefs having jurisdiction within their respective *rural fire districts* or *fire service areas*.
- Perhaps a different title for the *county rural fire chief* would be less confusing; possible titles might be *county fire management officer* or *county fire coordinator*.
- Duties of the *county fire management officer* (or *county fire coordinator*), who would be appointed by the governing body of the county, might include:
  - Work for and report directly to the governing body
  - Principal contact person between the governing body and Montana DNRC and federal fire management agencies
  - Represent the county on the area (zone) interagency fire mobilization board and fire restrictions committee
  - Prepare and update an annual *local fire management plan* and *local mobilization guide* (pre-incident planning)
  - Liaison with the various fire service agencies within the county
  - Liaison with law enforcement, emergency management (DES) and EMS agencies concerning wildfires
  - Participate in the local *emergency operations center* during fire emergencies.
  - Coordinate public information relating to wildland fires and fire prevention efforts within the county
  - Keep the interagency fire dispatch center updated concerning wildfire activity in the county
  - Request state or mutual aid assistance when wildfires exceed the capacity of the combined fire resources of the county
  - Coordinate the county and mutual aid response to a wildfire
  - Provide wildland fire training/exercises for local resources
  - Coordinate or contact with the local fire jurisdictions to perform the rural fire marshal duties (enforcement and investigation)
- *Repeal the provisions relating to no compensation* for county rural fire chief (7-33-2203) and district fire chief (7-33-2204). The responsibilities of rural fire management are enormous and require lots of time, training and experience. Only professionally trained individuals should hold these positions and should be compensated accordingly.
- Clarify the role, powers and duties of the *firewarden* authorized under Title 77, Ch. 5, part 1, and how does the firewarden relate to *rural fire districts* and *fire service areas*.
- Clarify who has *structure protection* responsibilities during a wildfire emergency: Is it the Incident Management Team; the federal or state land management agency ordered-up the Incident Management Team; the local fire jurisdiction; or the county government?
- *Structure protection* is a very expensive, extended operation, and the responsibility is often confusing to many small departments, to their fire chief and board of trustees.

**Recommendation No. 2 -**

- **Legislation is needed to codify the role, responsibility and authority of the Incident Management Team (IMT) used to suppress wildfires in the urban/wildland interface and on private land, and the related cost-share allocation issues.**
  - State or federal land management agencies order (call in) Incident Management Teams (IMT) to manage and suppress large complex wildfires.
  - The land management agency is usually one or more of the following: U.S. Forest Service, Bureau of Land Management, Bureau of Indian Affairs, National Park Service, U.S. Fish and Wildlife Service, or the Montana DNRC. (For background, see: 2008 National Interagency Mobilization Guide, NFES 2092, National Interagency Fire Center, Boise, ID.)
  - The primary mission of these teams is wildland-fire incident management. The team is given written legal authority by the respective land management agency (or agencies) in a document called "delegation of authority."
  - The delegation of authority document delimitates the authority granted to the IMT and establishes expectations as to resource protection through the Wildland Fire Situation Analysis (WFSA), Wildland Fire Implementation Plan (WFIP), local government protection planning documents, if any.
  - Currently, there is no state statute recognizing the authority of these Incident Management Teams.
- **Elements to consider:**
  - State policy statement needed to clarify the role and authority of Incident Management Teams to management wildland fires.
  - Define these terms:
    - "appropriate management response" (AMR)
    - "delegation of authority"
    - "evacuation authority"
    - "ingress and egress control"
    - "incident management team" (IMT)
    - "point protection"
    - "population protection"
    - "structure protection"
    - "urban/wildland interface"
  - Clarify the authority of the Incident Management Team *in relationship to local governmental authority for wildfire suppression.*
    - County governing body (see: Title 7, Ch. 1, part 21)
    - Municipality governing body (see: Title 7, Ch. 1, part 41)
  - Clarify the role of local government regarding the "delegation of authority" document.
  - Clarify the authority of the Incident Management Team *in relationship to a local fire jurisdiction while fighting a wildfire on non-federal lands.*
    - Rural fire districts (see: Title 7, Ch. 33, part 21)

- Unprotected lands within a county (see: Title 7, Ch. 33, part 22)
- Fire protection in unincorporated places -- fire companies (see: Title 7, Ch. 33, part 23)
- Fire service areas (see: Title 7, Ch. 33, part 24)
- Municipal fire departments (see: Title 7, Ch. 33, part 41)
- Clarify the responsibility of the Incident Management Team *regarding "population protection" and "evacuation" planning and management.*
- Clarify the authority of the Incident Management Team *to suppression a wildland fires on private land.*
- *Clarify the rights and responsibilities of landowners (ranchers and farmers) during a wildfire.*
- Clarify the cost-share allocation methods for fire suppression *on private land if the fire originates on federal land.*
- Clarify the cost-share allocation methods for fire suppression *on federal land if the fire originates on state or private own land.*

### Recommendation No. 3 -

- **Legislation is needed to create a duty requiring rural landowners to provide for fire protection by reducing fire hazards around structures, and to provide adequate road access and posting rural address information.**
  - With more and more people building in rural areas near forest and rangelands, it is difficult to protect these structures from wildfire.
  - Safety risks to firefighters trying to protect homes located in wildland areas is becoming much greater with urban sprawl into the rural areas of the state.
  - Suppression costs are also increasing greatly to protect such structures.
  - Landowners should assume some of the responsibilities associated with rural fire protection on their own property.
- **Elements to consider:**
  - State policy statement needed to clarify the responsibility of rural landowners to provide for certain fire protection measures.
  - Define these terms:
    - "adequate road access"
    - "fire hazards"
    - "fire hazard-reduction standards"
    - "fire protection"
    - "rural address information"
    - "rural landowners"
    - "structures"
  - *Establish duty of rural landowners to protect property against wildfires.*
  - *Establish fire hazard-reduction standards around structures in rural areas (e.g., Firewise, FireSafe Montana standards).*
  - *Clarify what constitutes compliance with duty to protect property against wildfires.*
  - Establish violations:
    - Failure to protect property against wildfire

- Failure to mitigation fire hazards around structures
- Failure to provide adequate road access for fire suppression apparatus
- Failure to post rural address information for emergency responders
- *Establish penalties* and allocation of fine revenues.
- Assign enforcement authority to *local law enforcement and fire officials concurrently.*
- *Create a funding source* to provide for local fire marshals to inspect rural property to enforce compliance.
- Require *county attorney prosecutorial duties.*
- Provide for *reimbursement of fire suppression costs* for violations of this act.

#### Recommendation No. 4 -

- **Legislation is needed to clarify the authority and responsibilities for evacuation of the population and to control ingress and egress to a fire area during a wildfire emergency.**
  - Currently, state law only gives authority to the Governor [10-3-104(2)(b)] and the "principal executive officer" of the local government [10-4-406(1)] to order an evacuation and to control ingress and egress.
  - A local evacuation order can only come after the local government has declared either an emergency or a disaster [10-3-402 and 10-3-403].
  - Often, neither statutory provision is fulfilled because of the nature of the wildfire as an emergent situation. State law needs updated to match reality.
- **Elements to consider include:**
  - State policy statement is needed to authorize of both law enforcement and fire officials to evacuate people and control egress and ingress into a fire area during a wildfire emergency without going to the local government's principal executive officer.
  - Define these terms:
    - "authority to control ingress and egress"
    - "authority to order an evacuation"
    - "incident commander"
  - Evacuation planning, manage and implementation is primarily a *law enforcement function and responsibility*; this should be codify to clarify the situation and the duty. There is nothing in state law giving authority to law enforcement to evacuate people in an emergency.
  - In addition, *the on-scene fire official, as incident commander*, should be given statutory authority to facilitate an initial evacuation of the population from an area threatened by wildfire if the incident commander considers the fire an imminent danger to human life, and be given authority to control ingress or egress to such an area until adequate law enforcement arrives. Currently, no such evacuation authority exists, but it is often done by firefighters, the same with

- blocking state highways and county roads during situations of imminent danger to human life.
- *Each county sheriff and municipal police chief should be required to prepare a detailed pre-incident evacuation or population protection plan for their respective jurisdiction.*
  - *Elements of a good evacuation plan should include:*
    - Address all threats that might require evacuation, including wildfires in all areas of their jurisdiction.
    - Determine who has authority to activate the plan.
    - Designate command structure or ICS organization to manage the plan (evacuation branch, group or division). Who is in charge of what?
    - Establish Unified Command among all law enforcement and fire officials during all evacuations (local, state and federal).
    - Plan should be NIMS (National Incident Management System) compliant, as required by law.
    - Identify resources needed to implement the plan.
    - Identify mutual aid resources needed and how to request them (10-3-209).
    - Clarify role of neighboring counties, if any.
    - Detail maps of the jurisdiction.
    - Identify location of roadblocks, checkpoints, staging areas, alternative routes, wrecker services to remove stalled vehicles.
    - Identify role of Montana highway patrol, if any.
    - Outline protocol for notifying state DES, Montana highway patrol, department of transportation if a highway is blocked, and adjacent counties when the plan is activated.
    - Define terms, color-codes or flagging to be used on structures, and prepare pre-incident signs, generic evacuation handouts, things-to-bring lists for the public being evacuated.
    - Pre-designate public information officer (POI) and assign responsibilities.
    - Develop pre-incident media plan.
    - Develop pre-incident radio-communications plan and protocols.
    - Identify public notification system or procedures (reverse 9-1-1, emergency alert system or other methods).
    - Delineate role of American Red Cross, location of local shelter sites and check-in procedures.
    - Annually review and update of the plan.
    - Annually test the plan with a tabletop or field exercise(s).
  - *State DES, in collaboration with Montana Sheriff's and Peace Officers Association and Montana Fire Chief's Association, should develop standard statewide evacuation procedures and terminology, such as:*
    - Require a Unified Command among local, state and federal law enforcement and fire officials for all evacuations
    - Establish common evacuation terms (an NIMS requirement)
    - Establish standard threat levels (stage I, II, III, etc.)
    - Common color codes or flagging for structures/houses

- Develop standard evacuation training for law enforcement and fire service; fire and law enforcement should train together
- Legislation is needed to *clarify the rights and responsibilities of owners of property during an evacuation.*
  - Is there such a thing as a *mandatory evacuation order*? Do people have to leave their homes during an evacuation?
  - Can landowners be kept off their property during a wildfire emergency? What are the rights of landowners during a wildfire evacuation? Do they have the right to save livestock?

#### Recommendation No. 5 -

- **Legislation is needed to update and clarify state and local authority to regulate burning and campfires during periods of high-fire danger and at other times of the year (Title 7, Ch. 33, part 22 and Title 76, Ch. 13, part 1).**
  - Many wildland fires are the result of carelessness by landowners burning weeds and debris or by abandoned campfires.
- **Elements to consider:**
  - State policy statement is needed regarding open burning, permit requirements, the responsibility of fire setters and enforcement authority of local governments.
  - Define these terms:
    - "burning"
    - "burn permit"
    - "campfire"
    - "controlled burn"
    - "fire official"
    - "fire season"
    - "high-fire danger"
    - "interagency fire dispatch center"
    - "uncontrolled burn"
  - *Require burning permits year-around* throughout Montana in every county, not just during fire season. Exempt campfires, except during periods of high-fire danger when campfires are prohibited.
  - Clarify authority of state and local governments *to issue burn permits*, and to establish the scope and terms of such permits.
  - Clarify authority of state and local governments *to prohibit burning and campfires during periods of high fire danger*, and require collaboration among state and local fire agencies within an area (zone) when establishing such fire restrictions.
  - Authorize fire officials *to prohibit burning at night year-around* to prevent numerous 9-1-1 calls reporting the fire.

- *Authorize local-option fees for burn permits and the allocation of fee revenues.*
- *When permits are issued, require the logging of such permits with local 9-1-1 centers and interagency fire dispatch centers to prevent unnecessary dispatch of fire suppression resources to a controlled burn.*
- *Establish violations:*
  - *Failure to obtain a permit -- burning without a permit*
  - *Failure to comply with scope and terms of the permit*
  - *Burning when prohibited during periods of high fire danger*
  - *Providing false information to obtain a permit*
  - *Failure to extinguish fire or campfires*
  - *Leaving fires unattended anytime of year*
  - *Throwing lighted materials prohibited anytime of year*
- *Establish penalties and allocation of fine revenues.*
- *Authorize enforcement by both law enforcement and fire officials at state and local levels, concurrently.*
- *Provide for reimbursement of fire suppression costs for violations of this act.*
- *Clarify prosecutorial duties of county/city attorney's relating to burn permits and illegal fires.*
- *Create a public education program regarding the need for a burn permit and fire prevention.*