



## Fire Suppression Interim Committee

---

### 60th Montana Legislature

#### SENATE MEMBERS

JOHN COBB  
KEN HANSEN  
RICK LAIBLE  
DAVE LEWIS  
GERALD PEASE  
CAROL WILLIAMS

#### HOUSE MEMBERS

STEVE BOLSTAD  
JIM KEANE  
KRAYTON KERNS  
RICK RIPLEY  
CHAS VINCENT  
BILL WILSON

#### COMMITTEE STAFF

LEANNE HEISEL, Lead Staff  
TODD EVERTS, Staff Attorney  
BARBARA SMITH, Fiscal Analyst

# MINUTES

## Infrastructure Committee

Date: January 11, 2008  
1:00 p.m. to 4:15 p.m.

Rm. 137, Capitol Building  
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

### **COMMITTEE MEMBERS PRESENT**

SEN. JOHN COBB  
SEN. RICK LAIBLE  
SEN. DAVE LEWIS  
SEN. GERALD PEASE  
SEN. CAROL WILLIAMS

REP. STEVE BOLSTAD  
REP. JIM KEANE  
REP. KRAYTON KERNS  
REP. RICK RIPLEY  
REP. CHAS VINCENT

### **COMMITTEE MEMBERS EXCUSED**

SEN. KEN HANSEN  
REP. BILL WILSON

## **STAFF PRESENT**

LEANNE HEISEL, Lead Staff  
TODD EVERTS, Staff Attorney  
BARBARA SMITH, Fiscal Analyst  
Cj Johnson, Committee Secretary

## **Visitors/Agenda**

Visitors' list, Attachment #1.  
Agenda, Attachment #2

## **CALL TO ORDER AND ROLL CALL**

- 00:00:45 SEN. COBB called the committee to order at 1:00 p.m. The secretary noted the roll. (Attachment #3) SEN. HANSEN and REP. WILSON were excused.
- 00:01:22
- **Appropriations history for the Forestry Division**  
Barbara Smith, Fiscal Analyst, Legislative Financial Division, (LFD) distributed her agenda and addressed each bulleted topic. **EXHIBIT 1**
- Ms. Smith distributed an update on the costs of the 2007 fire season. **EXHIBIT 2**  
She addressed:
- The FY 2008 suppression costs depicted as of November 21, 2007, and has two funding sources: 1) HB 1 provided \$42 million to cover the net cost to the state, and 2) the federal share, e.g., FEMA, which is estimated at \$30.5 million.
  - Cost share - between the state and federal agencies on four fires that are split equitably. **EXHIBIT 3**  
The history on the average cost of fire suppression dating back 10 years for the DNRC.
- 00:06:36 Ms. Smith distributed a handout of the DNRC Forestry Division's 10-year appropriation history . **EXHIBIT 4** She reviewed the 10-year base cap that started in 2000 and goes to 2009. She explained each line item:
- General fund - Appropriated, Supplemental, and the Governor's Emergency Revenue fund
  - State Special Revenue - Fire Costs paid by the Department of Environmental Quality (DEQ), and trust lands.
  - Federal - Partners (shared costs) FEMA, Job Growth and Tax relief.
  - State Special - She explained a new program called Natural Resources Ops that has replaced the renewable resource program due to a change in funding from a decrease in federal funds. She said the federal portion doesn't include budget amendments, but comes from the base operating budget out of HB 2.
- 00:09:25 SEN. COBB asked where the federal funds come from. Ms. Smith noted there were two forest resource programs from the Forestry Division that was rolled into a consolidated grant in 2006. He asked what the money is used for. She replied it is for the state fire plan to be used for fuel and fire reduction.
- 00:10:02 Ms. Smith referred to the chart in EXHIBIT 2 that shows the average cost of fire

suppression on page 3, figure 4. She discussed:

- The changes in FEMA, and a one-time tax relief given to Montana from the federal government for Job Growth and Tax Relief. The money was not earmarked, and Judy Martz's administration used it to pay for fires to avoid a special session, and reduce the budget of other state agencies.

00:13:21 Ms. Smith said she has received a number of requests on "what has been asked for vs. what has been appropriated" to the DNRC. She gave a brief overview of the EPP budget process. She talked about DNRC's list that goes to the Governor's Budget Office, and becomes part of the Governor's budget. She said the budget is transmitted to the LFD on November 15, and the LFD prepares the analysis to present to the legislators at the beginning of the legislature. She said there are five new items that made it through to the Governor's Budget Office;

- radio communications,
- urban forestry,
- firefighting equipment,
- suppression, and
- biomass.

Ms. Smith distributed an overview of the Forestry Division's program and its proposals to present to the next legislature. **EXHIBIT 5** She explained the 15 line items listed in priority by DNRC.

## **DISCUSSION**

00:20:30 The Committee discussed the Jocko Lakes fire when equipment was available, but not being used, and the stress and financial costs of the fires that took place this past fire season.

00:24:56 SEN. COBB asked Bob Harrington, Forestry Division, DNRC, if they will have their proposal to the Budget Office by February 1, 2008. Mr. Harrington said they will have a meeting with the Budget Office then provide that information to the Committee.

00:27:01 SEN. COBB and Mr. Harrington discussed the 10-year history and the consolidated grant. Mr. Harrington said the grants are from the national fire plan funds they call Wildland-urban and interface grant funds. These funds were distributed to the Bitterroot, RC&D, Northwestern Montana RC&D, the Bigfork Fire Department, and the Frenchtown Rural Fire Department. He said they rely on these organizations to distribute the funds to the homeowners who thin and keep the brush cleared around their houses.

- **Severity and Suppression Funding**

00:33:52 Ms. Smith talked about severity and suppression funding based on severity of the fire. She addressed:

- HB 3 from the special session that will sunset at the end of FY 2009 - and the \$40 million that is set aside for fire funding, and
- Utilizing the rainy day fund concept - where the ending balance above a certain benchmark will be transferred into the fund.

- 00:35:52 Ms. Smith talked about ways to find money to support the severity funding which is provided for in the suppression bill. (see Exhibit 3) She said if it was appropriated through the base, it could be appropriated through HB 2. This allows the DNRC staff to prepare resources based on the condition of the fire season. She said a staff person at the DNRC debriefing suggested they should link their severity funding to the risk level of the WUI and forested areas. SEN. COBB asked Ms. Smith to continue making a priority list for funding based on the severity of the fire. He asked her to provide the Committee with five to six options.
- 00:38:37 Ms. Smith and SEN. COBB discussed the \$40 million in funds that DNRC will have available for the 2009 fire season. They talked about putting a base amount into the budget biannually to pay for fire costs, and this will allow the DNRC to have a cash flow until the legislature meets. Ms. Smith said it is a "cleaner step then where we're at". SEN. COBB asked if the \$40 million goes away when the sunset occurs at the end of FY 2009, or does it roll over into the general fund. Ms. Smith said it will go into the general fund. He said if there are no big fires this season that money could be used as seed money.
- 00:40:20 Rep. Keane asked if a small committee like this could have the authority to distribute the funds when there is a request for fires without having to call a special session. Todd Everts, Staff Attorney, responded that a legislative committee doesn't represent the entire legislature when making this type of decision to appropriate money. SEN. COBB and Mr. Everts talked about authority from the legislature to allow funds to be distributed when a trigger point is reached depending on the severity of the fire.
- 00:43:03 REP. RIPLEY asked if legislation can be drafted so the state can keep that seed money from grants instead of putting it back into the general fund. Mr. Everts said he would look into it.

#### **PUBLIC COMMENT**

- 00:44:08 Bob Harrington distributed a handout on state and local government's concerns with federal management strategy. **EXHIBIT 6** He informed the Committee there are existing problems with fairness and equity in the organizations that are paying assessments, and said this is a statewide issue. He talked about assessing people who are not currently assessed because it is considered a new tax. And secondly, the people who do pay are part of the county co-op program and pay approximately one-quarter of their budget, or about \$2 to \$3 million into firefighting costs. When these people are assessed it averages about two cents an acre. He said to track the parcels through the Department of Revenue and do all the required assessments they would have to hire additional staff. He said there is a lot of frustration from people who pay into assessments, because those that don't are also benefitting from it.
- 00:45:51 Scott Waldron, Fire Chief Association, said the association supports the idea of adding and funding incident business advisors for the large fires. He talked

about his experience submitting FEMA paperwork for reimbursement, and the length of time it took because he didn't receive good information and he lacked the experience. He talked about the lack of resources for local governments, e.g., cannot get access to helicopters and air support. He said the Black Cat fire blew up when the helicopters were fueling up. He stressed the need to manage helicopter pilot time to keep fires down.

00:49:42 SEN. COBB and Mr. Harrington talked about the fire funding and where it goes. Mr. Harrington said the funds go to one of DNRC's general fund programs. SEN. COBB suggested a trade off for Mr. Waldron. This trade off would be for the legislature to give DNRC \$3 million in general fund, who then would distribute it back to the local areas. They talked about the budget proposal to go before the Governor's Budget Office, and questioned if the legislature should be able to put pressure on the Budget Director, or should the Committee and the Department just accept the Budget Office's proposal. SEN. COBB asked if DNRC has a proposal out now, and Mr. Harrington said not at this time, but they do have the priority list that Ms. Smith had presented and talked about earlier.

00:54:34 SEN. COBB and Mary Sexton, Director, DNRC, discussed the priority list that is ongoing and in a preliminary status at this time. Director Sexton said they could have the list in writing by February's meeting, but it would only be preliminary. SEN. WILLIAMS commented that this Committee is by the direction of the legislature and she wants this Committee to be involved. She said "we should have some kind of impact." She said that many times the legislature is left out, because the deal is already done between the Department and the Governor's office, and she feels the legislature needs to have a say. Director Sexton said she will provide the priority line items to the Committee when it becomes available. She discussed ways the Department is most effective with the fires. She said that DNRC would like to have ongoing funding in this new world of fires. She closed stating she will have a draft of line items ready for February's meeting.

01:06:05 SEN. COBB and Director Sexton, DNRC, talked about severity funding. The Director stated there is a need to fund fires long-term.

### **STATE - FEDERAL RELATIONS, STATUS OF COST SHARE AGREEMENTS**

01:08:51 Bob Harrington, Forestry Division, DNRC, directed the Committee to Ms. Smith's EXHIBIT 1. He explained each of the questions regarding the status of the cost share agreements and the position of the United States Forest Service (USFS), BIA, and the State of Montana. He distributed a handout showing the costliest fires of 2007. **EXHIBIT 7** He explained the various reports that are applicable to each fire. He said the changes that caused the Department to look at fire cost settlements differently was the Chippy Creek fire and the realization that basing cost share on acres burned would not be fair and equitable. He said the Department and the Forest Service formed a joint committee that would work together and analyze how to handle the Chippy Creek fire costs. He said the joint committee was also able to assist on analyzing other large fires.

Jane Haker, Forestry Division, DNRC, talked about the complexity of the fires. She said it is the Department's goal to give the line officers various opportunities to look at different ways that cost could be shared. She said that experience from the 2007 fires has given them the tools that will determine how they will fight fires in the future. She said there is no one way to fight fires they are all different.

- 01:13:28 Kevin Riordan, USFS, said if they could have had the ability to negotiate at the line officer level, they could have used the number of acres on the Meriwether fire and the cost share would have been even. He said the fire turned out to be 68 percent federal to 42 percent state.
- 01:14:45 SEN. COBB and Ms. Haker talked about cost share and doing split costs instead of acres burned. Ms. Haker said the state probably would have paid more if the fires had been evaluated and done the old way, by acres. Mr. Riordan and SEN. COBB discussed the old way vs. the new ways in splitting costs.
- 01:19:28 SEN. COBB talked about the USFS allowing fires to burn. He said the state will pick up more than its fair share if they handle all of the structure fires, and the USFS allows the fires to burn. SEN. COBB and Mr. Harrington talked about counterparts, conflict, and the frustration this past season because no one was used to fighting fires the way it is done now.
- 01:25:33 REP. VINCENT said that the federal government is dumping more of its costs onto the states. He said in the future these costs will be horrible.
- 01:26:54 SEN. LEWIS and Mr. Riordan talked about fires in the wilderness areas. SEN. LEWIS said there was no major effort from the USFS to fight the fire in the Ovando area, and stated it isn't right that the state should get stuck with a portion of those costs. They discussed wilderness fires becoming an ongoing concern. Mr. Riordan differentiated between fires burning and fires burning for resource benefits. Mr. Riordan commented that he feels the Committee is saying, "if the Forest Service doesn't put that fire out, then they should be totally responsible."
- 01:31:46 Bob Harrington talked about a written operating agreement between the state and federal agencies when there is a wildland fire use fire, and no management action is being taken. He said the dialogue that is ongoing now is about fires that get out of hand because the agency is taking minimal suppression action. He questioned "how do the agencies deal with this, and how do the line officers deal with this"? He noted that the public needs to know that they are not personally paying for these wildland use fires. He talked about ongoing dialogue with the deputy director of the USFS.
- 01:34:35 SEN. COBB and Mr. Harrington talked about who is responsible for what fires. Mr. Harrington said they are developing protocols as to what is fair and equitable.
- 01:37:24 REP. VINCENT said that the USFS needs more versatility on how fires are negotiated in the future. He talked about fires being bigger and hotter. He said that more of the costs are being placed on the citizens of Montana. He talked

about cost management, and how can this Committee interface to assist entities like Mr. Harrington, BLM, etc. He said the cost of doing nothing is more than the citizens of Montana should have to handle.

- 01:40:57 Mr. Harrington talked about the legislature sharing costs with the USFS, BLM, and BIA. He doesn't feel that the legislature can provide any more direction and benefit than what DNRC currently has in place on statute and cost share agreement.
- 01:42:49 Mr. Harrington continued with questions and explanations from EXHIBIT 1.
- 01:56:55 Jane Haker said part of DNRC's goal is for the public and the staff at DNRC to understand: 1) what the agency's mandates are in certain areas, and 2) what the DNRC goals are. She said when we are done the State of Montana and the legislature will have a package deal.
- 01:57:38 Mr. Harrington discussed current trends, fuels and the ability to catch and suppress large fires. He said that the likelihood over time is for the state and local governments to have primary responsibility for the urban interface, and that the state's costs will increase.
- 02:00:48 REP. RIPLEY talked about urban interface affecting the state's and local government's budgets a lot more toward structures. He addressed management of the forests that is also contributing to the costs.

## **BREAK**

### **FRONT-LINE IMPLICATIONS OF APPROPRIATE MANAGEMENT RESPONSE TACTICS**

- 02:13:40 Bob Harrington addressed AMR from EXHIBIT 6. He talked about false suppressions, suppression activities on long-duration fire management, and the frustration with the federal agencies who have a different level of tolerance on letting fires burn. He discussed concerns on:
1. Application of AMR.
  2. AMR implications for fires in or threatening the WUI, and federal suppression responsibilities.
  3. Need for a more adequate and thorough explanation of AMR and collaborative decision-making between land managers, incident teams, local responders, elected officials, and the public.
  4. Environmental and public health impacts from smoke due to large continuing fires. DEQ told the USFS to cease prescribed burns due to the smoke.
  5. Communication on intent of the federal agencies during development of all AMR strategies. He talked about the State wanting full suppression, and the federal agencies are hesitant and have a "let burn" strategy. He said there is a divergence on ground strategy.
    - Impacts of fires on local resources. Local governments need to be involved, and
    - Compensation for losses.

- 02:23:35 Kevin Riordan discussed:
- Application of AMR, and how they should be aggressive on fuel buildup and intense fires. Need to be aggressive on initial attacks.
  - Fire in WUI will be more costly in future.
  - Collaborative decision making. Can involve everyone and make partners out of state, local and at the federal level.
  - Environmental impact. He said air quality will be a short-term impact on the long-term fires.
  - Impact on state, federal and local resources on long fires, e.g., climate conditions.
  - Compensation for resources and structures.
- 02:31:22 Tom Corbin, Bureau of Indian Affairs Regional Fire Management Officer, addressed his concerns:
- 1) Tribe wants more emphasis on AMRs:
    - what it is intended to be,
    - what are the intentions when fires cross jurisdictional boundaries,
    - who is involved, and
    - who shares what?
  - 2) Not enough people to fight fires; and
  - 3) Find a common response between two different entities.
- 02:35:09 Mr. Corbin talked about the Confederated and Salish Kootenai Tribes not having enough people to assist with fires. He said there were times this past season when AMR didn't work, and stated that communication still isn't good enough.
- 02:37:22 SEN. COBB and Mr. Harrington discussed the frustrations, the recommendations, and finding solutions to the list that Mr. Harrington talked about. Mr. Corbin suggested that he, Bob Harrington and Kevin Riordan work collaboratively together, because some of the issues just deal with communication. Mr. Riordan discussed recommendations and how they will handle fires in the future.
- 02:44:06 REP. RIPLEY wanted watersheds addressed. Mr. Harrington responded that: 1) rehabilitation of suppression damage, such as, dozer damage, fence line that is cut, etc. is paid for by the fire, and cost shared accordingly, and 2) the recovery aspect, such as re-seeding, cutting trees across roads, etc. is paid for by private landowner, federal, state, and local governments.
- 02:46:40 REP. VINCENT asked about the NRCS grants. Ms. Smith replied those funds go directly to the landowner not through the DNRC budget.
- 02:47:08 SEN. LEWIS asked about Big Sky Resort and its high risk property, and wanted to know if there are negotiations on who protects what. Mr. Harrington replied there are interests in those types of areas, but the federal agencies want to protect areas like Dell, Red Rocks, and the Monida area.

## **PUBLIC COMMENT**

- 02:49:25 Scott Waldron said he hopes that local governments will become more involved in suppression issues, such as costs. He said that maybe we could involve the congressional delegates that handle national policy that affects these issues. SEN. COBB informed him that the Committee will be sending recommendations to the Congressional Delegation SEN. COBB asked Mr. Waldron if the Fire Chiefs' Association could supply the Committee with their recommendations.
- 02:55:27 Jody Klessens, Red Lodge, said he would like to have a meeting in his area because of the fires in the region. He talked about suppression fires, and the incident management teams. He said when switching from the local district to a Type I or a Type II level, the communication falls apart. He discussed resources that were available, 62 units in Carbon County, and 47 units in Stillwater County, which were not taken advantage of. He talked about aircraft not attacking fires until 11:00 a.m. or later when it is easier to knock fires down early in the morning when it is cool.
- 02:59:03 Bob Decker, Executive Director of the Policy Institute, said he would like to hear more on the protection of structures and the costs of doing that. SEN. COBB informed him that Headwaters Economics discussed this issue earlier on what the trend in costs are, who pays, and who should pay. SEN. COBB said the Committee has asked Headwaters to provide them with some advice on the trends and what the Committee can do.
- 03:03:13 Chris Schiefelbein, Windswept Wildfire, LLC, and Northern Rockies Wildfire Contractors Association, distributed a handout, and asked that the Committee look into the use of local resources before using contractors from out-of-state.  
**EXHIBIT 8**
- 03:07:38 Barb Smith addressed the salvage timber sales from this past fire season and said they will have a total of 19 million board feet. The permits will be available through the State Trust Land Board. Ms. Smith said that the next Infrastructure Subcommittee agenda will include:  
1) suppression funding with a list of options to be discussed.  
2) forest Protection Fee and what is going on with it at this time.  
3) collaborative projects on forest projects and management across state and federal; and  
4) a response on the AMR paper.
- 03:09:24 Ms. Heisel reminded the Committee members that the Communities and Wildfire conference that will be taking place on February 25-27 in Bozeman. She distributed a handout on public comments/suggestions on fire suppression and funding. **EXHIBIT 9**
- 03:10:24 SEN. COBB closed and asked the agencies to come back to the next meeting with their recommendations for change and how to solve problems. SEN. COBB adjourned the Committee at 4:15 p.m.

**OTHER INFORMATION**

**EXHIBIT 10**  
**EXHIBIT 11**  
**EXHIBIT 12**

CI0429 8116dfxb.

Draft