MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN RICK RIPLEY**, on January 17, 2005 at 8:00 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:
Rep. Rick Ripley, Chairman (R)
Sen. Ken (Kim) Hansen, Vice Chairman (D)
Sen. Gregory D. Barkus (R)
Sen. Bob Hawks (D)
Rep. Walter McNutt (R)
Rep. John L. Musgrove (D)

Members Excused: Rep. Rosalie (Rosie) Buzzas (D)

Members Absent: None.

Staff Present: Britt Nelson, Committee Secretary
Barbara Smith, Legislative Branch
Doug Schmitz, OBPP Representative

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing & Date Posted: HB 2
Executive Action: NONE

HEARING ON THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION: FORESTRY DIVISION

Barbara Smith explained the handouts which she had provided for the committee. The first handout included an additional three Decision Packages to be heard that day: **DP 2110 -- the addition of an attorney, DP 2412 -- Clark Fork River Task Force and DP 2325 -- increase the Montana Salinity Control Association Funding**. The next handout was a spreadsheet showing all of the DPs the committee would be considering for the Department of Natural Resources and Conservation(DNRC) and the money associated with them. There was also an informational letter submitted from the Executive to Fish, Wildlife and Parks. The last handout was from Mike Wingard of the Legislative Audit Division, discussing the performance audit on wildland fire administration.

EXHIBIT(jnh12a01)
EXHIBIT(jnh12a02)
EXHIBIT(jnh12a03)
EXHIBIT(jnh12a04)

She mentioned that she only had five Decision Packages left to analyze.

CHAIRMAN RIPLEY asked Barb where the Clark Fork River Task Force request had come from.

Barbara Smith replied that it had come from REP. JACKSON. She also noted that one of the committee members had to bring it forward if the committee wanted to review the DP.

Mary Sexton, Director of DNRC, provided a handout to help clarify the Water Rights Database Enhancement Project. It described the different phases and funding sources which the department was considering. She mentioned that they were working on the first phase currently and that they were looking for the funding available for the next two phases.

EXHIBIT(jnh12a05)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.8}

Bob Harrington, Administrator of the Forestry Division of the Department of Natural Resources and Conservation, introduced some of the people who had come to the hearing on behalf of the DNRC: Rob Ethridge -- Chief of the Service Forestry Bureau, Sue Clark -- Chief of the Business Management Bureau, Ted Mead -- Chief of Fire Aviation Management Bureau, Chuck Brenton -- Chief Pilot and

Aviation Manager, and Todd Klemman -- Supervisor of the Development and Support Section. Mr. Harrington also provided a few handouts at this time for the committee members who were interested in learning more about the Forestry Division. These included an excerpt from the DNRC annual plan, an explanation of the Montana Conservation Seedling Nursery as well as three pamphlets: on Fuels For Schools, aviation and equipment development and support.

EXHIBIT(jnh12a06)
EXHIBIT(jnh12a07)
EXHIBIT(jnh12a08)
EXHIBIT(jnh12a09)
EXHIBIT(jnh12a10)

Bob Harrington then began to discuss the organization of the Forestry Division. Mr. Harrington is the administrator of four bureaus. The three bureaus are the Business Management Bureau, Fire Bureau, Aviation Bureau and the Service Forestry Bureau. There are also six area offices spread across Montana. The field offices are where the projects are implemented. There are approximately 169 full-time equivilents (FTE) with a total budget well over $10 million. Out of the total budget around $6 million is personal services. There are three funding sources: general fund -- $6 million, state special revenue -- $3 million, and federal funds -- $1.3 billion.

Bob Harrington then proceeded to discuss each individual bureau. The Business Management Bureau manages the Forestry Division budget, facilities -- including 26 field offices, and fire business management. There are about 8.5 FTE with a total budget of about $1.2 million. The funding source is 100% general fund.

The next bureau he discussed was the Service Forestry Bureau. This bureau provides forest service functions by foresters out in the field as well as staff in Missoula. The total budget is $1.8 million dollars. The total budget is split with $755,000 from the general fund, $513,000 state special revenue, and $533,000 from federal funds. This budget supports a little over 31 FTE.

Bob Harrington mentioned some of the different programs and projects that the Service Forestry Bureau oversees. The first one that he discussed was the Forest Practices Program which he called a flagship program for the Bureau. There are three different parts to this program. The first, and probably the oldest function of the Bureau, is fire hazard reduction. This involves managing logging residue and slash that results from logging operations in order to minimize fire hazard after logging

operations. This is only administered on private lands. The way in which this operates is that when a private party begins logging on their land, they are required by law to inform the Department. The Department then enters into a contract with them to withhold a performance bond to guarantee that their logging slash will be cleaned up. At the completion of the logging operation the Department inspects the site and then the bond is released back to the landowner. There are currently 3,500 active logging operations.

{Tape: 1; Side: A; Approx. Time Counter: 6.8 - 17.9}

Bob Harrington expressed that the contract entered into with logging operations was mandated by law. He emphasized that it was not to ensure total cleanup of the logging slash but to manage it. The next part of the program which he addressed was the Forestry Best Management Practices. These practices are a list of official best management practices which were adopted by the legislature in 1989. This program also requires landowners to notify the department prior to the start of logging operations. This is so the Department can provide them with information and educational material as well as review the site prior to the beginning of operations in order to better provide educational assistance. These are voluntary rules for landowners to follow. Every two years there are audits completed on subsets of all of the logging operations in the state.

Mr. Harrington indicated that since the beginning of the audits there has been an improvement of logging operations on all ownerships in the state. Over the last ten years the Department and other interested associations have tried to ensure that the current range of laws in place are sufficient.

The last section of the Forest Practices Program which he discussed was the Stream-Side Management Zone Law. This is a mandatory Best Management Practice adjacent to streams. **Mr. Harrington** explained that since it was a mandatory law it carried violations and penalties if the violations were severe enough. He expressed that despite the existence of penalties there was still enough flexibility by the landowner and the Department to allow forest practices to occur adjacent to the streams.

{Tape: 1; Side: A; Approx. Time Counter: 17.9 - 23.2}

Bob Harrington commented that another part of the Service Forestry function was to provide assistance to private forest landowners. They are able to accomplish this in one of two ways: the Forest Stewardship Program and the Private Forestry

Assistance. He explained that the Forest Stewardship Program was federally funded. The Program conducts a series of workshops around the state for forest landowners to develop their own land management plans. These workshops concentrate on allowing the landowner to compare and plan for themselves. He feels that through this method the landowner is much more likely to administer the program on their own. This program has been very successful and has been emulated around the country. He mentioned also that the program allowed them to use federal cost share assistance funds to help landowners to manage their forest. There are also service foresters located at the field offices who would be available to answer whatever questions the landowners might have. He also expanded upon the Private Forestry Assistance Program. This program provides forest management advice and consultant referrals. He said that it was primarily a short term assistance program and if the landowners needed more assistance than the field offices were able to provide they would refer them to consultants who could assist them.

{Tape: 1; Side: A; Approx. Time Counter: 23.2 - 26.1}

The next program which **Mr. Harrington** addressed was the Forest Health Protection Program. This program provides technical education or financial assistance to landowners who are managing damaging insects and diseases in Montana's forests. On an annual basis there are far more acres lost to insects and disease then are lost to wildfires. There is one staff member available for this program. He assists in surveys, training, landowner assistance, and assistance to trust land operations.

Bob Harrington described the Community Forestry Program as a small federally funded program that assists communities in the management of their urban forests. They primarily use the Arbor Day Foundation and Tree City USA Programs to deliver this and a small staff of two employees. It is a fairly successful program with a count of 39 tree cities which, nationwide, is one of the highest percentages of communities within a state to have that status.

He presented on the Forest Biomass Energy Program, one of the most recent programs to come into the Service Forestry Function. This Program initiated the Fuels For Schools Program which utilizes forest wood waste to provide heat energy in schools. He stated that recently this had been adapted to accommodate other public buildings as well. This program has been funded primarily by federal funds. The buildings with high cost fuels were refitted with biomass wood-waste heating systems which creates a market for forest waste as well as providing cost savings to the heating bills of the school districts. He informed the committee

that there were currently two schools operating in a biomass energy system; one in Darby and the other one in Victor. Philipsburg and Thompson Falls are both beginning construction and there are feasibility studies occurring in thirty other towns across Montana.

The next program within the Service Forestry Division which **Mr. Harrington** discussed was the Conservation Seedling Nursery in Missoula. He explained that the purpose of the Program was to provide high quality seedlings for wind-breaks, shelter belts and reforestation of state and private lands. Their budget comes to approximately $407,000 with the funding 100% State Special Revenue from seedling sales. There are currently 9.7 full-time employees working there.

{Tape: 1; Side: A; Approx. Time Counter: 26.1 - 38.6}

Bob Harrington proceeded to cover the Fire and Aviation Management Program. This program has a budget of almost $7 million and 128 FTE. Out of the 128 FTE, 80 FTE are permanent and 50 FTE are distributed across their seasonal firefighting crews. He described the funding as 60% general fund, 33% from state special revenue in the form of assessments and 6% federal funds. **Mr. Harrington** indicated that the reason the State of Montana is so involved with fire protection is Title 76. This title directs that the State of Montana, specifically DNRC, has the responsibility to protect the natural resources from wildfire. This is accomplished through various different programs. He indicated that per this direction there were fire protection agencies covering every acre of wild-land in Montana.

Bob Harrington professed that the DNRC Direct Protection Program was one of the primary programs which caused their budget to be so large. This program dictates the areas, 5.2 million acres, which DNRC is responsible for in the case of wildfires. Not all of the 5.2 million acres are state private land. Fire protection was traded with federal agencies for efficiency. He depicted some of the resources required for fire protection. One of the most important resources he mentioned were the firefighters including a prison crew.

{Tape: 1; Side: A; Approx. Time Counter: 38.6 - 50.1}

He also mentioned a series of lookouts around the state, 65 engines, water tenders, helicopters, fixed wing aircraft, and mobile camps.

Bob Harrington returned to the topic of fire assessments. These assessments do not cover all classified landowners in the state but a subset of those that fall within the boundaries of the DNRC Direct Protection Program. There are 57,427 separate landowners, including Stimpson and Plum Creek, primarily in the northwestern section of the state who pay for assessments. He mentioned that there were legislative limits on what the Department could charge for the assessments. These limits were $30 per ownership less than 20 acres as well as $0.20 per acre above 20 acres. Currently the Department is at the $30 per ownership cap as well as $0.19 per acre for ownerships above 20 acres. He indicated that the assessments provide about $2.4 million of revenue which is roughly 1/3 of the Fire and Aviation Program's appropriation.

Bob Harrington recapitulated that there was no official state policy. However, DNRC has a policy for their Department. This policy dictates that DNRC should provide an aggressive attack on all wildfires that they are responsible for. There is no 'let burn' policy within DNRC. Their target is to suppress all wildfires under ten acres. Over the last ten years they have had a 96% containment rate for fires less than ten acres. The reason he provided for such an aggressive attack was the cost of fires. A fire under ten acres costs on average $3500 to suppress but by the time a fire reaches 5,000 acres the average cost is $4 million.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 9}

Bob Harrington presented the County Cooperative Fire Protection Programs and their involvement with fire protection. This program is an agreement between DNRC and the counties. The counties agreed to provide wild-land fire protection in return for three things: equipment -- wildland fire engines, training for resources and large fire management when fires escaped the counties control. There is an average of 35 assists per year to counties over the last ten years.

Bob Harrington provided the committee members with statistics over the last ten years. He mentioned that there have been approximately 4,000 fires that have burned 650,000 acres, of these 49% were human caused and 51% were primarily lightning.

The fire and aviation training which **Mr. Harrington** had mentioned earlier was then discussed in greater detail. The training is provided for county fire fighters as well as the season employees. There are basic and intermediate courses available for introductory level firefighters and then there are higher level courses in suppression, incident command system as well as

fire prevention courses. He stated that they also send employees to the Northern Rockies Interagency Training Center in Missoula.

Then **Mr. Harrington** proceeded to discuss the DNRC Equipment Development Center. One of the primary functions of this program is to take federal excess property -- ex military vehicles or federal vehicles, and redeveloping them into wild-land fire engines. They then loan these engines to the counties as part of the County Cooperative Program. Last year they loaned 13 engines and nine direct protection engines. There is also a number of aviation resources available for the DNRC. These resources include four medium helicopters, two light fixed helicopters, three fixed wing aircraft, two full time pilots, two mechanics, and three seasonal pilots.

{Tape: 1; Side: B; Approx. Time Counter: 9 - 18.8}

Another program which **Mr. Harrington** talked about was the Wild-land -- Urban Interface Fuel Reduction/Mitigation Program. This program is federally funded annually and is available to 17 western states. They use these funds to provide assistance to landowners allowing them to thin around their homes. It has primarily been concentrated in the northwestern part of the state but **Mr. Harrington** reported that they were moving it slowly into the eastern and southern sections of the state whenever it was feasible. He also briefly mentioned the Volunteer Fire Assistance/Rural Fire Assistance Program which is federal money available for the fire plan. This program provides assistance to volunteer rural fire departments in buying communication equipment, personal protection equipment as well as pumps and other similarly useful equipment. This program is supported by the counties and has been very successful.

Bob Harrington wrapped up his presentation discussing the DNRC wildfire issues and the DNRC 2003 fire season. The first and foremost issue on his mind was the increasing complexity of wildfires. Other issues which the Department has been concerned with are safety and staffing, fire suppression funding, the legal framework, federal programs -- FEMA reimbursement, federal excess property and fuel mitigation money -- rising fire costs, forest health, and urban wild-land interfacing.

{Tape: 1; Side: B; Approx. Time Counter: 18.8 - 29.8}

He described the 2003 fire season, stating that there were 567 wildfires, including state and county assistance fires. These fires destroyed 175,000 acres on direct protection land. For the

first time there were fires spread across the state at the same time. They employed 9,000 firefighters, 89 separate incident team assignments and spent about $76 million. **Mr. Harringon** related that it was after the 2003 fire season that the performance audit was conducted. From the audit DNRC deduced a number of their budget recommendations.

{Tape: 1; Side: B; Approx. Time Counter: 29.8 - 33.2}

At 9:30 A.M. REP. BUZZAS joined the committee.

QUESTIONS FROM THE COMMITTEE MEMBERS AND THE RESPONSES

SEN. HAWKS referenced a comment by Bob Harrington stating that the Fire and Aviation Program was 61% general fund. He wanted to know if this represented the administrative costs of all programs or was there some relationship between responsibility of state versus federal lands in this program.

Bob Harrington responded that the general fund portion of the budget paid only for the fire resources. Those funds do not go to pay for federal resources.

SEN. HANSEN wondered if those funds also contribute to the contracts with aviation.

Bob Harrington looked for clarification on the question.

SEN. HANSEN expressed that he was looking specifically at suppression.

Bob Harrington explained that they did not receive any direct appropriation for fire suppression expenses. Once a fire starts under their protection or on county lands it is paid for 100% by general fund. The general fund comprises the funding for the Fire and Aviation Program as well as about half of the volunteer federal funds.

CHAIRMAN RIPLEY followed up on SEN. HANSEN'S question asking if all three of the fixed wing planes were equipped to fight fires.

Bob Harrington answered that those planes were actually only used for spotting fires and providing ariel assistance in the initial attack phase. He stressed that they were not retardant planes or water carriers.

CHAIRMAN RIPLEY asked if there were any retardant planes available.

Bob Harrington remarked that there were no retardant planes in DNRC but they did have access to the Scandinavian Air Force from Minnesota. He professed that it was actually a benefit to the State because they had control, and could direct them to whatever fire they saw fit.

{Tape: 1; Side: B; Approx. Time Counter: 33.2 - 43}

SEN BARKUS was curious about fire management and timber harvest. He commented that on the federal side there is huge build-up which allows for fires. He wanted to know what happened when a fire started on federal land and moved onto State property. He also wanted to know if there was cost sharing.

Bob Harrington responded that they try to ensure that the Healthy Forest Restoration Act is implemented on federal lands. This Act demands progress on cleaning federal lands. He admitted that there was still a lot of work to do on federal lands. In response to what happens about fires that start on federal protection, **Bob Harrington** answered that they enter into a Cost Share Agreement. This agreement is a binding contract between the agencies and whoever is responsible and it lays out exactly how the costs of that fire will be shared. The majority of the time it will be based on an acreage basis. When the fire is on wild-land or if a fire is more severe on one section of land the costs are adjusted to reflect the costs that are being incurred to suppress the fire. In wilderness areas it is more of a containment method. In those instances the State of Montana will most likely pay the majority of the costs. He remarked that the cost splitting was not cut and dry and there was not a linear relationship with wild-land fires.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 4.9}

SEN. HAWKS asked if Mr. Harrington was implying that there was a net reduction in air pollution because of the Fuels For Schools Programs, as compared to other modes of heating.

Bob Harrington affirmed this statement. He presented that as far as the Darby Fuels For Schools Project was concerned there had been an analysis done one year later to confirm all of the premises put forth at the beginning of the project. The results showed that the emissions out of the stack, nitrous oxide and carbon monoxide particulates, especially, compared to slash piles and wildfires were several orders of magnitude less. Compared to wildfires the particulate emissions from the stack were 1% of wildfire emissions.

{Tape: 2; Side: A; Approx. Time Counter: 4.9 - 7.1}

Mike Wingard, Legislative Audit Division, discussed the Wildland Fire Administration Performance Audit recommendations and how they affected the proposed Decision Packages in front of the committee. The examination consisted of interviews, policy and procedure reviews and analysis of the associated fire documentation. The audit itself addressed the questions about fire cost, communication and coordination of federal and local fire protection agencies, and availability of resources for wildland fire preparedness and suppression. Mr. Wingard proceeded to discuss each Decision Package highlighting the differences between the Audit Report and the proposed Decision Packages. The Decision Packages which Mr. Wingard covered were: DP 3510 and 3512, DP 3511, DP 3514, and DP 3513.

EXHIBIT(jnh12a11)

{Tape: 2; Side: A; Approx. Time Counter: 7.1 - 27}

QUESTIONS FROM THE COMMITTEE AND THEIR ANSWERS

REP. BUZZAS was curious how the State was doing recovering costs when fires cross onto State land.

Mike Wingard responded that he was not the best one to answer that but, the Department creates a cost recovery team that goes through federal bills for fire suppression costs. He believed that they received $32 - $33 million from FEMA.

Bob Harrington followed up on REP. BUZZAS question. The cost of suppressing fires in Montana is 100% general fund. He stated that they do not initiate any cost recovery from landowners once the fire has crossed over. The cost of suppressing fires, whether on industrial private or on private holdings, is paid for 100% out of the general fund.

REP. BUZZAS followed up asking if what their assessing provides was an annual fee.

Bob Harrington answered that when an industrial timber company owned more than 20 acres than they are assessed $0.19 per acre.

REP. BUZZAS asked if that was for fire aviation use.

Bob Harrington replied that it was for the preparedness program. It paid for firefighters, engines, equipment, and training.

REP. BUZZAS wanted to know what the cost attached to fire suppression on the state per acre cost.

Bob Harrington referenced a slide that he had shown earlier in the presentation. He explained that they had an average cost for various sized fires. Two example he gave were the average cost, $3,500, for a ten-acre fire and for a 5,000-acre-plus fire, $3-4 million. He also emphasized that costs vary widely depending on the type of vegetation that the fire occurs in.

REP. BUZZAS wanted to know if the recovering costs were determined by acre cost.

Bob Harrington recounted that the cost was allocated in a cost share agreement and was typically based on acres burned but it could be different depending on the circumstances.

{Tape: 2; Side: A; Approx. Time Counter: 27 - 37}

Bob Harrington expanded upon the Decision Packages next, allowing the committee members to ask question as he went. The first DP he introduced was **DP 3502 -- Fire Seasonal Pay Exception**. There were no questions for Mr. Harrington on this DP.

Bob Harrington described **DP 3503 -- Forestry Operating Adjustments** next.

CHAIRMAN RIPLEY was concerned with the fact that the Department was operating at a loss running the Conservation Seedling Nursery. He wanted to know why they were going to put more money into an ailing program; or did they have a projection that they were going to increase revenue to offset the cash flow.

Bob Harrington responded that it was also a concern of the Department. The funding, he reminded the committee, was all state special revenue. He pointed out that there was a fluctuating trend. He mentioned that there was a concern with the numbers provided by the Legislative Fiscal Division for 2002.

Barbara Smith responded that she had missed a non-budgeted amount so the revenue was actually breaking even.

Bob Harrington followed up on the second part of CHAIRMAN RIPLEY'S question. He explained that the nursery manager was trying to increase revenue by building the new structures for the nursery. This would help increase revenue because it would allow the nursery to produce more trees and keep them healthier for a longer amount of time.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 2.8}

CHAIRMAN RIPLEY then asked a question about the rent increases. He wondered if they had an extended contract or if they negotiated a new contract every year. He felt that the rent increases had become a little excessive.

Bob Harrington deferred the question to Ann Halter.

Ann Halter explained that the lease agreement went through 2007. She said that the biggest rent agreement was the air operations hangar. The administration used a different method this year; it had been approved by the Executive but it was much higher than in past years.

Bob Harrington moved onto **DP 3506 --Build an Additional UH-I Helicopter OTO.**

{Tape: 2; Side: B; Approx. Time Counter: 2.8 - 5.3}

REP. BUZZAS was curious if any of the aircraft was leased or if it was all owned by the Department.

Bob Harrington remarked that the Department owned four helicopters and the state owned two others that were part of the fire operations. The only time that they contracted out for aircraft was for retardant planes or water carriers.

REP. BUZZAS wondered if they used National Guard Resources and would they be contracted for use of aircraft.

Bob Harrington said that they were concerned with the fact that their access to resources such as the National Guard was reduced due to the war in Iraq. They have been brought on in the past due to severe emergencies. This was one of the reasons that they were using to justify building new aircraft.

REP. BUZZAS asserted that her question had been; would the Department bring in, under normal circumstances, National Guard helicopters before they would bring in contractors.

Bob Harrington explained that it would depend in the conditions and would really be up to the National Guard. He explained that the Department's focus with large fire management was to execute contracts with contract services that were already in place and that already had resources signed up. Typically they access National Guard resources when they have an emergency declaration, such as in 2000.

Bob Harrington wanted to clarify that **DP 3506** was to build the helicopter only. In addition they would need a pilot, manager, fuel truck and fuel truck operator, as well as a mechanic.

SEN. HAWKS wondered if it wasn't characteristic of helicopters to be high maintenance.

Bob Harrington expressed that helicopters required a tremendous amount of maintenance and record keeping. He notified the members that every year a helicopter was torn apart completely as part of the maintenance program.

Barbara Smith interjected that the next DP'S were in the blue budget addendum book.

Bob Harrington proceeded on to discuss **DP 3504 -- Interagency Fire Support which would be found on Page C-157.**

Barbara Smith commented that in the Forestry Trust Fund Division Budget Table the correct totals were not provided. She pointed out that there was a comment about that on the bottom of the page. She explained that the total funds for 2007 should be $2,347.70. The $44,000 in the table was the wrong amount.

{Tape: 2; Side: B; Approx. Time Counter: 5.3 - 17}

Bob Harrington returned to discussing DP 3504.

{Tape: 2; Side: B; Approx. Time Counter: 17 - 20.6}

SEN. BARKUS requested that Mr. Harrington explain to him the relationship that existed with the tribal land. He was curious about the 50,000 acres of state land on reservation land. He was wondering if the State paid them $50,000 to protect those lands.

Bob Harrington responded that he was not sure how much they paid them to cover the 50,000 acres. He contended that it made sense to have them provide the protection on those lands since it was surrounded by tribal land. He pointed out that the increase was $5,600 and that was the component of the DP which SEN. BARKUS might be confused with.

He concluded that all of the executive budget DP's where covered. **Mr. Harrington** asserted that the next DP's he would address would be those which the Department had prepared responses to the audit.

The first DP which he addressed was **DP 3510 -- Increased Aviation Capability.** With no questions he moved on to **DP 3511 -- Additional County Cooperative Program Support.**

SEN. BARKUS stated that the fire season was only one or two months out of the year. He wanted to know what the employees and equipment did for the rest of the year.

Bob Harrington remarked that the fire season had been two or three months out of the year in the past. There are currently fires in Montana every month of the year. Especially with the continuing drought, counties are experiencing fires through October and beginning in March. The heavily forested areas in Western Montana are also showing signs of drought and are showing poor fuel conditions. The equipment is used or needs to be available for much longer than it used to be.

SEN. BARKUS attested that he had the same ongoing battle with the National Parks Service with the Going to the Sun Highway. He wondered if the Department was looking at contracting helicopters for logging or using the equipment and personnel for other purposes during the off season.

{Tape: 2; Side: B; Approx. Time Counter: 20.6 - 34.6}

Bob Harrington purported that they had explored contracting. He explained that one of the trends that they had seen historically was that they had year round availability for the helicopters. They paid less for that then if they had contracted out the equipment. The cost savings and assuredness that they were only using that equipment on initial attack made it worth not contracting out the helicopters.

SEN. BARKUS asserted that that had only answered the first half of the question; the equipment cost and justification for having the equipment. He wanted to know about the utilization of the equipment in the off season.

Bob Harrington responded that a lot of the UH-1 helicopters were not used heavily during this time of the year but that they were available. The down time, he reported, was time that maintenance could be carried out on the helicopters. He agreed with SEN. BARKUS that there was a part of the year were they did sit idle.

CHAIRMAN RIPLEY asked if they contracted with other agencies such as Fish, Wildlife and Parks to do things such as game counts or something similar.

Bob Harrington answered that they did on isolated cases, but that they did not access the equipment for game counts. One of the catches for the Department is that the federal government makes the equipment available with the understanding that it would be used primarily for fire suppression. They do have the ability to use them for emergencies but they need to keep the uses at a minimum in order to keep access to the program.

Todd Cleaman, Equipment Developer Supervisor, followed up on Bob Harrington's answer. He mentioned that they loaned out the engines to counties primarily for wildland fires but that the counties also used them for structure protection within their own fire districts.

CHAIRMAN RIPLEY wondered if that wouldn't be the same situation with surplus. He speculated that most of those trucks were surplus.

Todd Cleaman affirmed this statement.

{Tape: 2; Side: B; Approx. Time Counter: 34.6 - 45.8}

Bob Harrington continued with his discussion of the DP's, addressing **DP 3512 -- Expansion of the Helitack Crew.**

SEN. BARKUS repeated that they had crews sitting around in three locations. He wanted to know how they remained proficient and safe during all of the down time they experienced.

Bob Harrington related that the impression of 2004 was that there were no fires. However, there were 334 fires on DNRC direct protection land. There were fuel conditions which allowed the crews to catch the fires small. Therefore, he contended that the 2004 fire season was much closer to the average that the past years had been. In terms of safety he replied that new recruits trained for the first two weeks of the season and then on a daily and weekly basis they had refreshers. He also explained that the resources were sent where needed in-state as well as nationally. This helps keep them sharp and helps save the Department money by placing them under another state's pay program.

Bob Harrington next presented DP 3513 -- the Addition of four type three incident management teams. He clarified that this meant they would be reorganizing employees and not hiring new ones.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 7.7}

REP. BUZZAS pointed out that the equipment was a one-time-only appropriation but there wasn't a built-in cost for maintenance. She was curious about the lifetime of the equipment and how much maintenance would be.

Bob Harrington responded that he didn't have a clear idea about how long the equipment would last but believed that it was in the neighborhood of six to eight years. He elaborated that they would be asking for money in order to perform the needed repairs three or four sessions down the road.

REP. BUZZAS asked for a ball park figure of costs.

Bob Harrington surmised that it would look like fiscal year 2007's estimated $8,000. It would be the total amount minus one full-time equivalent while leaving one FTE which would be spread across the four main offices in .25 increments and that would be the long term cost of maintaining those four management teams. This would include a lot of the traveling costs and the training costs.

Bob Harrington then covered the last DP; **DP 3514 -- Fire Risk Management Account.**

{Tape: 3; Side: A; Approx. Time Counter: 7.7 - 12.9}

SEN. HAWKS suggested that as he understood it the funds would be expended in each fiscal year as deemed necessary rather than being kept in a reserve account.

Bob Harrington responded affirmatively. He conveyed that it was a suggestion from the audit.

CHAIRMAN RIPLEY asked Barb Smith to address the legislation that could affect the fire DP's.

Barbara Smith requested to make a clarification in regards to SEN. HAWKS' question. She explained that if he wanted to restrict the DP to use of sending the money to an account for severity purposes, he has that option. This would however, restrict the Department from using the money for anything else.

She mentioned that there were four pieces of legislation in regard to fire funding issues which would affect the DPs to some degree. Bob Harrington had already alluded to the Joint House Resolution sponsored by REP. JACOBSON to deal with the issues of conflicting statutes. **Barb** introduced the other three pieces of legislation that would affect fire funding; SEN. ELLIOT's LC 2016

which would revise funding for fire districts, REP. JOPECK'S wildland firefighting fee to build in an unincorporated area which would levy a fee against individuals who choose to build in the wildland-urban interface to offset firefighting costs and REP. STOKER's LC 2097, legislation to establish a state fire suppression fund.

{Tape: 3; Side: A; Approx. Time Counter: 12.9 - 17.5}

REP. BUZZAS asked Barbara if all of those pieces of legislation included appropriations.

Barbara Smith replied that two of the proposals were still in such draft form that she had not had the ability to look at them. She believed that the wildland-urban unincorporated area fee had an appropriation.

REP. MUSGROVE requested that Doug discuss MC-76-13-201.

Doug Schmitz relayed that the fire assessment fee which Bob Harrington had alluded to earlier was tied to the 1/3-2/3 funding split -- 2/3 being general funds and 1/3 being the fire assessment fee. He expressed that this would be the type of appropriation proposed with these pieces of legislation.

Bob Harrington addressed the issue. He explained that in the past the DNRC had raised 1/3. He stated that the 180 statute reads that the Department can raise no more than 1/3. There would need to be a raise in the caps in order for DNRC to raise more than the 1/3. He vocalized that some of the DPs were primarily for the support of the County Cooperative Program. Currently, he stated, the only landowners whose assessment fees go into the fire protection program are classified forest landowners within DNRC's direct protection boundaries. He emphasized that they were at the 1/3 cap already and if they were to raise any more money they needed to have an increase in the cap so they could increase the assessments to match.

REP. BUZZAS asked if DNRC was at the 1/3 cap currently.

Bob Harrington responded that they were near the cap. They were at full cap on one side, the $30 per ownership for less than 20 acres, and were at $0.19 per acre over 20 acres. Each penny raises about $50,000 from assessments per year.

SEN. HAWKS wondered if there was a sense of the overall cost ratios of grassland fires versus forest fires.

{Tape: 3; Side: A; Approx. Time Counter: 17.5 - 25.2}

Bob Harrington replied that there was data out there in terms of how much they had spent on county assistance fires compared to direct protection fires. He believed that the number of the average fire suppression costs was a little over $10 million per year. Out of that average $1-2 million has been spent on county assistance fires.

CHAIRMAN RIPLEY felt that it was necessary for the committee to come up with funding since it was the auditor's suggestions. He complimented Mr. Harrington's approach to the audit. One suggestion he gave was to look at something in the Governor's proposal of a second pilot.

Bob Harrington remarked that the DPs they had prepared were based on the assumption that the 1.35 FTE in the Governor's budget would be approved. It would be 1 FTE permanent and .35 seasonal FTE. All of these combined he explained, would bring them to full staff.

Barbara Smith interjected that the 1.35 FTE were funded by the proprietary accounts in which they would be looking at rates. She expounded upon the fact that the committee would be endorsing the rate for the use of the helicopters and fixed wing aircraft.

At this point there was a ten minute break for the committee.

{Tape: 3; Side: A; Approx. Time Counter: 25.2 - 29.7}

Proponents

Brett Waters, President of the Montana County Fire Wardens Association, expressed that his association works closely with DNRC. They were in support of the additional appropriations and appreciated the consideration of the committee. He recapitulated that local governments worked very closely with the DNRC to provide fire protection. The support from DNRC has helped the association train local firefighters, utilize air support, develop equipment, and the management of fires when they expand.

{Tape: 3; Side: A; Approx. Time Counter: 29.7 - 36.4}

HEARING ON THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION: TRUST LAND MANAGEMENT DIVISION

Tom Shultz, Administrator of the Trust Land Management Division, informed the committee the Trust Land Management Division manages 5.2 million surface acres and around 3.7 million subsurface acres for ten beneficiaries. The land asset is managed by the Division for the ten beneficiaries. He provided the history and the purpose of the Division, explaining who received the benefits and where they came from. He related that the balance from the sale of State lands was a little over $400 million. This money is the trust fund. They pride themselves on being good day-to-day stewards. They managed 5.2 million acres and work with landowners and lessees on a daily basis. He provided a committee with a booklet entitled Report on Return on Asset Value by Trust and Land Offices for State Trust Lands, which described the land offices and the different uses of the Trust Lands and the grants.

EXHIBIT(jnh12a12)

{Tape: 3; Side: A; Approx. Time Counter: 36.4 - 50}

Tom Shultz went over the booklet, talking about the percentages, revenue, and returns of the trust. He discussed Page 43, Table 3 on Page 10, Table 9 on Page 14 and Table 7 on Page 16. Respectively these pages covered indicators of total acreage, report handout for the net revenue of 2002-2004, asset value of Trust Lands, and the revenue earned and appreciation from last year.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 9.1}

Tom Shultz finished his presentation on the Trust Lands and began to introduce the Decision Packages put forth to the committee. The first DP he introduced was DP 5321 which was an operating adjustment. The next DP was **3522 which was Trust Lands Recreational Use.**

Barbara Smith added that the DP put money in the base because it was not funded fully for a year because of when the license year began.

SEN. BARKUS asked Barb, "If the principle amount of revenues came from license sales, and most of the sales came at the end of the fiscal year, shouldn't they be accurate?"

Tom Schultz responded that it was hard to answer. The first quarter payment was in June for Fish, Wildlife and Parks.

Therefore, they only received one payment in Fiscal Year 2004. He explained that there were other licenses sold prior to the General Refuge License. There would be additional revenue anticipated in the next years.

Barbara Smith added a clarification. Prior to the $2 addition to the Conservation Fee it was a $10 fee to use State lands. Thus in 2004 what is shown is the $10 fee up until a certain period of time and then the conversion to the $2 fee on the Conservation License. She said that it would produce significantly more money having the $2 fee added to the Conservation License.

Tom Shultz followed up on Barb's comments. He mentioned that as part of the legislation that passed, creating the $2 addition to the Conservation License, there was also money to manage weeds. There is also authority now to spend some of the Refuge dollars to spend on weeds. The $18,000 would be additional money that could be spent on recreational use access and managing weeds. In the past he expressed that they had spent $5-10,000 on county weed management.

{Tape: 3; Side: B; Approx. Time Counter: 9.1 - 16.9}

CHAIRMAN RIPLEY was curious if he had heard Mr. Shultz correctly and the budget for weeds was $40,000.

Tom Shultz answered that they had spent $5-10,000 in the past. The additional money they would be spending on weed management was approximately $40-45,000.

Tom Shultz continued with his descriptions of the DPs explaining **DP 3523 -- Trust Land Commercial Leasing.**

SEN. HAWKS wondered if State lands were exempt from zoning regulations.

Tom Shultz responded that statutorily, State lands were exempt. They have developed a program to fulfill local zoning requirements.

SEN. HAWKS followed up by saying that he remembered State lands were not zoned. He believed State lands lay outside of zoning districts. Therefore, he wondered how they applied the zoning guidelines if they didn't exist.

Tom Shultz replied that if they looked at county natural plans, zoning was agriculture 20 in many cases, which is one unit per 20 acres. They have amended many counties local zoning license. So

he explained that they were zoned and that they were working to ensure compliance with the regulations.

{Tape: 3; Side: B; Approx. Time Counter: 16.9 - 25.1}

Tom Shultz moved on to describe DP 3524 -- Trust Land Banking. He provided the committee members with a handout explaining the statute associated with the DP.

EXHIBIT(jnh12a13)

SEN. HANSEN queried whether minerals went with the land sales.

Tom Shultz stated that the assumption was incorrect. The minerals per state and federal statute can not be disposed of. The reason he gave for this was that it is very difficult to value minerals.

{Tape: 3; Side: B; Approx. Time Counter: 25.1 - 39.7}

SEN. BARKUS cited the fact that the State couldn't pay the realtor fee in an acquisition. He asked if that meant there was a 6% fee and 10% administrational fee, causing the tax payers to only get 84% of the money.

Tom Shultz didn't mean to say that they couldn't pay the realtors fee. The money would come out of the 10%.

SEN. HAWKS inquired about the access situation and its affect on the valuation property. He asked if it was the case that there was guaranteed access to private property but not to State lands.

Tom Shultz responded in the affirmative. He reported that there was no guaranteed access to property. He mentioned that the state buys access and often negotiates with landowners for access. He said that there are 2/3 of State lands that are accessible.

{Tape: 3; Side: B; Approx. Time Counter: 39.7 - 44; Comments: End of tape three.}

Tom Shultz, seeing no more questions, continued discussing the Decision Packages. He moved on to **DP 3525 -- Trust Land Road Maintenance.** There were no questions concerned with this DP so he proceeded to **DP 3526 -- Trust Land Replacement Equipment OTO.** He instructed the committee members to review Pages 3 and 4 of Exhibit (12) and Page 6 to examine timber and lumber concerns. He expanded upon the prices of lumber.

{Tape: 4; Side: A; Approx. Time Counter: 0 - 10.2}

He returned to the issues raised about Trust Land Funding. In order to clarify, he passed out a handout that suggests status quo funding is acceptable.

EXHIBIT(jnh12a14)

He also returned to the topic of the management portfolio. In order to answer the committee's questions he provided them with another handout which described Land Banking.

EXHIBIT(jnh12a15)

{Tape: 4; Side: A; Approx. Time Counter: 10.2 - 23.7}

SEN. BARKUS related that historically there has been a gentlemen's agreement when farmland comes up for lease. He claimed that there hadn't been any competition for bidding. He wanted to know if they were going to change the process and open up agricultural lands for bidding.

Tom Shultz commented that there were informal agreements where neighbors did not bid on each other's leases. He speculated however, that it was changing. The formal process which the Department goes through has 8% of its leases that are competitively bid. The Department has the right to choose the best lessee. He mentioned that there was a process now where a lessee could contest a bid. If someone has been a good lessee and they petition a reduction bid they are allowed an opportunity to state their cases. So even if they were being out bid they might still win the bid.

{Tape: 4; Side: A; Approx. Time Counter: 23.7 - 30.5}

CHAIRMAN RIPLEY referred to the funding of the Trust Land Management. He believed that there had been an audit suggesting that they request the Attorney General's opinion. He wanted to know if that was correct and if so what it had been.

Tom Shultz agreed that there had been a financial plans audit. The issue came up two years ago that there had been a Trust Administration Account. They had spent about $4 million last fiscal year out of the account. The issue he expressed was coal royalties which previously went into the permit fund and are now going to pay back debt. It was questioned whether it was constitutional to fund management activities out of receipts. The problem he posed was that on Trust Lands the county school

fund allowed 95% of the revenue generated for common schools to be distributed and the other 5% goes to a permanent fund. Mr. Shultz's question was whether that would be gross or net revenue. He admitted that there is conflicting thoughts on this type of funding. The auditors where going to put in a request for the issue to be reviewed.

CHAIRMAN RIPLEY addressed the schedule indicating that Executive Action on DNRC would be moved to January 19th. He felt that this was necessary due to the additional DPs that had been given to them. He also mentioned that there was going to be a joint committee the following day.

Barbara Smith summarized the handouts she had provided to the committee. Her first handout was a list of priorities, the proposal, FTE request, and the funds required to fulfill those requests.

EXHIBIT(jnh12a16)

The second handout Barb went over was the fire costs for 2004 and 2005.

EXHIBIT(jnh12a17)

CHAIRMAN RIPLEY asked Barb to look into some possible solutions to funding.

Director Sexton commented on the funding issue. She mentioned that they had been in discussions with schools and the universities on how they wanted to proceed in order to get their opinion on the issue. She discussed ways in which the Department was attempting to mediate the problem.

CHAIRMAN RIPLEY announced that the committee would meet at nine the next day for a joint committee meeting with the Long Range Planning Subcommittee to discuss the St. Mary's Project. He mentioned the subsequent schedule changes that would occur.

{Tape: 4; Side: A; Approx. Time Counter: 30.5 - 49.3}

ADJOURNMENT

Adjournment: 11:30 A.M.

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REP. RICK RIPLEY, Chairman

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BRITT NELSON, Secretary

RR/bn

Additional Exhibits:

EXHIBIT(jnh12aad0.PDF)