



# Wildland Urban Interface Issues – A Fire Service Perspective

*presented to the*

## Interim Committee on Wildfire Issues in Wildland-Urban Interface Areas

*presented by*

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Good morning, Mr. Chairman and members of the Committee. I am Paul Cooke, Executive Director of the Colorado State Fire Chiefs' Association (CSFCA).

The purpose of the Colorado State Fire Chiefs' Association (CSFCA) is to provide leadership, education, and support to the Chief Officers of Colorado fire departments, in order to reduce the loss of life and property and to protect Colorado's citizens and institutions from all types of emergencies.

I wish to thank you for the opportunity to provide the fire service perspective on Colorado's Wildland Urban Interface Issues. With me today are:

- John Bliven, Elk Creek Fire Protection District
- Jeff Berino, Deputy Chief, Lake Dillon Fire District
- James Schanel, Battalion Chief, Colorado Springs Fire Department
- Mike Morgan, Fire Chief, Rifle Fire Protection District

With the Chairman's indulgence, I will provide a broad overview of the issues and several recommendations and the other witnesses will explore some of these issues in greater depth.

## **PROFILE OF THE COLORADO FIRE SERVICE**

Based on a survey conducted in November of 2005, there are a total of 395 fire departments in the state. Of these, a total of 45 (11%) are fully-paid departments, 245 (62%) are all-volunteer; and 105 fire departments are a combination of career and volunteer.

A total of 256 fire departments or 65% of the fire departments in the state are operated by special districts, 49 or 12% are municipal fire departments; and 50 (13%) are non-governmental volunteer fire departments (non-tax supported). The remaining 10% are fire authorities, Department of Defense (DoD) fire departments, industrial, private, or tribal fire departments.

Currently, there are an estimated 14,990 firefighters in Colorado, of which approximately 9,218 (62%) are volunteer and 5,669 (38%) are career.

Collectively, the Colorado fire service maintains and operates approximately 1,740 engines, 470 tenders, 148 aerial apparatus, and 28 ARFF units.

While the exact number of resources is not important to remember, it is important to recognize that the overwhelming majority of the resources that are brought to bear on the wildland fire problem are local fire department resources. Furthermore, the overwhelming majority of the wildland fires that occur in the state are handled, particularly in the initial attack mode, by local fire departments.

Last year alone, Colorado fire departments responded to more than 400,000 fire and emergency calls covering all hazards, including structural fires, wildland and wildland/urban interface fires, emergency medical situations, hazardous materials incidents, technical rescues, and natural disasters.<sup>1</sup> While most of these calls involved local emergencies, Colorado's fire service has been called upon to respond to state and national disasters, such as Hurricanes Katrina and Rita and the terrorist attacks of September 11, 2001. And, the Colorado fire service is frequently on the front lines of battling wildfires across the western states.

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<sup>1</sup> Source: Colorado 2007 NFIRS Summary Data ([http://www.colofirechiefs.org/docs/Colorado\\_NFIRS\\_2007.pdf](http://www.colofirechiefs.org/docs/Colorado_NFIRS_2007.pdf))

## WILDLAND URBAN INTERFACE ISSUES

The CSFCA recognizes that, within the context of "all-hazards" preparedness, one of the greatest risks confronting Coloradoans is the threat of catastrophic wildfire. While the risk of wildfire cannot be eliminated, all agencies, federal, state, and local must work together to reduce the risk and the subsequent impacts of the catastrophic wildfire that will occur.

From the perspective of the Colorado State Fire Chiefs' Association there are a number of issues that need to be addressed in order to be better organized to prevent, prepare, mitigate, respond and recover from wildland fires, particularly those in the interface. These issues include:

### 1. Who is in Charge of Wildland Fires?

This issue has been the subject of discussion for many years and has been the source of both confusion and conflict. Both sheriffs and the fire chief of fire protection districts have statutory responsibilities to fight fires.

Colorado statutes give county sheriffs the responsibility for managing forest or prairie fires [§ 30-10-513, C.R.S.]. The same statute provides that the state forester may assume the duty with concurrence of the sheriff.

§ 32-1-1002, C.R.S. states that the chief of the fire department in each fire protection district . . . shall have authority over the supervision of all fires within the district.

This apparent conflict in the statute was the subject of a formal Attorney General's Opinion [AGO 01-2, July 23, 2001], which concluded that "the legislature intended to give the fire chiefs authority over fires occurring on private property within their districts." And, "in the absence of a fire protection district with a duty to fight fires on private property, this function becomes the responsibility of the sheriff.

Notwithstanding this AGO, the CSFS has consistently opined that state statute gives county sheriffs the responsibility for managing wildland fire on non-federal land. Further, the sheriff may transfer this duty to the State Forester if he or she feels an incident has exceeded local capacity. At least some sheriffs agree with this interpretation.

However, it is important to note that some sheriffs prefer not to have anything to do with wildland fires and look to the fire protection districts to deal with them.

The 2001 Report of the Wildland Urban Interface Working Group contained the recommendation to: "Provide statutory clarification regarding the fire protection responsibilities delegated to county sheriffs versus those held by local fire protection districts." The CSFCA concurs.

**Recommendation:** The CSFCA urges statutory clarification of this issue. In some states, once you leave an area with organized fire protection, the wildland fire problem is the responsibility of the State Forester. However, the CSFCA does not believe this is a workable solution in Colorado, where local control is a guiding principle. While we have ideas on what might "fix" the problem, our recommendations have not been adequately vetted with other stakeholders, particularly the Sheriffs and Colorado Counties.

In any case, whoever is assigned the responsibility for the management of wildland fires should have a minimum training requirement (which includes the appropriate level of NIMS training).

## 2. Areas Without Fire Protection

The existence of areas without fire protection, and particularly developed areas without fire protection, creates impacts on adjacent fire protection districts and other emergency services providers. For this reason, the CSFCA recommends that organized fire protection should exist state-wide, or at minimum, that no subdivision development be allowed unless organized fire protection is provided to the property.

**Recommendation:** The CSFCA believes this issue can be addressed in a variety of ways:

- Grant counties the clear authority to provide fire protection and operate fire departments in unincorporated areas outside of fire protection districts.
- Require that no subdivision development may take place in unincorporated areas of counties outside of fire protection districts, unless organized fire protection is provided to the property. This can be done by including into an existing fire protection district (or metropolitan district or county improvement district providing fire protection); by contracting with a fire protection district or municipality; by creating a fire protection district; or by creating an organized fire department [Note: a definition of what constitutes a fire department should be provided for in statute].
- Statutorily designate the board of county commissioners as responsible for ensuring the provision of fire protection in unincorporated areas outside of fire protection districts and grant the authority to levy a tax for this purpose.

## 3. Fire Service Training

Since 1990, a total of 33 firefighters have been killed and more than 5,000 firefighters have been injured while serving and protecting the citizens of Colorado. An effective training program is the crucial first step in providing for the safety of firefighters. In its studies of firefighter fatalities, the National Institute for Occupational Safety and Health (NIOSH) has consistently identified inadequate training as a key factor in line-of-duty deaths.

Unfortunately, due to the absence of local resources, too many Colorado fire departments are plagued with the lack of formal training. Many states have a state fire training academy to address this need.

In Colorado, the Division of Fire Safety is charged with the responsibility for administering a statewide fire service training program. However, no funding is provided for this activity. An effective standardized statewide training program will increase the level of proficiency and competence within the Colorado fire service and will reduce the potential for firefighter injuries and fatalities.

**Recommendation:** The CSFCA recommends the State provide funding for training of local fire departments in wildland firefighting and structural firefighting in WUI areas. Funding for fire service training could come from the insurance premium tax collections. Currently the state collects approximately \$180 million in revenue from insurance premium taxes; of which about \$10 million helps fund the Division of Insurance. The balance goes into the state general fund for other purposes. The majority of states use this source of funding statewide fire programs and support to local fire departments.

#### 4. Declining Volunteers

Sixty-two percent of the fire departments in Colorado are all-volunteer. Volunteer fire departments across the state are facing great difficulty in maintaining their ranks of volunteer fire fighters. Between 2004 and 2008, there was a 3.6% decrease in the number of volunteer firefighters in the state. During this same time period, the population of the state grew by about 8% and the demands on volunteer fire departments grew exponentially.

Some of the factors contributing to reductions in the number of men and women joining and remaining in the volunteer fire service include increasing time demands, increasing training requirements, increasing call volume, changes in the 'nature of the business' of firefighting, changes in sociological conditions (two-income families), federal regulations, and aging communities.

Some of the most influential recruitment and retention incentives identified by volunteer fire service leaders include college education tuition, income tax credits, health insurance and the provision of better personal protective clothing, firefighting apparatus and equipment.

**Recommendation:** Enact legislation that would create statewide incentives for volunteer fire service to enhance the ability of local fire departments to recruit, train and retain qualified volunteer firefighters. Incentives could include such things as a state income tax credit, reduced tuition at state colleges, universities and community colleges, and/or free vehicle registration.

#### 5. State-Level Fire Safety Responsibilities

Efficient and effective delivery of fire prevention and suppression services in Colorado necessitates an active role for the State. Unfortunately, a coordinated and effective approach at the State level does not exist in Colorado.

While many fire safety-related functions are performed by state government, they are performed by many different agencies in less than coordinated, effective and efficient manners. In some instances there are duplications of effort within the State; at other times there are duplications between the State and local agencies; in yet other instances there are no efforts at all.

It is apparent that one state agency, with statutory authority and adequate resources, should be assigned the leadership role in fire protection and prevention related services in the State. In most states these responsibilities are met by a State Fire Marshal.

In Colorado, several of the duties and responsibilities typically found within a State Fire Marshal's Office are vested in the Colorado Division of Fire Safety (Department of Public Safety). However, the lack of adequate resources has left the Division incapable of performing the duties it has been assigned.

**Recommendation:** The CSFCA recommends creation of a "State Fire Marshal's Office" by consolidating all (or many) of the fire safety activities presently administered by Colorado's fire-safety bureaucracy. The recommendation does not suggest the creation of another bureaucracy; it merely suggests reorganizing the one that presently exists.

Instead of creating a new agency, the CSFCA recommends the Division of Fire Safety be recreated as the State Fire Marshal's Office. The duties and responsibilities of the State Fire Marshal's Office should include firefighter training and certification, fire incident reporting,

resource management and mobilization, administration of a minimum state fire code that applies to state-regulated facilities and other high risk occupancies, regulation of the fire suppression, fire alarm, and fireworks industries, and providing technical assistance to local fire departments.

## **6. Wildland-Urban Interface Code**

The Wildland-Urban Interface Code contains provisions addressing fire spread, accessibility, defensible space, and water supply for buildings constructed near wildland areas. It is intended to mitigate the risk to life and structures from intrusion of fire from wildland fire exposures and fire exposures from adjacent structures, and to mitigate structure fires from spreading to wildland fuels. As opposed to Community Wildfire Protection Plans (CWPP's), the purpose of the Wildland-Urban Interface Code is proactively address the issues before structures are built in the interface.

**Recommendation:** The CSFCA makes the following recommendations with respect to WUI mitigation measures:

- Provide some sort of incentives for counties to adopt a Wildland Urban Interface Code; for example build in credit in the EFF formula for counties that have adopted and enforce a WUI code; or
- Grant the Colorado Division of Fire Safety the authority to adopt a Wildland Urban Interface Code as a minimum standard. The authority to enforce the code and have more stringent requirements should be delegated to local jurisdictions.
- Encourage the development of one Community Wildfire Protection Plan (CWPP) per county and any subordinate plans must be consistent with the county plan.
- Require all state agencies that manage public lands to implement mitigation efforts on land under their control.
- Seek additional federal funding for federal, state, local and private mitigation efforts.

## **OTHER RECOMMENDATIONS**

### **7. Excessive Indirect Cost Assessment by CSFS**

The Colorado State University, parent organization for the Colorado State Forest Service, places an indirect cost assessment of 23% on top of all invoices submitted by local agencies for reimbursement. While the CSFCA recognizes that all state agencies have an indirect rate plan, the rate assessed by CSU is excessive, particularly in light of the fact that it only compounds the cost of fire suppression and adds nothing to fire suppression capability.

**Recommendation:** The CSFCA recommends the reimbursement process for wildland fire assignments be transferred from the Colorado State Forest Service to the Division of Emergency Management [the Division of Emergency Management handles all other reimbursements for disaster response].

## 8. Specify what Constitutes a “Fire Department”

Colorado law does not currently define what a fire department is, nor does it establish any requirements for the creation of a fire department. One problem created by this is there is no prohibition on creating a “fire department” within the boundaries of a fire protection district.

**Recommendation:** The CSFCA recommends that what constitutes a fire department be defined in statute. Following is a sample definition of a fire department:

1. An organization that provides fire protection-related services;
2. Is authorized and recognized by the government authority having jurisdiction; and
3. Is registered with the Colorado Division of Fire Safety (State Fire Marshal) and as been assigned a Fire Department Identification Number (FDID).

## 9. Liability for Equipment Transfer

Every year quality surplus fire equipment, including hoses, fire trucks, protective clothing and breathing apparatus is destroyed or discarded by industry and larger fire departments instead of being donated to small fire departments in order to avoid civil liability lawsuits. The fear of litigation has forced companies and wealthier fire departments to waste surplus equipment, which in many cases has years of potential use remaining.

**Recommendation:** The CSFCA recommends the Legislature enact statutes providing liability protection to a company or fire department that donates fire control or fire rescue equipment to a volunteer fire company for personal injuries or property damage caused by a defect in the equipment.

## 10. Liability for Incident Management Teams

A successful outcome of the creation of the All-Hazards Regions is the formation of three, All-Hazard Type 3 Incident Management Teams (IMT’s) in Colorado. The training and certification standards for these IMT’s were established by the Colorado Emergency Resource Mobilization Program Working Group (which operates under the auspices of the Colorado Division of Fire Safety).

Since there is no legislative authority for the existence of the State’s All-Hazards Regions and no specific legislative authority for the creation of the IMT’s, some participating individuals and sponsoring local governments are concerned about their liability.

**Recommendation:** The CSFCA recommends the Legislature enact statutes that legitimize and provide official authority to the state’s All-Hazard Type 3 IMT’s. In the interim, the CSFCA recommends that the Colorado Division of Emergency Management enter into agreements with the participating agencies, recognizing, sanctioning and providing liability protection to the IMT’s and their participants.

## 11. Wildland Fire Business Rules Committee

The CSFCA recommends establishing a committee to develop a standard template for estimating the full cost of providing equipment and personnel for resource assignment, examine and make recommendations concerning standard resource rates and other business practices surrounding AOP’s (such as minimum equipment, staffing, standardized delegation of authority,

etc.). This committee should be a subcommittee of the Colorado State Emergency Resource Mobilization Program (CSERMP) Working Group.

## **12. Funding for Engine Task Forces**

The CSFCA recommends the State provide funding for training and equipping a minimum of five engine task forces [staffed and operated by local fire departments].

## **13. NFIRS Participation**

A crucial component to impacting Colorado's fire problem is timely and accurate data collected through the National Fire Incident Reporting System – a program administered in the state by the Division of Fire Safety. However, there is no requirement that local fire departments participate in NFIRS (other than federal grant requirements).

The CSFCA recommends the state provide incentives for the participation in NFIRS by local fire departments by providing funding for the purchase of hardware and software, continued funding to the Division of Fire Safety for training and administration of the program and requiring participation in NFIRS as a requirement for receiving any state grants.

## **CONCLUSION**

On behalf of the Colorado State Fire Chiefs' Association, we wish to thank you again for the opportunity to address this Committee and for you for your continued support of the local fire service.

We will attempt to address any questions you may have at this time.