INTERSTATE MUTUAL AID AGREEMENT for WILDLAND FIRE MANAGEMENT ASSISTANCE

Between

The Montana Department of Natural Resources and Conservation
And
The New Jersey Department of Environmental Protection
Forest Fire Service

I. Purpose and Authority

This Interstate Mutual Aid Agreement for Wildland Fire Management Assistance ("Agreement") is made and entered into by and between the Montana Department of Natural Resources and Conservation (DNRC) and the New Jersey Department of Environmental Protection Forest Fire Service (NJFFS)

The purpose of this Agreement is to provide for mutual assistance in wildland fire management. This Agreement also provides for mutual cooperation in wildland fire exercises, training, prescribed burning, testing or other activities that require the use of equipment and personnel with respect to the sharing of resources between DNRC and NJFFS for wildland fire emergencies and fuels management, hereinafter known as "wildland fire exercises".

This Agreement is entered into pursuant to the following authorites:

1. Mont. Code Ann. § 76-13-104. Requires the State to ensure the protection of land under state and private ownership and to suppress wildland fires on land under state and private ownership. Authorizes the State to, during declared emergencies, employ personnel and incur costs as necessary. Requires the State to establish and maintain fire control training programs. Requires that the State appoint firewardens. Provides for the adoption of administrative rules by the State.

2. Mont. Code Ann. § 76-13-105. Authorizes the State to provide for forest fire protection of any non-forest lands and improvements. Requires forest fire protection of all land classified as forest land.

3. Mont. Code Ann. § 76-13-202. Authorizes the State to provide for wildfire protection of any wildlands either by it, by contract or by any other feasible means, in cooperation with any federal, state, or other recognized agency.

4. Mont. Code Ann. § 76-13-212. Authorizes the State to provide wildland fire protection on lands that are not classified as forest land and are not within a wildland fire protection district.

5. Mont. Code Ann. § 77-5-103. Requires the State to take any action authorized by law to prevent and extinguish wildland fires on state-owned timberland.

6. Admin. R. Mont. 36.10.119 through 36.10.204. The administrative rules that implement Mont. Code Ann. §§ 76-13-104, 76-13-105, 76-13-136, 76-13-202, and 76-13-212.

7. The New Jersey Department of Environmental Protection is authorized by N.J.S.A. 13:9-1 et seq. to maintain a Forest Fire Service for the protection of life, property and natural resources from wildfire. Pursuant to N.J.S.A. 13:9-9, the Department may enter into cooperative or contractual agreements with any body politic to accomplish this purpose.

II. Definitions

A. Requesting Party – the state requesting assistance for wildland fire management or wildland fire exercises.

B. Assisting Party – the state furnishing assistance for wildland fire management or other wildland fire activity request.

C. Contractor – An entity which has a contract to provide personnel, equipment, supplies, or services for a particular compact or any of its individual members. A contractor is not an employee of a political jurisdiction.

D. Authorized Representative – an officer or employee of a state who is authorized by the state to request or provide assistance under the terms of this Agreement.

E. Incident – a wildland fire management event where external assistance is required in order to protect life, property, and natural resources or an exercise event designed to develop the capability to manage escaped wildland fires in the future.

F. Agency Standard – the standards used by a state for qualifying and certifying a wildland fire resources.

G. Federal Standard – the current National Wildfire Coordinating Group standard used for qualifying and certifying wildland fire resources for interagency use in a federal incident.

H. Resources – including but not limited to the personnel, equipment, aircraft, and supplies required to manage a wildland fire.

I. Employee - includes paid personnel and any volunteer or auxiliary legally included within the forest fire fighting forces of the Assisting Party.

III. General Implementation

Both parties recognize that wildland fire emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing wildland fires. Both parties further recognize that there will be incidents which require immediate action using external resources in order to protect life, property, and natural resources. Additionally, a coordinated and cooperative sharing of resources is required to develop and maintain the capability to manage future incidents. Few, if any, states have all of the resources that may be needed to manage all incidents that may arise.

The prompt and effective utilization of wildland fire management resources between the parties to this Agreement will be the underlying principle on which all aspects of this Agreement will be understood.

The authorized representative who is assigned responsibility for wildland fire management will be responsible for formulation of the appropriate plans and procedures necessary to implement this Agreement.

IV. Equipment, Materials and Supplies

Expendable supplies and materials will be considered purchased on delivery, and full replacement costs will be reimbursed by the Requesting Party. Items should be considered expendable if they are not reusable.

Non-expendable and accountable equipment and supplies will be credited to the Requesting Party upon return to the Assisting Party. The cost of refurbishing is reimbursable to the Assisting Party unless the Requesting Party agrees to perform the refurbishing work.

The Requesting Party must reimburse the Assisting Party for any damage to the Assisting Party's equipment which was caused during the term of assistance and which is not covered by insurance. In the event that any equipment or supplies are damaged beyond repair or are not returned, they will be either replaced by the Requesting Party with new equipment or supplies of the same quantity and quality as determined by the Assisting Party, or the Requesting Party will reimburse the full replacement costs to the Assisting Party.

Providing communications equipment is the responsibility of the Requesting Party, unless the parties mutually agree that the Assisting Party will supply its own communications equipment.

V. Party's Mutual Responsibilities

It will be the responsibility of each party to formulate procedural plans and programs for inter-state cooperation in the performance of the responsibilities listed in this section. In formulating such plans, and in carrying them out, the parties, insofar as practical, shall:

a. Develop procedures for receiving and making requests for wildland fire management assistance.

b. Ensure that the authorized representative information is updated at all times.

c. To the extent feasible, but without obligation, provide timely equipment, personnel, supplies, and other assistance to the Requesting Party for wildland fire management assistance when requested.

d. Provide resources which meet the terms and standards specified by the Requesting Party, if the Assisting Party is able to do so within its existing resources.

e. Provide a process whereby personnel from the Assisting Party will receive an incident briefing by the Requesting Party prior to fireline deployment and a debriefing prior to demobilization. Debriefings and evaluations will be provided to the Assisting Party. Any conditions regarding resources as agreed between the two states will be shared during briefings.

f. Provide a process whereby the Assisting Party will ensure that the Assisting Party's personnel are adequately covered for any hospital and/or medical costs incurred while on assignment.

g. Provide a process whereby, notwithstanding item "f", the Requesting Party ensures that immediate medical services are afforded the Assisting Party's personnel regardless of the type or duration of medical aid required.

h. Provide a process whereby any accident or serious incident involving the Assisting Party's personnel will be immediately reported to the Assisting Party's authorized official. The Assisting Party may request to participate in the investigation, or may, at the Assisting Party's expense and with the assistance of the Requesting Party, undertake its own investigation. A serious incident is one in which a person suffers serious bodily injury or death, or where there is measurable property or equipment damage.

i. Warrant that commissary expenses for the Assisting Party's personnel are the responsibility of the Assisting Party, unless supplied by or paid for by the Requesting Party.

j. Ensure that the length of assignment and rest and rotation periods for the Assisting Party's personnel will be identified by the Assisting Party at the time of request. Any extension of assignment will be by mutual agreement.

k. Provide a process whereby the Requesting Party may make a request for wildland fire exercises. The costs for wildland fire exercises will be negotiated on a case by case basis.

l. Ensure that any redeployment of resources outside of the Requesting Party's jurisdiction must be agreed upon by the Assisting Party and Requesting Party.

m. When appropriate, the Assisting Party or the Requesting Party may provide and/or request adequate liaison (extra management for the resources). The costs of the Assisting Party providing liaison will be reimbursed by the Requesting Party.

A. Requesting Party Responsibilities

The Requesting Party shall:

Contact the authorized representative of the Assisting Party and make a request for resources. Requests may be verbal (telephone) or in writing (email).

In the request for wildland fire management:

Specify the amount and type of personnel, equipment, supplies, and other assistance that is needed.

Specify the length of time that these resources may be needed.

Specify the location, place and time for staging of the requested resources and a point of contact at that location.

Specify the equipment, personnel, radio and/or aircraft standards that must be met for each resource type that is being requested or specify that the assisting agency standards are acceptable.

Specify if resources need to be self-sufficient or otherwise provide lodging, meals, fuel and other needed support for the resources that are requested.

Every January, establish, with the Assisting Party, the rate and method of reimbursement for the resources being requested.

Specify alternative standards for employees, contractors, and/or equipment being requested if the originally established resource standards being requested cannot be met by the Assisting Party.

Release resources back to the Assisting Party as soon as practicable and no later than the expiration of the originally agreed upon period requested.

Renegotiate the length of assistance with the Assisting Party if resources are needed for a period longer than originally requested.

Maintain contact and keep the Assisting Party informed of the status and effectiveness of resources which have been mobilized.

In its request for wildland fire exercises, provide the Assisting Party with a written request for assistance that includes the number and qualifications of personnel requested. Negotiated terms for reimbursement will also be included.

Identify the location, place and time for staging of the requested resources and acquire a point of contact at that location.

B. Assisting Party Responsibilities

The Assisting Party shall:

Receive requests from the Requesting Party for wildland fire management assistance. Requests may be verbal or in writing.

Assess the availability of the resources being requested and acquire the resources. To the extent feasible, but without obligation until committed, fill requests for the amount and type of personnel, equipment, supplies, and other assistance that is needed.

All costs submitted for payment by the Assisting State will be reimbursed by the Requesting State, in accordance with the salary schedules and/or union contracts in existence in the Assisting State.

Establish the length of time that resources may be needed from the Requesting Party.

Fill requests with resources that meet the specified standards of the Requesting Party, to the extent possible.

Attempt to identify and meet alternative standards for various employees, contractors, and/or equipment being requested if initial resource standards being requested cannot be met.

Document and discuss with the Requesting Party the hours of work, conditions of employment and tour of duty. Copies of the documentation will be sent with the mobilized resources to the Requesting Party.

Renegotiate the length of assistance with the Requesting Party if resources are needed for periods longer than originally requested.

Maintain contact with the Requesting Party and keep the Requesting Party informed of the status and effectiveness of resources which have been mobilized.

Notify the Requesting Party of the recall of resources if the Assisting Party's operational needs require an early return of the resources. A smooth transition which minimizes the impact to the Requesting Party shall be sought whenever possible.

Provide such wildland fire exercises resources to the Requesting Party as the Assisting Party can provide considering other resource needs of the Assisting Party. The Assisting Party shall negotiate the reimbursement terms with the Requesting Party.

VI. Limitations

The Assisting Party shall take such action as necessary to make the Assisting Party's resources available to the Requesting Party. It is understood that the Assisting Party will make available resources only to a level where it will not compromise the Assisting Party's ability to fulfill its own operational responsibilities.

The personnel and equipment standards requested by the Requesting Party shall govern the acceptance or refusal of any resources offered for assistance. If no standards are specified, the personnel and equipment standards utilized by the Assisting Party within the Assisting Party's own political jurisdiction shall be deemed acceptable. The Assisting Party's resources made available to the Requesting Party through a request for assistance under this Agreement will continue under the ultimate command and control of the Assisting Party, but will be under the limited operational control of the appropriate officials within the wildland fire management system of the Requesting Party.

Nothing in this Agreement impairs the rights of the Parties to recover costs, damages, and/or penalties from third parties under applicable State, Federal, Provincial or Tribal law.

VII. Liability

Whenever the resources of the Assisting Party are rendering assistance pursuant to a request of the Requesting Party, the employees of such Assisting Party will have the same powers (except the power to arrest), duties, rights, privileges, and immunities as comparable employees of the Requesting Party to which they are rendering assistance.

All liability that may arise either under the laws of the Requesting Party or under the laws of the Assisting Party on account of or in connection with fulfilling the terms of this Agreement, will be assumed and borne by the Requesting Party. The Assisting Party will not be liable on account of any act or omission in good faith on the part of its personnel while managing a wildland fire, participating in a wildland fire exercise, or while maintaining or using any equipment or supplies in

connection with wildland fire management or wildland fire exercise for the Requesting Party. Good faith does not include willful misconduct, gross negligence, or recklessness.

The Assisting Party must be reimbursed by Requesting Party for any loss or damage to its equipment, expense incurred in the operation of any equipment, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees incurred in connection with a request for wildland fire management and/or wildland fire exercises. Nothing contained herein prevents the Assisting Party from assuming such loss, damage, expense or other cost, or from loaning or donating such resources to the Requesting Party without charge or cost.

If employees of the Assisting Party are injured or killed while providing assistance to the Requesting Party, the Assisting Party must provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in the same manner and on the same terms as if the injury or death were sustained within the Assisting Party's State.

Each party to this Agreement must either have or will formulate procedures for claims and reimbursement under the provisions of this section.

VIII. Supplementary Agreements

Nothing contained in this Agreement precludes either party from entering into agreements with other compacts, states or agencies, and this Agreement does not affect any other agreements already in force between such entities.

IX. Reimbursement

The Assisting Party will be paid by the Requesting Party for the resources that have been mobilized as follows:

A. *Personnel*

While providing assistance to the Requesting Party, employees of the Assisting Party will be paid according to the Assisting Party's applicable laws, regulations and union contracts.. The costs for these employees, including direct and indirect personnel expenses (fringe), must be invoiced to the Requesting Party after the term of the assistance has ended.

When dispatched, hired or pick-up labor, such as firefighting crews who are not employees of the Assisting Party, will be compensated directly by the Requesting Party. , Alternatively, if agreed upon by the parties to this Agreement, hired or pick-up labor will be compensated by the Assisting Party and then reimbursed by the Requesting Party.

Costs for travel, meals and incidental personnel needs which are not provided by the Requesting Party, but have been paid by the Assisting Party, shall be reimbursed to the Assisting Party. Receipts shall be kept by the Assisting Party and submitted with the invoice for reimbursement to the Requesting Party after the term of the assistance has ended.

Other contracted personnel shall be reimbursed in accordance with the contract in force between the contractor and the Assisting Party or according to pre-established rates agreed upon between the parties.

B. Equipment, Material and Supplies

Equipment, material and supply costs for the Assisting Party's equipment and aircraft will be reimbursed by the Requesting Party as provided for in Paragraph IV, above, except that equipment or aircraft under contract with the Assisting Party will be reimbursed by the Requesting Party in accordance with the specific contract(s) in force between the contractor(s) and the Assisting Party or according to pre-established rates agreed upon between the parties.

C. Record Keeping

The Assisting Party must maintain receipts and proof of costs and submit them with invoices for reimbursement to the Requesting Party for personnel, equipment, materials, supplies, pick-up labor, and contractors utilized by the Requesting Party. The Requesting Party will provide information, directions, and assistance with record-keeping to the Assisting Party as requested by the Assisting Party.

D. Payment

Estimates must be submitted annually by the Assisting Party to the Requesting Party by January 31st, invoiced no later than February 28th, and final payment must occur within 60 days after receipt of invoice unless the parties to this Agreement mutually agree otherwise.

Each mobilization (resource order) and wildland fire exercise must be invoiced separately by the Assisting Party. All invoices will include the Requesting Party's resource order number and request number, if applicable. Regardless of any invoice, the Requesting Party may only make such payment, or portion of such payment, if there have been monies legislatively appropriated to the Requesting Party to cover such invoice.

All invoices with receipts or other proof of costs must be sent to the Requesting Party's principle contact listed in this Agreement, below.

E. Waiver of Reimbursement

The Assisting Party may assume or donate, in whole or in part, the costs associated with any assistance provided to the Requesting Party.

X. Worker's Compensation

The Assisting Party's personnel providing assistance to the Requesting Party will continue to be covered by the Assisting Party's or other employer's worker's compensation. Personnel who sustain injury or death in the course of and arising from their employment are entitled to all benefits normally available to personnel while performing their duties for their employer. Worker's compensation costs incurred by personnel of the Assisting Party are reimbursable by the Requesting Party, if the injury and costs incurred are related to and part of the assistance provided by the Assisting Party.

XI. Licensing and Insurance

The Assisting Party is responsible to ensure that the employees and/or contractors mobilized by the Assisting Party have the proper licensing to operate the equipment and/or aircraft mobilized with them to the Requesting Party. The Requesting Party is responsible to ensure that the Requesting Party's employees and/or contractors responding to the incident have the proper licensing before operating any equipment and/or aircraft.

The Assisting Party is responsible for providing liability insurance coverage for the Assisting Party's personnel, equipment, aircraft, and other resources, and for ensuring that the Assisting Party's contractor(s) provide liability insurance within their contracts, as appropriate.

XII. Implementation

A. This Agreement will become operative upon the last signatory signing the Agreement.

B. Either party may terminate this Agreement upon providing thirty (30) days' written notice to the other party. Such action shall not relieve the terminating party from obligations assumed hereunder prior to the effective date of termination.

C. A copy of this Agreement and of any amendments as may be entered into shall, at the time of their full execution, be sent to the other party.

D. This Agreement will remain in effect for five (5) years from the date of the last signatory.

XIII. Severability and Validity

Should a court of competent jurisdiction rule any portion, section or subsection of this Agreement is invalid or nullified, such invalidity or nullification shall not affect, invalidate, or nullify any other portion, section or subsection of the Agreement. All remaining portions, sections and subsections shall remain in full force and effect.

The principal contacts for this instrument are:

State of New Jersey	State of Montana
Assistant State Forest Fire Warden Steve Holmes PO Box 420, 501-04 E. State St. Trenton, NJ 08625-0420	Deputy Chief, Fire Operations John Monzie 2704 Spurgin Road Missoula, MT 59804
Phone: 609-292-2977	Phone: 406-542-4220
FAX: 609-984-0378	FAX: 406-542-4242
E-Mail : steve.holmes@dep.nj.gov	E-Mail: jmonzie@mt.gov

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates shown below.

STATE OF NEW JERSEY	
Richard Boornazian Asst. Commisioner, Natural & Historic Resources	Date 4/12/17

STATE OF MONTANA	
Bob Harrington Administrator, Forestry Division	Date 4/21/17