

COOPERATIVE FIRE PROTECTION AGREEMENT

Between

**UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
MONTANA**

**NATIONAL PARK SERVICE
MIDWEST REGION**

**BUREAU OF INDIAN AFFAIRS
GREAT PLAINS AND ROCKY MOUNTAIN REGIONS**

**US FISH AND WILDLIFE SERVICE
MOUNTAIN-PRAIRIE REGION**

**UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
NORTHERN REGION**

and

**THE STATE OF NORTH DAKOTA
NORTH DAKOTA STATE UNIVERSITY
NORTH DAKOTA FOREST SERVICE**

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PURPOSE

The purpose of this Cooperative Fire Protection Agreement, hereinafter referred to as the Agreement, is to document the commitment of the Parties to this Agreement to improve efficiency in wildland fire management by facilitating the exchange of personnel, equipment, supplies, services, and funds among the agencies. This Agreement is entered into by and between:

The State of North Dakota, Forest Service, hereinafter called the State; and

The United States Department of Agriculture, Forest Service, Northern Region, hereinafter called the Forest Service; and

The United States Department of the Interior, Fish and Wildlife Service, Mountain-Prairie Region, hereinafter called the Fish and Wildlife Service; and

The United States Department of the Interior, National Park Service, Midwest Region, hereinafter called the Park Service; and

The United States Department of the Interior, Bureau of Land Management, Montana State Office, hereinafter called the BLM; and

The United States Department of the Interior, Bureau of Indian Affairs, Great Plains and Rocky Mountain Regions, hereinafter called the BIA; and

The Forest Service, Park Service, Fish and Wildlife Service, Bureau of Land Management, and the Bureau of Indian Affairs may hereinafter be jointly referred to as the "Federal Agencies".

The State of North Dakota may hereinafter be referred to as the "State".

All Federal Agencies and the State may hereinafter be jointly referred to as the "Agencies".

Words and phrases used in this agreement may have different meanings or interpretations for different readers. In order to reach a common understanding, the words and phrases are defined in a Glossary of Terms attached as Exhibit A.

AUTHORITY

1. Timber Protection Act of September 20, 1922; 42 Stat. 857, 16 USC 594.
2. Economy Act of June 30, 1932; 31 USC 1535 as amended.
3. Taylor Grazing Act of June 28, 1934; 48 Stat. 1269, 43 USC 315.
4. Granger-Thye Act of April 24, 1950, Section 5; 16 USC 572.
5. Reciprocal Fire Protection Act of May 27, 1955; 42 USC 1856a.
6. Disaster Relief Act of May 22, 1974 (42 USC 5121 as amended).
7. Cooperative Funds and Deposits Act of December 12, 1975; 16 USC 565a-1

8. Cooperative Funds Act of June 30, 1914 (16 U.S.C. 498).
9. Robert Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288).
10. Cooperative Forestry Assistance Act of July 1, 1978 as amended; 16 USC 2101
11. National Indian Forest Resources Management Act; PL 101-630, Title 3.
12. National Park Service Organic Act (16 U.S.C.1)
13. National Wildlife Refuge Systems Improvement Act of 1997 (P.L. 105-57)
14. National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd-668ee, 80 Stat. 927, as amended)
15. North Dakota Disaster Act of 1985, NDCC Section 37-17 (01-23).
16. ND Emergency Operations Plan, Executive Order, 1999-1.
17. North Dakota Statutes, NDCC Chapters 4-19 and 18-02.

RECITALS

1. Whereas: Wildland fire protection on state and private lands is the responsibility of local fire departments with the support and assistance of the State, and the federal lands on which the respective Federal Agencies are responsible for wildland fire protection, are intermingled or adjacent to state and private lands in some areas, and wildland fires on these intermingled or adjacent lands may represent a threat to the lands of the other;
2. Whereas: The Federal Agencies maintain wildland fire protection organizations for the protection of federal lands and the State assists local fire departments in maintaining wildland fire protection resources for the protection of state and privately owned lands, and structure and dump fire protection, which are the responsibility of local fire departments, are independent of this agreement;
3. Whereas: It is to the mutual advantage of the State and Federal Agencies to coordinate efforts for all wildland fire and aviation management activities including, but not limited to: prevention, detection, suppression, training, wildland fire use, and for fuels management in and adjacent to their areas of responsibility; to limit duplication; and to improve efficiency and effectiveness;
4. Whereas: It is the intent of the parties in this agreement that State resources be available to assist in fire management activities on federal lands, and other lands on which the Federal Agencies provide fire suppression support, including other States, Canada, and Mexico;
5. Whereas: It is the intent of the parties in this agreement that Federal resources be available to assist in fire management activities on state and private lands on which the State provides assistance or protection;
6. Whereas: The USFS, BLM, BIA, NPS, and FWS have entered into a national Interagency Agreement for Fire Management to cooperate in all aspects of fire management;
7. Whereas: It is the intent of the parties hereto that the wildland fire protection responsibility cannot be delegated to an entity that is not part of this agreement.

NOW, THEREFORE, in consideration of the mutual commitments and conditions herein made, it is agreed as follows:

INTERAGENCY COOPERATION

8. **Northern Rockies Coordinating Group (NRCG):** NRCG is comprised of the Department of Interior, Department of Agriculture, the States of North Dakota, Montana, and Idaho, and the Montana Firewarden's Association. NRCG provides oversight and recommendations for all interagency wildland fire management activities within the Northern Rockies area, which includes North Dakota, as described in the NRCG Charter. It is intended that this Agreement be implemented under the auspices of NRCG, rather than through individual agencies, to the maximum extent feasible.

9. **North Dakota Fire Council (NDFC):** NDFC serves as an advisory group for interagency wildland fire management activities within North Dakota. NDFC is comprised of the US Fish & Wildlife Service, Dakota Prairie Grasslands, Bureau of Land Management-Dakotas District Office, BIA-Turtle Mountain Agency, Theodore Roosevelt NP, ND Forest Service, ND Parks & Recreation, Three Affiliated Tribes, Spirit Lake Sioux Tribe, COE-Riverdale, Bureau of Reclamation, ND Game & Fish Dept., ND Firemen's Association, ND Division of Emergency Management, and the National Weather Service. NDFC will oversee implementation of this Agreement through the development of Annual Operating Plans and project plans at local area levels.

10. **North Dakota Dispatch Center (NDC):** NDC provides coordination of resources, logistics support, and reporting of wildland fire statistics for incidents within the state of North Dakota, and interagency emergency response support within the Northern Rockies geographical area and at the national level, under the auspices of the Northern Rockies Coordination Center (NRCC). The Northern Rockies Mobilization Guide (NRMG) will be the primary document to identify approved policy and procedures for dispatching fire resources. The Agencies agree to support and maintain the NDC, with staffing, funding, and levels of participation that are commensurate with each Agency's work, and agreed to in Annual Operating Plans.

This will not preclude the State or Federal Agencies from entering into cooperative agreements with other state, tribal or local fire departments in North Dakota, where fire suppression forces may be ordered and sent directly between cooperators for initial attack and other fire management activities without involving the NDC.

11. **Annual Operating Plans:** Annual Operating Plans will outline the details of implementing this Agreement and define relationships between Federal, State, Tribal and local agencies. Agency Line Officers are responsible for development and approval of Annual Operating Plans. A sample Annual Operating Plan is attached as Exhibit B "Annual Operating Plan".

The Agencies will encourage and support the development of Annual Operating Plans between Federal Agencies, the State, and local fire departments on lands that are within or adjacent to one another's fire protection areas. In cases where a wildfire exceeds the local fire department's

initial attack or mutual aid capabilities, additional forces can be made available to assist the suppression effort through the State Forester.

12. Joint Projects and Local Agreements: The State and the Federal Agencies may jointly conduct mutual interest projects within their authority. These projects may include activities such as preparedness, fire rehabilitation, fuels management, prescribed fire, training, prevention, public affairs, wildland urban interface coordination, and other beneficial efforts. Such projects will be documented in Annual Operating Plans or project plans, and should include the objectives, roles of each agency, and each Agency's share of costs. (See Exhibit D, Project Plan).

Local agreements shall not be in conflict with the terms of this Agreement. Unit administrators of the agencies party to this Agreement may execute local agreements.

13. Interagency Resources: Interagency funding, staffing, and utilization of resources and facilities will be pursued when an interagency approach is appropriate and cost effective. Shared staffing and funding will be commensurate with each Agency's use of the resources and will be agreed to and included in Annual Operating Plans.

14. Incident Command System: Agencies will operate under the concepts of the National Interagency Incident Management System (NIIMS) and its Incident Command System (ICS) as appropriate for providing qualified resources and for the management of incidents encompassed under the terms of this Agreement. Any agency may impose more restrictive standards, but will recognize that other agency standards are reasonable, prudent, and acceptable.

15. Notification of Federal Excess Property: Every effort will be made to notify the State of fire related property and equipment that is to become excess to the needs of any Federal Agency, for use in the State cooperative fire program.

16. Fire Prevention Policies: The Agencies will support fire prevention planning and cooperative activities at local and statewide levels that are initiated by local fire management personnel. Agencies are encouraged to pool resources and share costs of wildland fire prevention activities.

17. Licensing: Drivers and equipment operators will hold appropriate operating licenses to meet Agency, State, and Federal regulations. State and Federal Agency employees may operate each other's vehicles provided the operator meets the current operating guidelines and training requirements of their own Agency.

18. Training: The State and Federal Agencies will cooperate in all aspects of wildland fire and aviation training. This should also include training scheduling, course development, course presentation, and selection of trainees. Training and physical fitness requirements will meet National Wildfire Coordinating Group (NWCG) standards. Firefighters from local fire departments will be included in this cooperative approach whenever practical.

19. **Prescribed Fire and Fuels Management:** The Agencies agree to cooperate in the development and implementation of prescribed fire and fuels management programs, whose primary interest is to reduce hazardous fuels.

Any Agency to this Agreement may provide assistance to another Party as requested and agreed to for purposes of performing prescribed fire or other fuels management work. Conditions of the assistance and details related to reimbursement will be agreed to and documented through the procurement or project plan process. (See Exhibit D, Project Plan).

20. **Smoke Management:** Within their authorities, the Agencies to this Agreement agree to cooperate in smoke management programs.

21. **Communication Systems:** The Agencies may mutually agree to allow one another the use of communication systems such as radio frequencies, computer system access, data transmission lines, and communication sites when there is mutual benefit to the parties. Such agreement shall be approved only by authorized personnel for each Agency and will be documented in the Annual Operating Plans.

22. **Fire Weather Data:** The Agencies will cooperate in the gathering, processing, and use of fire weather data including the use of remote automatic weather stations and joint use of computer software. The State will contract vegetative greenness values for use in determining the daily rangeland fire index in North Dakota, and make the information available to other Agencies. The Agencies will jointly evaluate and agree to any deletions or additions to fire weather data systems.

23. **Aviation Operations:** The Agencies agree to cooperate in the use of aviation resources to foster effective and efficient use of aircraft and personnel. All aviation activities shall be conducted in accordance with each Agency's aviation rules, policies, and directives, including the Interagency Helicopter Operations Guide (IHOG).

Federal Agencies will inspect and approve pilots and aircraft to be used on Federal missions and/or used to transport Federal employees.

All orders for North Dakota National Guard aircraft for use on wildland fires shall go through the Northern Rockies Coordination Center, who shall order through the North Dakota Division of Emergency Management to ensure compliance with State and Federal policies.

PROTECTION RESPONSIBILITIES

24. **Definition of Responsibilities:** The parties to this agreement shall be distinguished as follows:

Protecting Agency - The agency responsible for providing direct wildland fire protection to a given area pursuant to this Agreement.

Supporting Agency - The agency responsible for providing suppression or other support and resources to a Protecting Agency.

Jurisdictional Agency - The Agency that has overall land and resource management or protection responsibility as provided by Federal or State law.

25. Protection Areas and Boundaries: Annually, the Agencies will agree upon wildfire protection responsibilities for lands within their respective jurisdictions. Protection areas and boundaries will be established, mapped, and made part of Annual Operating Plans.

26. Methods of Fire Protection and Suppression: One agency may provide fire management services on lands under the jurisdiction of another. The following are different methods to provide that service:

A. Reciprocal (Mutual Aid) Fire Protection: As deemed appropriate the Agencies may, by agreement in Annual Operating Plans, establish reciprocal initial attack zones for lands of intermingled or adjoining protection responsibility. Within such zones a Supporting Agency will, upon request or voluntarily, take initial attack action in support of the Protecting Agency.

The Protecting Agency will not be required to reimburse the Supporting Agency for costs incurred following the initial dispatch of any ground resources to the fire for the duration of the mutual aid period. The mutual aid period, not to exceed 24 hours, will be documented in the Annual Operating Plan.

B. Reimbursable (Cooperative) Fire Protection: The Protecting Agency may request suppression resources of others for its protection work. Such resources are to be paid for by the Protecting Agency.

C. Exchange (Offset) Fire Protection: Agencies may exchange responsibility for fire protection for lands under their jurisdiction. The rate of exchange will be based upon comparable cost, acreage involved, complexity, and other factors as may be appropriate and mutually agreed to by the Agencies. Exchange zones will be documented in Annual Operating Plans.

When a Protecting Agency takes suppression action on lands it protects for the Jurisdictional Agency, and the Jurisdictional Agency is requested to assist, the Protecting Agency will reimburse the Jurisdictional Agency for their assistance. The exception is if the parties involved are Federal agencies. The National Agreement between the Department of Interior Agencies and the Forest Service states that the parties agree not to bill each other for suppression services.

D. Contract (Fee Basis) Fire Protection: For an agreed upon fee, one Agency may assume fire protection responsibilities on lands under the jurisdiction of another. The terms and conditions of such arrangements must be included in Annual Operating Plans.

27. Fire Restrictions and Closures: Fire restrictions and closures will be coordinated and issued on an interagency basis, as much as possible.

28. **Structure Fire Suppression:** Neither the Federal Agencies nor the State are responsible for engaging in structure fire suppression activities. Federal Agencies and the State can and will support structure fire protection on wildland fires, on lands administered or protected through agreements by those agencies.

FIRE SUPPRESSION

29. **Closest Forces Concept:** The primary guiding principle for dispatch of initial and extended suppression resources will be the use of closest available and appropriate resources, regardless of the ownership of those resources and regardless of which Agency has protection responsibility.

30. **Fire Notifications:** Each Agency will promptly notify the appropriate Protection Agency of fires burning on or threatening lands for which that Agency has protection responsibilities. Likewise, Protecting Agencies will promptly inform Jurisdictional Agencies whenever they take action on fires for which the Protecting Agency is responsible.

31. **Protection Priorities:**

- A. Threat to human life.
- B. Threat to property and natural resources, based on relative values to be protected, commensurate with fire management costs.

32. **Boundary Fires:** A fire burning on, or adjacent to, a protection boundary will be the responsibility of the protecting agencies on either side of the boundary. The initial attack Incident Commanders of both agencies shall mutually agree upon fire suppression objectives, strategy, and the commitment and funding of agency suppression resources. When a fire burns on both sides of a protection boundary, except under the conditions of reciprocal fire protection or voluntary independent action, a cost share agreement shall be prepared and approved for all actions. A sample agreement is attached as EXHIBIT C "Sample Cost Share Agreement".

33. **Independent Action on Lands Protected by Another Agency:** Nothing herein shall prohibit any Agency, on its own initiative and without reimbursement, from going upon lands known to be protected by another Agency to engage in suppression of wildland fires, when such fires are a threat to lands within that Agency's protection responsibility.

34. **Appropriate Suppression Response Policies:** All fire suppression action conducted on lands of another Agency shall be consistent with that Agency's fire suppression policy and the terms of this Agreement.

A "Special Management Considerations" section in the Annual Operating Plan, will be used by unit administrators of the agencies to identify areas of special management consideration and to communicate appropriate fire management actions and any restrictions in firefighting tactical techniques to an Incident Commander.

Unless otherwise agreed, the Jurisdictional Agency will provide a Resource Advisor to advise a Protecting Agency of any special conditions that may influence suppression action. The Incident

Commander will incorporate specific conditions into the incident planning process, subject to delegation of authority.

35. Wildland Fire Situation Analysis (WFSA): Federal Agency policy requires a WFSA be completed for all fires on Federal land which escape initial suppression action. This procedure requires Federal Agency unit administrator participation. Responsibility for strategic and tactical implementation of a WFSA shall be the joint responsibility of the Line Officer from the Jurisdictional Agency and the Incident Commander.

36. Fire Reports: On incidents where the Protecting Agency is not the Jurisdictional Agency, the Protecting Agency will furnish a copy of their fire report to the Jurisdictional Agency within fifteen days after the fire is declared out.

37. Post-Fire Analysis: To benefit from lessons learned on fire incidents falling under the terms of the Agreement, the Agencies may conduct post-fire analyses. Such critiques or reviews will be conducted jointly by the State and affected Federal Agency(s). These analyses may be requested by the Jurisdictional, Supporting or Protecting Agencies.

38. Determination of Cause and Preservation of Evidence: As initial attack is taken on a fire, the initial attack forces, regardless of whether they are the Protecting Agency or the Supporting Agency, will immediately gather and preserve information and evidence pertaining to the origin and cause of the fire.

Agencies shall render mutual assistance in investigation and law enforcement activities, and in court prosecutions to the fullest extent possible. Each Agency shall be responsible for fire related law enforcement activities, litigation and court proceedings resulting from wildfires that originate on their respective lands. To the extent permitted by Federal and State law, the Protecting Agency will provide investigation files relative to the fire to the Jurisdictional Agency.

USE AND REIMBURSEMENT OF SHARED RESOURCES

39. Appropriated Fund Limitations: Nothing in this Agreement shall be interpreted as obligating the Federal Agencies or the State to expend funds, or involve the United States or the State of North Dakota in any contract or other obligation for the future payment of money in excess of funding approved and made available for payment under this agreement.

40. Reimbursable Assistance (Assistance by Hire): Reimbursable Assistance refers to those fire suppression resources supplied in support of the Protecting Agency and which are paid for by the Protecting Agency. Reimbursable Assistance must be requested by the Protecting Agency or supplied through automatic or mutual aid systems.

Assistance must be recorded by a resource order within the dispatching systems or any official agency document of the Protecting and Supporting Agencies, or documented by the Incident Commander in a fire report. Resources not documented in this manner are not reimbursable. The salary or wages of personnel shall be at the actual cost to the sending agency for work time,

from the time of departure until return to official station, including premium pay if and when it is earned, under the policies, laws or rules governing the employees of the sending agency. A list of generally reimbursable costs can be found under "Reimbursable Costs" in Exhibit A - Glossary of Terms.

41. Duration of Assignments: Consideration must be given to the health and safety of personnel when assigned to fires. Incident Commanders will release suppression forces to the respective agencies as soon as priorities allow. Incident Commanders shall adhere to rest and rotation policies described in the NRMG.

42. Cost Sharing: A cost share agreement will be prepared by the responsible unit administrator(s) or their authorized representatives, except under the conditions of reciprocal fire protection or independent action, when there is (1) a multi-jurisdictional incident or (2) an incident which threatens or burns across direct protection boundaries of the State and Federal Agencies. See Exhibit C.

The Agencies agree that all reasonable and necessary costs incurred to meet the protection responsibilities within each Agency's Direct Protection Area will be the responsibility of that Agency. This approach can be superseded by an incident specific cost share agreement based on some other mutually agreed to equitable basis. For temporary support level functions or facilities established during periods of extraordinary fire activity, similar cost sharing procedures may be used by the involved Agencies.

43. Procurement: The procurement laws of the Protecting Agency will apply in the procurement of resources. Procurement costs by one Agency in support of another that are reasonable and prudent may be charged to the Protecting Agency. Delegations of procurement authority for an incident shall be made in accordance with agency policy. (see Interagency Incident Business Management Handbook, NWCG Handbook 2, Chapter 20).

44. Shared Equipment: Equipment loaned by one agency to another shall become the responsibility of the borrowing agency, including when it is in transit to or from an incident, and shall be returned in the same condition as when received, normal wear and tear excepted. The borrowing agency shall repair or pay for damages in excess of normal wear and tear, and will replace items lost or destroyed.

45. Billing Procedures:

A. Fire Suppression Billings

1. Federal Billings: Federal Agencies will not bill each other for fire suppression support. Federal Agencies will submit bills to the State whenever North Dakota is the Protecting Agency.

2. State Billings: When the State provides support on a fire occurring on federal lands within the State of North Dakota, the State will submit their billings to the Protecting Agency. Anytime the State responds to a fire outside of North Dakota, regardless of the

Protecting Agency, the State will submit their billings to the Forest Service.

3. Billing Estimates/Time Frames: The billing agency shall submit a bill for reimbursement by December 1 for the previous fire season, including an itemized list of expenditures. If the total cost is not known at the time of this billing, an estimate or a partial bill, so identified, may be submitted. A final bill will be issued by February 28 of the following calendar year.

All bills will have a payment due date of 60 days after they are issued. If payment cannot be made before the 60 days expire, then a 30-day extension with written justification can be requested.

Billing deadlines set forth are intended to encourage prompt billings, and failure to meet deadlines should not be construed as a release or waiver of claims for reimbursement.

4. Billing Content: Bills will be identified by fire name, location, jurisdictional unit, an assigned accounting codes, and will be supported by adequate documentation and incident cost share agreements. Billings for fire suppression assistance will not include administrative overhead.

5. Billing Addresses:

USDA Forest Service
Financial Resources
PO Box 7669
Missoula, MT 59807

National Park Service
Theodore Roosevelt NP
PO Box 7
Medora, ND 58645

ND Forest Service
307 1st St. E.
Bottineau, ND 58318-1100

Bureau of Land Management
Montana State Office
PO Box 36800
Billings, MT 59107-6800

US Fish & Wildlife Service
J. Clark Salyer NWR
PO Box 66
Upham, ND 58789

Bureau of Indian Affairs
Rocky Mountain Region
316 N. 26th St.
Billings, MT 59101

Bureau of Indian Affairs
Great Plains Region
115 4th Ave. SE
Aberdeen, SD 57401

6. Disputed Billings: Minor discrepancies in the final bill involving less than \$1,000 will not be adjusted. For bills having discrepancies of more than \$1,000, written notice should be mailed to the billing agency within 60 days of issuance fully explaining the area of dispute. The uncontested portion of the bill should be paid and a new bill issued

for the contested amount. Contested items will be resolved not later than 60 days following receipt of the written notice, and may be adjusted in the following year's bill if necessary.

7. Payments: Payments will refer to the bill number and will be sent to the appropriate billing address. Late payment charges may be waived by the billing agency unless required by law. An agency may subtract unpaid obligations from bills received by agencies with delinquent payments.

B. Billing for Other Fire and Aviation Management Activities: Billings for preparedness, prevention, prescribed fire and other fire and aviation management activities will be addressed in Annual Operating Plans or a special project plan. Agencies may bill one another for preparedness and other fire activities, and administrative charges may be applied.

Provisions described above pertaining to suppression billing procedures, addresses, payment due dates, obligation information, and payments, also apply to billings for other fire activities. Billings will be itemized and a copy of the appropriate Annual Operating Plan or project plan will be attached or referenced.

C. Billing for Escaped Prescribed Fires: Wildfires resulting from escaped prescribed fires ignited by a party to this Agreement on land it manages, shall be the responsibility of that party. The party responsible for the prescribed fire will reimburse other parties to this agreement for all suppression costs of supporting agencies. The exception is if the parties involved are federal agencies.

GENERAL PROVISIONS

46. Employment Policy: It is agreed that employees of the parties to this Agreement shall at all times be subject only to the laws, regulations, and rules governing their employing agency, and shall not be entitled to compensation or other benefits of any kind other than specifically provided by terms of their employment.

47. Mutual Sharing of Information: The State and the Federal Agencies will furnish or otherwise make available upon request, such maps, documents, instructions, records, GIS data, and reports, including but not limited to, fire reports, employment records, and investigation and law enforcement reports as either party considers necessary in connection with the Agreement, in accordance with applicable State and Federal rules and regulations.

48. Suppression and Damage Collection: To the extent that the cost of fire suppression on state and private lands incurred by Federal Agencies will not be reimbursed by the State pursuant to any provision of this agreement, the United States shall be subrogated to and be entitled to all rights and remedies which the State would have had to collect such suppression costs pursuant to State law. If requested by the United States, the State shall transfer to the United States all rights and remedies against any entity necessary in order to perfect this right of subrogation.

49. Accident Investigations: Whenever an accident occurs involving the equipment or personnel of a Supporting Agency, the Protecting Agency shall take immediate steps to notify the Jurisdictional and the Supporting Agency. As soon as practical, the Protecting Agency shall initiate an investigation of the accident. The investigation shall be conducted by a team made up of appropriate representatives from the affected Agencies and shall be sufficient to meet the legal needs of the Agencies.

50. Waiver: It is mutually agreed that the Parties to this Agreement shall each be responsible for their own losses arising out of the performance of this Agreement and each Party hereby waives any claim against any other Party for any loss, damage, personal injury, or death of the Party, or its employees or agents, occurring as a consequence of the performance of this Agreement; provided, this provision shall not relieve any party from responsibility for claims of third parties for losses for which the Party is otherwise legally liable.

51. Third Party Claims: Any liability to third parties which may arise under performance of this Agreement shall be determined under the Federal Tort Claims Act as to the Federal Agencies, and under the laws of the State of North Dakota as to the State.

52. Non-Wildland Fire and Medical Aid Responses: This Agreement is limited to wildland fire management and does not include non-wildland fire protection and medical aid responses. However, this Agreement does not preclude agencies from supporting one another in emergency situations as provided by their respective policies, procedures, or other agreements. In the event of a Presidential Disaster Declaration, the Agencies may assist one another under the provisions of this Agreement as long as the requested resources are available and all other provisions are met.

53. Previous Agreements: This Agreement supersedes the following fire protection agreements: Cooperative Fire Management Agreement Between the State of North Dakota, Forest Service and U.S. Department of Agriculture, Forest Service, Northern Region, 5/1/90, and as amended 4/26/94 and 4/23/99.

Where other fire protection agreements exist that conflict with this Agreement, this will supersede all others. Those agreements will be reviewed, and modified or terminated, as appropriate.

54. Amendment Procedures: Modifications within the scope of this Agreement shall be made by mutual consent of the parties through the issuance of a written modification, signed and dated by all parties, prior to any changes being made. No party is obligated to fund any changes not properly approved in advance.

55. Examination and Audit: Agencies shall be subject to examination and audit for three years after final payment under the terms of this Agreement. Examination shall be confined to those matters connected with the performance of this Agreement including, but not limited to, the cost of administration.

56. **Civil Rights:** The cooperators shall comply with all State and Federal statutes relating to nondiscrimination.

57. **Performance:** Any party shall have the right to enforce this Agreement by any available remedy under the laws of the United States or the State of North Dakota.

58. **Duration of Agreement:** The terms of this Agreement shall commence on the date the last party signs below and shall continue for five years unless terminated earlier. A review of this Agreement will be conducted every five years and either modified or renewed for another five years from the date the last party signs the modification or renewal. Any party shall have the right to terminate their participation in this Agreement by providing one-year advance written notice to all parties.

WITNESS WHEREOF, the parties hereto have executed this Cooperative Fire Protection Agreement.

State of North Dakota
North Dakota Forest Service

[Signature]
State Forester
Date: July 21, 2000

USDI Bureau of Land Management
Montana State Office

[Signature]
for State Director
Date: 9/27/2000

USDI Bureau of Indian Affairs
Great Plains Region

[Signature]
Regional ~~Area~~ Director
Date: 18 August 2000

USDI Fish & Wildlife Service
Mountain-Prairie Region

[Signature]
Regional Director
Date: 9/18/00

State of North Dakota
North Dakota State University

[Signature]
Vice President-Finance
Date: 7-31-00

USDI National Park Service
Midwest Region

[Signature]
for Regional Director
Date: 9/11/00

USDA Forest Service
Northern Region

[Signature]
for Regional Forester
Date: 10/5/00
CETS 10/2/00
RDS / AM

EXHIBIT A

COOPERATIVE FIRE PROTECTION AGREEMENT

GLOSSARY OF TERMS

Administrative Overhead: Indirect administrative costs that cannot be readily identified with specifically financed programs and functions.

Agency Administrator: Agency officials who are signatory to this agreement, as follows: North Dakota Forest Service, State Forester; Bureau of Land Management, State Director; US Forest Service, Regional Forester; Bureau of Indian Affairs, Area Director; National Park Service, Regional Director; US Fish & Wildlife Service, Regional Director.

Agency Representative: An individual assigned to an incident with full authority to make decisions on all matters affecting that Agency's participation at the incident.

Annual Operating Plan: An annual plan generated at the local level and authorized by the appropriate officials, used for implementing terms of the Cooperative Fire Protection Agreement in their respective areas of responsibilities.

Boundary Line Fire: This includes (i) a fire burning jointly on lands of more than one party and the boundary line is known, (ii) where the fire location is known, but the protection boundary on the ground is uncertain, or (iii) where the location of a reported fire is uncertain in relation to the protection boundary.

Once the exact location of the fire is determined in relation to the protection boundary, it ceases to be a boundary fire unless falling into category (i) above.

Closest Forces Concept: This is the philosophy of committing the closest available appropriate resources, regardless of the Agency, for initial attack or for extended attack.

Contract (Fee Basis) Fire Protection: Where one Agency assumes fire protection responsibilities on lands under the jurisdiction of another for an agreed upon fee.

Cost Share Agreement: A document prepared between Agencies to distribute costs on a multi-jurisdictional incident or an incident that burns across boundaries of direct protection areas of the Agencies.

Direct Protection Area: That area which, by law or identified/authorized pursuant to the terms of this Agreement, is provided wildland fire protection by an Agency. This may include land protected under exchange or payment for protection.

Equivalent Wildland Fire Protection: Equivalent wildland fire protection is that which may be reasonably compared, using mutually agreed upon measures such as staffing, organization, performance, acreage, values at risk, and/or available resources.

Escaped Fire: A fire that is exceeded, or is anticipated to exceed, preplanned initial attack capabilities or fire management direction.

Exchange Fire Protection: When two Agencies exchange fire protection responsibilities with one another on lands under their jurisdiction.

Federal Excess Personal Property: Federally owned property and equipment excess to a Federal Agency's needs, that can be loaned to the State or rural fire departments for use in fire suppression activities.

Fire Management Activities: All or any activities that relate to managing wildland fire or natural fuels on lands under the jurisdiction of any party to this Agreement. Activities include but are not limited to planning, prevention, detection, training, suppression of wildland fires, fire use, and planning and conducting fuels management activities.

Initial Attack Zone: An identified area in which predetermined resources would normally be the initial resource to respond to an incident in accordance with a pre-existing annual operating plan or mobilization guide.

Jurisdictional Agency: The Agency that has overall land and resource management and/or protection responsibility as provided by Federal or State law.

Local Forces: Volunteer fire departments that are able to provide firefighters, equipment, and other resources that meet National Wildfire Coordinating Group (NWCG) standards, for wildland fire suppression.

Mutual Aid: Assistance provided by a Supporting Agency at no cost to the Protecting Agency. Mutual aid is limited to those initial attack resources that have been determined to be appropriate and which are preplanned and shown in Annual Operating Plans or mobilization guides.

Prescribed Fire: The planned and/or permitted use of fire to accomplish specific land management objectives. A written approved prescribed fire burn plan must exist and all agency requirements must be met, prior to ignition.

Preparedness: Activities in advance of fire occurrence to ensure effective suppression action. Includes training and placement of personnel, planning, procuring and maintaining equipment, development of fire defense improvements, and maintaining cooperative arrangements with other agencies.

Prevention: Activities directed at reducing the number of person caused fires, including public education, law enforcement, engineering, dissemination of information, and reduction of hazards.

Protecting Agency: The Agency responsible for providing direct wildland fire management to a given area, pursuant to this Agreement.

Protection Area: The area which, by law or identified or authorized pursuant to the terms of this Agreement, is provided wildland fire protection by local forces, the State, or by a Federal Agency. This may include lands protected under exchange or payment for protection.

Protection Area Maps: Official maps which identify areas of direct fire protection responsibility for each Agency.

Protection Boundaries: Mutually agreed upon boundaries delineated on maps, or otherwise described identifying areas of direct fire protection.

Reciprocal Fire Protection: Reciprocal fire suppression is the act of helping the Protecting Agency, at no cost for the first 24 hours or by agreement, suppress wildland fires. Reciprocity is attained by agreeing between each other on the kind, location and numbers of fire fighting resources that will automatically initial attack a wildland fire regardless of the protecting agency. The kind, locations, and numbers of resources, which constitute reciprocity, shall be defined in or through the Annual Operating Plans. Reciprocity may be thought of as the implementing mechanism of the closest forces concept.

Reimbursable Costs: Costs resulting from fire management activities, which will be paid for by the requesting agency per the conditions of this Agreement and the Annual Operating Plan. Such costs may include but are not limited to the following:

1. Costs incurred for fire management activity resources.
2. Agency costs for transportation, salary, benefits, and per diem of individuals assigned to an incident or other fire management activities.
3. Additional support dispatching, warehousing, or transportation services requested through a resource order or any official agency document.
4. Cost of equipment in support of fire management activities, contract equipment costs, and operating costs for agency equipment.
5. Operating supplies for equipment assigned to the fire management activity such as fuel, oil, and equipment repairs.
6. Aircraft, airport fees, and retardant costs.
7. Agency owned equipment and supplies lost, damaged, or expended by the Supporting Agency.
8. Cost of reasonable and prudent supplies expended in support of the fire management activity.
9. Charges from the State for State-controlled resources such as local fire departments. National Guard resources will be billed in accordance with the National Guard Agreement.

10. All agencies will use the procedures in the NRCG Supplement to the NWCG Interagency Incident Business Management Handbook, and charges will not exceed the use rates contained therein.

Resources: All personnel, items of equipment and aircraft available for assignment of tasks.

Structure Protection: Protecting a structure from the threat of damage from an advancing wildland fire. This involves the use of standard wildland protection tactics, control methods, and equipment, including fire control lines and the extinguishments of spot fires near or on the structure.

Structure Fire Suppression: Interior or exterior actions taken to suppress and extinguish a burning structure or improvement associated with standard fire protection equipment and training.

Supporting Agency: An agency providing suppression support and resources to the Protecting Agency.

Suppression: All the work of confining and extinguishing a fire beginning with its discovery through the conclusion of the incident.

Unit Administrator: The individual assigned administrative responsibilities for an established organizational unit, such as a Grassland Supervisor for the Forest Service, Field Manager for the Bureau of Land Management, State Forester for the ND Forest Service, Agency Superintendent for the Bureau of Indian Affairs, Park Superintendent for the National Park Service, and Refuge Manager (Project Leader) for the Fish and Wildlife Service.

Wildfire: A fire occurring on wildland that is not meeting management objectives and requires a suppression response.

Wildland Fire: Any non-structure fire, other than prescribed fire, that occurs in the wildland.

Wildland Fire Use: The management of naturally ignited wildland fires to accomplish specific resource management objectives under pre-approved plans.

EXHIBIT B

COOPERATIVE FIRE PROTECTION AGREEMENT

ANNUAL OPERATING PLAN OUTLINE GUIDE

PREAMBLE

This operating plan is prepared pursuant to the Cooperative Fire Protection Agreement signed and dated xxx,xx,xxxx.

This operating plan supersedes: (List applicable local agreements and operating plans)

An Annual Operating Plan is a working document compiled each year by local wildland fire agencies participating in the Plan, and shall be attached to and considered part of the Interagency Cooperative Fire Protection Agreement.

The Plan should contain the following information, whenever applicable:

1. **Plan Approvals** from authorized agency representatives, with dates.
2. **Identification of Jurisdiction** within the area of the plan.
3. **Authority For Plan.**
4. **Purpose Of Plan** (brief narrative).
5. **Definitions and descriptions of:**
 - A. Fire protection responsibilities.
 - B. Mutual aid dispatch areas by dispatch levels.
 - C. Draw down plans.
 - D. Rivers, Research Natural Areas, archeological sites, roadless areas, other areas identified in management planning documents, urban interface areas, or other areas requiring special management procedures.
 - E. Responsibility for non-wildland fire emergencies.
 - F. Repair of wildfire suppression damage.
6. **Fire Protection Resource List** including prevention, detection, ground and air attack units, supervisory personnel, draw down levels, and other cooperating agencies.
 - A. Type (by ICS type).
 - B. Location.
 - C. Anticipated availability period.
 - D. Staffing levels.
 - E. Contact names.
7. **Protection Area Maps.**
 - A. Jurisdictional Agency, Wildland and Structural Protection Agency, Protection Unit, County Boundary, Area of Responsibility and other planned needs (includes Federal, State, Tribal and Local government forces).
 - B. Fire protection facilities by agency and location.

- C. Direct Protection Areas (including local government protection areas).
 - D. Mutual aid dispatch areas.
 - E. Special management consideration areas.
 - F. Date effective.
8. **Fire Readiness.**
- A. Fire planning including preparedness analysis plans (trigger points for increases or decreases in manning or readiness) and prevention plans.
9. **Wildfire Suppression Procedures.**
- A. ICS use.
 - B. Detection standards.
 - C. Relationship with local mobilization guide.
 - D. Notification of fires.
 - E. Establishment and revision of mutual aid dispatch areas.
 - F. Initial attack dispatch levels and their determination.
 - G. Dispatching and resource order process.
 - H. Reinforcements and support.
 - I. Move-up and cover locations and procedures.
 - J. Interagency procurement, loaning, sharing, or exchanging and maintenance of facilities, equipment, and support services.
 - B. Interagency sharing of communication services and frequencies.
 - C. Wildland Fire Situation Analysis.
 - D. Dispatch centers and other incident support facilities.
 - N. Post-incident action analysis.
 - O. Out-of-jurisdiction assignments (standards and procedures).
10. **Aviation Procedures.**
- A. Aviation maps and narratives.
 - 1. Hazards
 - 2. Sensitive zones (urban interface, aquatic, wilderness, etc.)
 - 3. Helispots, dip sites
 - 4. Automatic dispatch zones
 - 5. Detection routes
 - 6. Foam/retardant restriction areas
 - B. Flight following/frequency management.
 - C. Aircraft (including tactical support).
 - D. Fixed wing base management.
 - E. Single engine attack tanker bases.
 - F. Lead plane/air attack activation.
 - G. Aviation requests and operations.
 - 1. Initial attack
 - 2. Boundary fires
 - 3. Wildland urban interface
 - 4. Mutual aid procedures
 - 5. Air space restrictions
 - H. Inspection schedules.
11. **Fire Prevention.**
- A. General cooperative activities.

- B. Information and education.
 - 1. Fire Danger information including fire danger dissemination, fire weather station locations, data sharing and methods, fire prevention signs.
 - 2. Joint or single agency press releases.
 - 3. Smokey Bear program.
 - 4. Red Flag operations.
- C. Engineering
 - 1. Land use planning (wildland urban interface).
 - 2. Defensible space and fuels treatments.
 - 3. Railroads and utilities.
- D. Enforcement.
 - 1. Restriction and closures (initiating, enforcement, lifting).
 - 2. Fire Investigations.
- 12. **Fuel Management and Prescribed Fire Considerations.**
 - A. Prescribed fire plans.
- 13. **Cost Reimbursements**
 - A. Non-reimbursable items.
 - B. Reimbursable items.
 - C. Wildfire prevention.
 - D. Wildfire readiness.
 - E. Operation and maintenance cost of fire weather stations.
 - F. Equipment.
 - G. Joint projects (other fire management activities such as travel, space, air quality).
 - A. Wildfire suppression.
 - 1. Dispatching
 - 2. Initial attack
 - 3. Mutual aid
 - 4. Reinforcements
 - 5. Aviation
 - 6. Cost share plan
 - 7. Out-of jurisdiction assignments
 - 8. Billing procedures
 - 9. Resource rates
- 14. **General Procedures.**
 - A. Periodic program reviews.
 - B. Annual updating of plans.
 - C. Changes during the year.
 - D. Resolution of disputes procedure.
- 15. **Directory of Personnel and/or authorized agency personnel.**
 - A. Bureau of Land Management
 - B. North Dakota Forest Service
 - C. USDA Forest Service
 - D. Bureau of Indian Affairs
 - E. National Park Service
 - F. Fish and Wildlife Service
 - G. Fire Departments

EXHIBIT C

FIRE PROTECTION AGREEMENT

COST SHARE AGREEMENT

Following is a Cost Share Agreement between the Agencies identified below as negotiated for the following incident.

INCIDENT NAME: _____ INCIDENT NUMBER _____

START DATE AND TIME: _____ FIRE/"P" NUMBER: _____

This Cost Share Agreement between _____ and

_____, and with the cooperation of _____

_____ was prepared under the following authorities provide by

Cooperative Fire Protection Agreement No. _____ Dated _____

It is hereby agreed that the costs on this Incident will be shared as follows: using some mutually agreed to equitable basis as determined by the agency administrators.

This Agreement and the apportionment described are our best judgments of fair and equitable Agency cost responsibilities.

Agency: _____

Signature: _____ Date: _____

Agency: _____

Signature: _____ Date: _____

EXHIBIT D

**FIRE PROTECTION AGREEMENT
PROJECT PLAN FORMAT
SUPPLEMENTAL NUMBER _____ TO
FIRE COOPERATIVE PROTECTION AGREEMENT
NUMBER _____
PROJECT AND FINANCIAL PLAN**

I. INTRODUCTION

Brief description of project, where located, NEPA status (if required), design/specifications status, and the Federal authority under which the request is made, i.e., Cooperative Funds and Deposits Act, Granger-Thye Act, etc.*

II. SCOPE AND DURATION

The objective of this project is to _____.

It is anticipated that this project will begin _____

and will end _____.

III. PRINCIPAL CONTACTS

Principal contacts for each agency for the administration of the project are:

Name
Address
Telephone
Email
FAX

Principal fiscal contacts for each agency of the project are:

Name
Address
Telephone
Email
FAX

IV. DETAILED PROJECT DESCRIPTION

- A. Specific duties and tasks to be performed. Identify desired end results.
- B. Identify tools and equipment needed and who will supply them.
- C. Identify size of crew and who will be providing transportation.

D. Other

V. SUPERVISION AND TECHNICAL OVERSIGHT

VI. REIMBURSEMENT

Describe reimbursement and billing procedures.

VII. FINANCIAL PLAN

List which agency is reimbursing the other and detail items to be reimbursed. Include:

Salaries
Travel
Supplies
Equipment Use
Indirect Cost
Project Total

Management code to be charged _____. Reimbursement shall be made only for actual expenses incurred. Itemized documentation in support of all expenses is required.

VIII. SIGNATURES

Agency Representative

Date

Agency

Agency Representative

Date

Agency

- * Request made by non-Federal parties to the Forest Service under the authority of the Granger-Thye Act shall include the following provision:

The cooperator hereby agrees to defend and hold harmless the USDA Forest Service its representatives or employees, from any damage incident to the performance of the work resulting from, related to, or arising from this instrument.