

WILDFIRE ARRANGEMENT BETWEEN THE DEPARTMENT OF SUSTAINABILITY AND ENVIRONMENT, VICTORIA, AUSTRALIA AND THE NEW ZEALAND FIRE SERVICE COMMISSION

The Department of Sustainability and Environment, on the one hand, and the New Zealand Fire Service Commission, on the other hand (hereinafter referred to as the "Participants"), recognise that it is desirable and in the public interest to formalise the provision of mutual assistance in fighting fires and to share information about suppression and management of fires;

The Participants Have Reached the Following Understandings:

I Purpose

The purpose of this Arrangement is to provide a framework for one Participant to request and receive Wildfire Suppression Resources from the other Participant and to encourage cooperation on other fire management activities.

II Definitions

For the purposes of this Arrangement:

1. **"Receiving Participant"** means the Participant receiving Wildfire Suppression Resources.
2. **"Sending Participant"** means the Participant furnishing Wildfire Suppression Resources.
3. **"Wildfire"** means any forest, range or bush fire.
4. **Wildfire Suppression Resources"** means personnel, supplies, equipment, and other resources required for pre-suppression and suppression activities.

III Understanding

1. A Participant should immediately consider the request of the other Participant for Wildfire Suppression Resources, and to the fullest extent practicable, promptly approve such request.
2. The Requesting Participant should reimburse the Sending Participant in accordance with Part IV.
3. A Participant may obtain, as appropriate, the participation of its state, regional, local, private or tribal/aboriginal fire organisations in the implementation of this Arrangement, subject to its national or state laws and regulations.
4. The Receiving Participant may organise, task, and direct the Sending Participant's Wildfire Suppression Resources as necessary to meet the Receiving Participant's fire suppression objectives effectively and efficiently.

5. Activities contemplated under this Arrangement are subject to the availability of funds.
6. The Sending Participant should have the right to withdraw some or all of its Wildfire Suppression Resources as necessary at the Sending Participant's discretion. Notice of intent in this respect should be communicated to the Receiving Participant.
7. The Sending Participant should provide all the safety equipment required to meet its regulations. Should additional equipment be required by the Receiving Participant, the Receiving Participant should supply it at the Receiving Participant's expense.

IV Reimbursement

1. Except for the costs set forth in Part V of this Arrangement, the Sending Participant should be reimbursed by the Receiving Participant for the costs incurred by the Sending Participant in furnishing Wildfire Suppression Resources for, or on behalf of the Receiving Participant. The costs may include the cost of premiums to purchase death and personal injury insurance for the employees of the Sending Participant, as more fully described in the Annual Operating Plan provided for in Part VII of this Arrangement. The specific costs and procedures for reimbursement should be set forth in the Annual Operating Plan, which should be a binding contract.

V Cross-Waiver of Claims and Assumption of Liability

1. In the Annual Operating Plan, the Receiving and Sending Participants should include provisions by which each Participant and each component of that Participant intends to waive its claims against the other Participant and each component of that Participant for compensation for loss, damage, personal injury, or death occurring as a consequence of the performance of activities undertaken pursuant to the Annual Operating Plan.
2. The Annual Operating Plan should contain provisions whereby the Receiving Participant agrees to assume all liability for the tortious acts or omissions of the Sending Participant's personnel sent to provide wildfire assistance to the Receiving Participant.

VI Entry of Personnel and Equipment

1. The Participants intend to work together, with the involved agencies of their respective Governments, to process appropriate legal documentation, within the applicable laws and regulations of both countries, and to otherwise facilitate entry to and exit from its territory of all personnel engaged in wildfire suppression pursuant to this Arrangement.
2. Each Participant should undertake all reasonable steps and use its best efforts, within applicable laws and regulations of both countries, to facilitate the admission and exit of all supplies, equipment, aircraft, vehicles, specialised machinery, or other equipment whether owned or contracted, that are used or intended for use in wildfire suppression or transport of wildfire suppression equipment or personnel pursuant to this Arrangement without entry fees and without payment of any duties or taxes imposed by reason of importation.

VII Annual Operating Plan

1. An Annual Operating Plan should be concluded and executed between the Participants as a binding contract.

2. The Annual Operating Plan should:
 - (a) identify designated points of contact responsible for fire suppression;
 - (b) set forth specific criteria and procedures for approving requests for Wildfire Suppression Resources;
 - (c) establish procedures for efficient and timely communication of relevant information between designated points of contact;
 - (d) identify the necessary procedures and legal documentation that are to be completed with agencies of the Governments to allow entry into each country of Wildfire Suppression Resources;
 - (e) specify the conditions, costs and procedures for the reimbursement, as deemed appropriate, of the Sending Participant for the furnishing of Wildfire Suppression Resources;
 - (f) include terms consistent with Part V, a cross-waiver for compensation for loss, damage, personal injury or death occurring in consequence of the performance of this Arrangement or the Annual Operating Plan;
 - (g) establish equivalent standards for qualifications, including physical fitness, training and experience;
 - (h) provide for withdrawal rights of the Sending Participant.
 - (i) provide for the Receiving Participant to assume all liability for the tortious acts or omissions of the Sending Participant's personnel sent to provide wildfire assistance to the Receiving Participant.
3. The Participants should use their best endeavours to complete a review of the Annual Operating Plan by 15 May in each year. Until the review is completed, the last Annual Operating Plan should continue to apply.

VIII Status of Personnel

1. Except as provided in clause 3 of this part, any service performed in furtherance of this Arrangement by an employee of a Participant should constitute service performed on behalf of that Participant.
2. Except as provided in clause 3 of this part, the performance of a service under this Arrangement by any employee, contractor, subcontractor or agent of one Participant should in no case render such person an employee, contractor, subcontractor or agent of the other Participant.
3. For the purposes of tort liability any employees, contractors, subcontractors or agents of the Sending Participant sent to fight fires in a foreign country under this Arrangement are considered to be employees of the Receiving Participant. The only remedies for acts or omissions committed while fighting fires shall be that provided under the laws of the host country and those remedies shall be exclusive remedies for any claim arising out of fighting fires in a foreign country. Neither the Sending Participant or any organisation associated with the firefighter shall be subject to any tort action pertaining to or arising out of fighting fires.

IX Other Areas of Cooperation

1. This Arrangement constitutes a reaffirmation of the importance of engaging in cooperative fire management activities. This Arrangement is intended to encourage and strengthen other cooperative fire management activities, through the sharing among the Participants of personnel, fire management techniques, skills, and innovations. The objective of these activities is to improve the fire fighting capabilities and knowledge of each Participant, resulting in the provision of more effective fire fighting assistance to one another when necessary. Each Participant should bear all of its costs and expenses of participating in these other cooperative activities, unless otherwise mutually arranged.

X
Provisions of Mutual Aid

1. Through this Arrangement, the Participants may provide mutual aid in furnishing Wildfire Suppression Resources for lands and other properties for which the Participants normally provide Wildfire Suppression Resources.
2. This Arrangement outlines potential exchanges of wildfire suppression resources between the Participants. The specific terms of an exchange, some of which are referenced in this Arrangement, should be detailed in the Annual Operating Plan provided for in Part VII of this Arrangement.


XI
Dispute Settlement

1. Any differences that arise in the interpretation or application of the provisions of this Arrangement or any Annual Operating Plan concluded pursuant hereto should be resolved by the Participants by means of negotiations and consultations.

XII
General Provisions

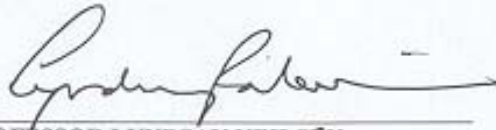
1. This Arrangement supersedes any previous arrangement or understanding between the parties.
2. Activities under this Arrangement commence upon signature and continue until 15 May 2010. After that date this Arrangement continues from year to year until it is terminated.
3. This Arrangement may only be modified by mutual written consent of the Participants.
4. A Participant may withdraw from this Arrangement at any time, providing reasonable written notice to the other Participants. Withdrawal from this Arrangement should not affect the implementation by the withdrawing Participant of any fire suppression initiated prior to the provision of notice of that Participant's withdrawal.
5. This Arrangement may be terminated with reasonable written notice to the other participant:
6. The termination of this Arrangement should not affect the implementation of any fire suppression initiated prior to such termination.

Signed in Australia and New Zealand, in two originals, in the English language.



DAME MARGARET BAZLEY
CHAIR PERSON
FOR THE NEW ZEALAND FIRE SERVICE COMMISSION

Date: 24/1/03



PROFESSOR LYNSAY NEILSON
SECRETARY
DEPARTMENT OF SUSTAINABILITY AND ENVIRONMENT

Date: 17 January 2005