

OFFICE OF THE GOVERNOR
STATE OF MONTANA

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October 9, 2024

Chief Randy Moore
U.S. Forest Service
U.S. Department of Agriculture
1400 Independence Avenue S.W.
Washington, D.C. 20250

Dear Chief Moore:

I appreciated your time when we spoke on the phone on September 18 and again on September 24, 2024. As we discussed, the State of Montana is seeing an unprecedented shift in the interpretation of its wildfire cost sharing agreements with Region 1 of the U.S. Forest Service (USFS), which threatens to upend decades of fire protection coordination among state and federal agencies. Also, the Region is misleading the public related to their firefighting efforts.

As you know, fire cost share agreements in Montana are entered into when a wildfire under the wildfire protection of one entity extends or expands into an area protected by another. This is a relatively common occurrence, and the Montana Department of Natural Resources and Conservation (DNRC) enters into cost share agreements approximately one to five times a year. The negotiations around these agreements are based on guidance provided by the "Master Cooperative Wildland Fire Management and Stafford Act Response Agreement" (commonly referred to as the "Master Cooperative Agreement"), which is attached for reference. This agreement sets common standards and operating practices between agencies, including the USFS, that are involved in wildland fire suppression in Montana. It is jointly reviewed and signed by all participating agencies.

We are seeing this agreement splinter apart on the Horse Gulch fire, a human-caused fire within the Helena viewshed, notably within the direct protection of the USFS. After a verbal commitment was made around the cost share for this incident, Region 1 leadership rescinded that commitment two days later. After weeks and weeks of discussions, line officers and DNRC agency leadership have reached an impasse about how to share costs on this fire.

In the initial July 14, 2024, proposal from the Helena/Lewis and Clark National Forest for cost sharing related to the Horse Gulch fire, the USFS proposed the State of Montana pay 100 percent of the costs for two of the three Divisions on the fire. This translates into the State paying in excess of 66 percent of the firefighting costs even though less than 1 percent of the fire

eventually burned on lands under state wildfire protection. Negotiations have stalled with the final offer from the USFS that the State pay more than a third of the cost of the fire.

In a new interpretation of language in the Master Cooperative Agreement, USFS is asserting that DNRC is required to pay for USFS suppression costs that USFS incurred on its own lands and fire protection. USFS is specifically arguing that the State should pay suppression costs USFS incurred to keep the fire off lands under DNRC and county fire protection.

This interpretation is a stark departure from decades of standard operating procedures and represents a massive shift in understanding from the signed preseason operating agreements. The new direction USFS is advocating sets an unusual and concerning precedent where the federal government shifts the burden of their own fire suppression costs and risk to states. It should go without saying, but significant reinterpretations on fire suppression agreements, policies, and strategies should not occur in the middle of an active fire season. Even more concerning is that USFS has responded to these objections by threatening DNRC with an audit.

I believe it is important to clearly lay out the timeline of events to further convey the State's position.

- July 9, 2024: A human-caused fire starts on USFS land and is under USFS fire protection. USFS handles the initial attack. DNRC offers numerous resources to help, but USFS declines. Evacuation orders are requested by USFS at 22:27.
- July 10, 2024: Pilot Juliana Turchetti is killed at 12:18. The fire grows to 600 acres by 15:00. DNRC signs onto a Delegation of Authority for the Type 3 Incident Management Team (IMT).
- July 11, 2024: A Type 3 IMT takes over the fire.
- July 12, 2024: The fire spreads to lands under the protection of State and County. Final acreage on State and County protection ends up at 119.5 of 15,190 total acres. At this time, a verbal Cost Share Agreement is made between DNRC and USFS line offers based on percent acres.
- July 12, 2024: DNRC is granted a FEMA Fire Management Assistance Grant (FMAG).
- July 13, 2024: A complex incident management team assumes command of the fire. DNRC signs onto Delegation of Authority for complex incident management team.
- July 14, 2024: The USFS Region 1 Office revokes the Acres based Cost Share Agreement and offers new "effort" based cost share. DNRC local line officer rejects proposal and escalates conversation.

- July 16, 2024: Deputy State Forester meets with USFS Deputy Regional Forester on issues with proposed USFS cost share methodology and DNRC concerns about USFS deviation from “Master Cooperative Agreement.”
- July 19, 2024: DNRC issues counteroffer to USFS in line with DNRC understanding of “Master Cooperative Agreement” and Northern Rockies Coordinating Group Cost Share Methodologies.
- July 26, 2024: Horse Gulch Fire reaches 100 percent containment.
- July 29, 2024: USFS rejects DNRC cost share proposal and submits new proposal and rationale.
- August 5, 2024: DNRC approaches USFS to discuss cost share impasse to better understand USFS position.
- August 6, 2024: DNRC documents understanding of USFS position from August 5 conversation and USFS understanding of “Master Cooperative Agreement” interpretation.
- August 8, 2024: USFS responds in writing to correct/clarify DNRC understanding of USFS “Master Cooperative Agreement” interpretation. Both parties agree to work towards a meeting with each other to discuss interpretation issues with the Master Cooperative Agreement.
- August 23, 2024: DNRC leadership and USFS Region 1 leadership meet to discuss interpretation of impasse. No resolution is reached.
- August 29, 2024: DNRC and USFS meet to brainstorm solutions to impasse. USFS suggested a USFS led audit, DNRC proposes to await outcome of congressional and national discussion.
- August 30, 2024: Horse Gulch Fire is fully controlled.
- September 9, 2024: DNRC Area Managers are notified verbally by Forest Supervisors in Montana that Region 1 leadership has directed a standdown on all cost share conversations with the State.
- September 19, 2024: DNRC leadership and USFS Region 1 leadership meet to discuss several fire season issues and USFS funding picture implications. No progress is made.

The State of Montana is committed, and will continue, to show up and fight fire aggressively and safely within its wildfire protection. It is my expectation that the USFS meet that same commitment within its jurisdiction and responsibility as well. However, as we discussed, I have

concerns about several fires this season where USFS is not being honest with the public and partners about its suppression strategies.

Throughout the season DNRC line officers have offered recommendations to USFS line officers on how to be transparent about its suppression strategies. Those recommendations were met with either an unwillingness to listen, or silence. On September 19, 2024, Leanne Marten, the Region 1 Regional Forester, stated in response to questions from DNRC officials that monitoring is part of a full suppression strategy. She also indicated that fire suppression responses can be indirect while still being full suppression. Frankly, framing fire monitoring as part of full suppression is insincere, confusing, and misleading to Montanans who deserve the truth about wildfire incidents across the state. Fire management strategies available to fire managers are clearly articulated in the Master Cooperative Agreement. I have asked Region 1 to aggressively and safely fight fire, and to explain to Montanans the rationale for their fire suppression decisions. I believe my request has fallen on deaf ears.

Sadly, these are just two of the challenges we are seeing in Region 1. We have opportunities ahead to meaningfully collaborate on issues of great importance, especially regarding addressing our forest health crisis, expanding the use of Good Neighbor Authority, and protecting communities from wildfire. Due to a lack of leadership and cooperation, the State's relationship with Region 1 is unworkable. Things must change so this important work can proceed.

I am disappointed in efforts by USFS Region 1 leadership to shift responsibility for fire costs related to its wildland fire protection duties onto the State of Montana, outside of the traditional interpretation of the Master Cooperative Agreement. I understand the staff we have asked to resolve this issue will be meeting in Helena on Friday, October 11. While I appreciate the continued conversations, it is my expectation that USFS operate under the Master Cooperative Agreement that is in effect, under the long-established interpretation we have shared, and bear financial responsibility for fire suppression costs on its wildland fire protection.

I also ask that Region 1 be fully transparent with Montanans about its wildfire strategies and fully embrace an aggressive initial and extended attack strategy. This summer we have received conflicting and unclear information regarding the ongoing status of several wildfires where we are not seeing a full suppression strategy on the ground as defined in the Master Agreement.

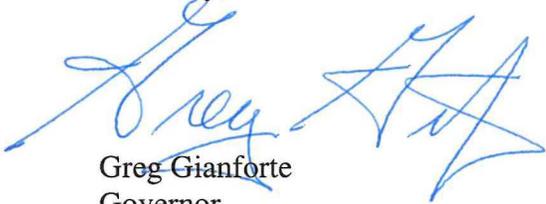
The current information being communicated to the public about the Sheep Creek Fire is of deep concern. While the Sheep Creek Fire is being messaged as full suppression, the State has made clear that the current USFS strategy does not meet definition of full suppression as defined in the Master Agreement.¹ For example, the Sheep Creek Fire Inciweb captures this disconnect: "...overall fire suppression strategy consists of 25 percent full suppression and 75 percent

¹ For reference, the Master Agreement states: "Full Suppression: A strategy to "put the fire out," as efficiently and effectively as possible, while providing for firefighter and public safety. To complete a Fireline around a fire to halt fire spread and cool down all hot spots that are immediate threats to control line, or outside the perimeter, until the lines can reasonably be expected to hold under foreseeable conditions. Full suppression is synonymous with "Full Perimeter Control" and "Control.""

monitor. The full suppression objectives are 100 percent complete. The monitor objectives are 13 percent complete.” Yet, the fire is 400 acres in size and only 38 percent contained. These definitions and statistics are confusing and appear to be contradictory.

The USFS must adhere to the full suppression strategies outlined in the Master Agreement and communicate those efforts clearly to the State and the public. Anything less than full transparency is unacceptable. As always, I stand ready to work with the USFS to find solutions to our ongoing forest crisis.

Sincerely,



Greg Gianforte
Governor

cc: Leanne Marten, Regional Forester, Region 1, U.S. Forest Service
Amanda Kaster, Director, Department of Natural Resources and Conservation
Senator Steve Daines
Senator Jon Tester
Congressman Ryan Zinke
Congressman Matt Rosendale
Ranking Member John Barrasso
Chairman Bruce Westerman
Chairman Dan Newhouse