

**COOPERATIVE SERVICE AGREEMENT
TRUST FUND
between
MONTANA DEPARTMENT OF LIVESTOCK (DOL)
and
UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WILDLIFE SERVICES (WS)**

ARTICLE 1 – PURPOSE

The purpose of this Agreement is to facilitate the control of damage to livestock in Montana caused by predatory wild animals and to assign responsibility to USDA APHIS WS for providing supervision of direct control program operations that insures work is conducted in accordance with the latest wildlife damage management practices and is congruent with bird and mammal management programs.

ARTICLE 2 - AUTHORITY

APHIS WS has statutory authority under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C.426-426b) as amended, and the Act of December 22, 1987 (101 Stat. 1329-331, 7 U.S.C. 426c), for the Secretary of Agriculture to cooperate with States, individuals, public and private agencies, organizations, and institutions in the control of wild mammals and birds that are reservoirs for zoonotic diseases, or are injurious or a nuisance to, among other things, agriculture, horticulture, forestry, animal husbandry, wildlife, and public health and safety.

ARTICLE 3 - MUTUAL RESPONSIBILITIES

DOL and WS agree:

- a. To meet quarterly, or as often as needed, to review program activities, accomplishments and objectives.
- b. Each year the Cooperator and WS must agree to and sign annual Work and Financial Plans, which upon execution are incorporated into this Agreement by reference.
- c. When either of the Cooperating parties address the media or incorporate information into reports and/or publications, both Cooperating parties must agree, in writing, to have their identities disclosed when receiving due credit related to the activities covered by this agreement.
- d. That the WS State Director will be responsible for the comprehensive operation of the DOL helicopters, including scheduling and maintenance.
- e. That funds provided pursuant to this agreement will be expended by WS for
 - a. Pilot Costs
 - b. Hangar Space
 - c. Fuel
 - d. Fuel Trailer Maintenance
 - e. Helicopter Replacement Parts and Maintenance

- f. That upon termination of this agreement, any unused funds will be returned to the DOL within (60) days. Helicopters and all DOL property in the possession of WS will be returned on the termination date.
- g. The Hughes 500 aircraft may not be considered as "Public Use Aircraft" for maintenance purposes, but must be maintained in accordance with FAR Parts 21, 23, 39, 43 and 91. The surplus OH58C will be maintained according to the Interagency Committee for Aviation Policy (ICAP) maintenance program (copy attached). The pilots may perform certain preventive maintenance function in the field provided the pilots are trained to perform those preventive maintenance functions.
- h. That only approved fuels listed in the Rotor craft Flight Manual may be used in the DOL helicopters, with the specific exclusion of diesel fuel.
- i. That when DOL determines that long-term expenses for operation of the DOL helicopters exceeds private contract flying rates, then the DOL shall have the option of utilizing and requiring the use of private contractors in lieu of using DOL helicopters.
- j. Title of all state owned property or equipment purchased by DOL that is loaned or used by WS shall remain with DOL.
- k. Title of all federally owned property or equipment purchased by WS that is loaned or used by DOL shall remain with WS.

ARTICLE 4 - COOPERATOR RESPONSIBILITIES

The Cooperator agrees:

- a. To designate Christian Mackay, Executive Officer, Montana Department of Livestock, P. O. Box 202001, Helena, Montana 59620-2001, (406) 444-7323, as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this Agreement;
- b. To provide to WS, upon signature of this Agreement, a State Warrant payable to USDA, APHIS, in accordance with the Work and Financial Plan for this Agreement. Expenses may consist of salaries, benefits, travel, and other expenses, for APHIS pilots to perform the Agreement activities. The amount of this advance will be subject to adjustment, as necessary, to maintain a balance to cover estimated expenses. Advances in excess of actual expenditures will be rolled over or reimbursed to Cooperator upon closure of the accounting record;
- c. If carryover funds and current year funds deposited by the Cooperator are not sufficient to continue or complete the requested services under this Agreement, Cooperator will deposit an additional sum or WS will discontinue providing services.
- d. To return or reimburse WS' a prorated share of the cost of any helicopter parts or equipment funded by WS, if helicopters are sold or agreement is terminated before part/equipment life expectancy is up. (e.g. radios, GPS units).
- e. Provide a Tax Identification Number or Social Security Number in compliance with the Debt Collection Improvement Act of 1996.
- f. As a condition of this Agreement, the Cooperator ensures and certifies that it is not currently debarred or suspended and is free of delinquent Federal debt.

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- g. To retain the responsibility to provide and pay for insurance for the aircraft against damage and replacement costs.
- h. To cover the cost of all major expense items such as rotor blades, engine overhauls, etc, when required.

ARTICLE 5 – WS RESPONSIBILITIES

WS agrees:

- a. To designate John E. Steuber, Montana State Director, P.O. Box 1938, Billings, MT 59103, (406) 657-6464, as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this Agreement.
- b. The performance of wildlife damage management actions by WS under this agreement is contingent upon a determination by WS that such actions are in compliance with the National Environmental Policy Act, Endangered Species Act, and any other applicable environmental statutes. WS will not make a final decision to conduct requested wildlife damage management actions until it has made the determination of such compliance.
- c. To be responsible for the hiring, certification, and supervision of the pilots for the DOL helicopters. Pilots must have current and proper medical certificates, pilot certificates and other necessary ratings required by FAA for each flight, as well as USDA APHIS WS certifications. Pilots must have current certificates with rotorcraft rating and a minimum of 1,500 hours total time as pilot time in a helicopter with at least 25 hours of flight time in training in make and model or subsequent series with a turbine engine as per industry standards.
- d. To notify the Cooperator if costs are projected to exceed the amounts estimated and agreed upon in the Financial Plan. APHIS-WS will cease providing goods or services until a revision to the Work and Financial Plan, as appropriate, have been agreed to and signed by both parties and additional funds have been deposited by the Cooperator.
- e. Authorized auditing representatives of the Cooperator shall be accorded reasonable opportunity to inspect the accounts and records of WS pertaining to such claims for reimbursement to the extent permitted by Federal laws and regulations.
- f. To strictly adhere to recommended maintenance scheduling by the aircraft manufacturer and Federal Aviation Regulations (FAR) standards, Part 91-409, Subsections E and F for the Hughes 500. The OH58C will be maintained according to the ICAP program. Maintenance will be performed by a mutually-acceptable service center. At no time may the DOL Hughes 500 be maintained as "Public Use Aircraft" under the Public Use Aircraft regulatory requirements for maintenance purposes, but must be construed pursuant to Article 3, (F) of this agreement.
- g. To use DOL deposits to pay for aerial hunting operations to control damage to livestock, agriculture and public health and safety caused by predatory wild animals. And to expend funds for contractual aerial hunting when situations arise whereby WS deems it necessary to provide additional protection to livestock.
- h. To use the DOL helicopters for aerial hunting operations to control damage caused by predators to livestock in Montana. DOL is to be notified in advance of any flights away from the normal

assigned area.

- i. To make quarterly accounting reports to DOL, including itemized aerial invoices (WS Form 30) for the period, as well as a copy of the itemized expenditure ledger.
- j. That DOL may have access and use of the helicopters upon coordination with the WS State Director or his designee. This section is subject to any declared emergency situation as determined by the DOL, the Governor of the State of Montana or the President of the United States. At no time may the declared emergency situation exceed the parameters of Part 91, FAR, or the aircraft flight manual.
- k. That the DOL helicopters and attendant equipment, as well as the mechanical servicing and hangaring of aircraft, is to be performed in a cost effective and prudent manner for the totality of the services to be rendered.
- l. That DOL may submit its aircraft and equipment to an independent maintenance inspection by a mechanic of DOL's choice at any time the DOL determines it to be appropriate.
- m. That all DOL helicopter equipment and accessories are to remain with the helicopter program at all times. No DOL equipment or accessories may be loaned or otherwise used without prior permission of DOL.
- n. All Federally owned personal property loaned or used by DOL or in DOL helicopters will be inventoried annually and be identified on an inventory.

ARTICLE 6 – WS CONDITIONS

For costs borne by WS, this agreement is contingent upon the passage of the Agriculture, Rural Development, and Related Agencies Appropriation Act for the current fiscal year from which expenditures may be legally met and shall not obligate APHIS upon failure of Congress to so appropriate. This Agreement also may be reduced or terminated if Congress provides APHIS funds only for a finite period under a Continuing Resolution.

ARTICLE 7 - ASSURANCES

Nothing in this agreement shall prevent any other State, agency, organization or individual from entering into separate agreements with WS or the Cooperator for the purpose of managing wildlife damage. However, any such separate agreement shall be exclusive of DOL funds, DOL aircraft usage, maintenance, pilots, fuel or fuel carriers.

ARTICLE 8 – CONGRESSIONAL RESTRICTIONS

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this agreement or to any benefit to arise therefrom.

All WDM activities will be conducted in accordance with applicable Federal, State, and local laws and regulations.

It is understood that WS activities under this agreement are operational in nature pursuant to the responsibility of the Federal agency under the Animal Damage Control Act and Airborne Hunting Act. Any activity associated with WS use and maintenance of these DOL helicopters are undertaken pursuant to duties under these Federal laws and are not discretionary in nature.

ARTICLE 10 – LIABILITY

APHIS assumes no liability for any actions or activities conducted under this agreement except to the extent the recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 USC 1346(b), 2401(b), 2671-2680).

ARTICLE 11 – AGREEMENT EFFECTIVE DATE

This agreement shall become effective upon the date of final signature and shall continue for a period not to exceed 5 years. This agreement may be amended at any time by mutual agreement of the parties in writing. It may be terminated by either party upon 60 days written notice to the other party.

AUTHORIZATION:

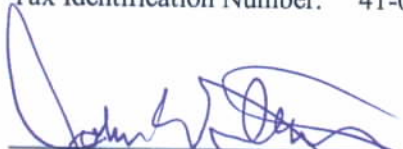
MONTANA DEPARTMENT OF LIVESTOCK
P. O. BOX 202001
HELENA, MONTANA 59620-2001
Tax Identification Number: 81-0302402



Executive Officer, Montana Department of Livestock

7/23/07
Date

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WILDLIFE SERVICES
Tax Identification Number: 41-0696271



State Director, Montana

7/24/07
Date



Director, Western Region

8/7/07
Date

