



MUTUAL AID AGREEMENT
for the
Southern Maine Regional Water Council

ARTICLE I. PURPOSE

This Mutual Aid Agreement is established to provide a documented method whereby members of SMRWC can obtain assistance in the form of personnel, equipment, materials, and other associated services necessary from other members for continued operation of their utility in the event of an Emergency.

ARTICLE II. DEFINITIONS

- A. **AGREEMENT** –The original agreement and all signatory pages shall be kept at the offices of the Southern Maine Regional Water Council, 181 Elm Street, Biddeford, ME 04005-0304.
- B. **EMERGENCY** – A natural or manmade event that is, or is likely to be, beyond the control of the services, personnel, equipment, and facilities of the Participating Utility.
- C. **PARTICIPATING UTILITY** –All full member water utilities of the SMRWC who are signatories to this agreement.
- D. **DAMAGED UTILITY** – Any Participating Utility that sustains physical damage to its water system due to a natural or manmade disaster (or experiences an Emergency as defined above) and seeks assistance pursuant to this Agreement.
- E. **ASSISTING UTILITY** – Any Participating Utility that agrees to provide assistance to a Damaged Utility pursuant to this Agreement.
- F. **AUTHORIZED REPRESENTATIVE** – An employee of a Participating Utility authorized by that utility’s governing board or its designated representative to request or offer assistance under the terms of this Agreement. A list of the Authorized Representatives for each Participating Utility shall be attached to this Agreement as Appendix A.

- G. PERIOD OF ASSISTANCE – The period of time beginning with the departure of any personnel of the Assisting Utility from any point for the purpose of traveling to the Damaged Utility in order to provide assistance and ending upon the return of all personnel of the Assisting Utility, after providing the assistance requested, to their residence or regular place of work, whichever is first to occur.
- H. SCHEDULE OF EQUIPMENT RATES –A list of rates shall be attached to this Agreement as Appendix B.
- I. WORK OR WORK-RELATED PERIOD – Any period of time in which either the personnel or equipment of the Assisting Utility are being used by the Damaged Utility to provide assistance. Specifically included within such period of time are rest breaks after which the personnel of the Assisting Utility will return to active Work within a reasonable time. Also included is mutually agreed upon rotation of personnel and equipment.

ARTICLE III. PROCEDURE

In the event that a Participating Utility becomes a Damaged Utility, the following procedure shall be followed:

- A. The Damaged Utility shall contact the Authorized Representative of one or more of the Participating Utilities and provide them with the following information:
 - 1. A general description of the damage sustained;
 - 2. The part of the water system for which assistance is needed;
 - 3. The amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they reasonably believe will be needed;
 - 4. The present weather conditions and the forecast for the next twenty-four hours;
 - 5. A specific time and place for a representative of the Damaged Utility to meet the personnel and equipment of the Assisting Utility; and
 - 6. The identification of Work conditions and special constraints such as availability of fuel supplies, lodging/meal support, medical facilities, security, communications, etc.
- B. When contacted by a Damaged Utility, the Authorized Representative of a Participating Utility shall assess their utility's situation to determine whether it is capable of providing assistance. No Participating Utility shall be under any obligation to provide assistance to a Damaged Utility. If the Authorized Representative of the Assisting Utility determines that the Assisting Utility is capable and willing to provide assistance, the Authorized Representative of the Assisting Utility shall so notify the Authorized Representative of the Damaged Utility and provide the following information:
 - 1. A complete description of the personnel, equipment and materials to be furnished to the Damaged Utility;

2. The estimated length of time the personnel, equipment and materials will be available;
 3. The work experience and ability of the personnel and the capability of the equipment to be furnished;
 4. The name of the person or persons to be designated as supervisory personnel; and
 5. The estimated time when the assistance provided will arrive at the location designated by the Authorized Representative of the Damaged Utility.
- C. The personnel and equipment of the Assisting Utility shall remain, at all times, under the direct supervision and control of the designated supervisory personnel of the Assisting Utility. In instances where only equipment is provided by the Assisting Utility, the ownership of said equipment shall remain with the Assisting Utility and said equipment shall be returned to the Assisting Utility immediately upon request. Representatives of the Damaged Utility shall suggest Work assignments and schedules for the personnel of the Assisting Utility; however, the designated supervisory personnel of the Assisting Utility shall have the exclusive responsibility and authority for assigning Work and establishing Work schedules for the personnel of the Assisting Utility. The designated supervisory personnel shall maintain daily personnel time records and a log of equipment hours, be responsible for the operation and maintenance of the equipment furnished by the Assisting Utility, and report Work progress to the Damaged Utility.
- D. The Damaged Utility shall have the responsibility of providing food and housing for the personnel of the Assisting Utility from the time of departure from their regularly scheduled work location until the time of return to their regularly scheduled work location. The food and shelter provided shall be subject to the approval of the supervisory personnel of the Assisting Utility. If not acceptable, food and shelter shall be provided and paid for as determined by mutual agreement.
- E. The Damaged Utility shall have the responsibility of providing communications between the personnel of the Assisting Utility and the Damaged Utility.
- F. Standard of Work – Work performed by the Assisting Utility shall be done in accordance with standard industry practice. In cases where there is a difference of opinion on methods or materials for undertaking projects, the Damaged Utility shall have the right to set specifications to be followed by the Assisting Utility. The Damaged Utility assumes all liability for work completed by the Assisting Utility as long as work was performed according to specifications. The Assisting Utility may refuse to perform work requested if, in the opinion of the designated supervisor, the specifications are not equivalent to industry standards.

ARTICLE IV. REIMBURSABLE EXPENSES

The terms and conditions governing reimbursement for any assistance provided under this Agreement shall be agreed to prior to the providing of such assistance and shall be in accordance with the following provisions:

- A. PERSONNEL – During the Period of Assistance, the Assisting Utility shall continue to pay its employees according to its then prevailing practices. The Damaged Utility shall reimburse the Assisting Utility for all direct and indirect payroll costs and expenses incurred during the Period of Assistance, including, but not limited to, employee pensions and benefits, or as determined by mutual agreement.
- B. EQUIPMENT – The Assisting Utility shall be reimbursed for the use of its equipment during the Period of Assistance according to the then-current FEMA Schedule of Equipment Rates; a portion of the current (2006) schedule of which is attached as Appendix B. Rates for equipment not referenced in the FEMA Schedule of Equipment Rates shall be developed based on actual recovery of costs.
- C. MATERIALS AND SUPPLIES – The Assisting Utility shall be reimbursed for all materials and supplies furnished by it and used or damaged during the Period of Assistance, unless such damage is caused by negligence of the Assisting Utility’s personnel. The measure of reimbursement shall be the replacement cost of the materials and supplies used or damaged, plus ten (10) percent of such cost. In the alternative, the parties may agree that the Damaged Utility will replace, with a like kind and quality as determined by the Assisting Utility, the materials and supplies used or damaged.
- D. PAYMENT – Unless mutually agreed otherwise, the Assisting Utility should bill the requesting utility for all expenses not later than ninety (90) days after the end of the Period of Assistance. The requesting utility shall pay the bill in full not later than forty-five (45) days following the billing date. Unpaid bills shall become delinquent upon the forty-fifth (45th) day following the billing date, and once delinquent shall accrue interest at the federal prime rate of interest plus two percent (2%) per annum, as that rate is reported by the Wall Street Journal.
- E. DISPUTED BILLINGS – The undisputed portions of a bill shall be paid. Disputed portions of a bill shall be sent to arbitration under Article VI.

ARTICLE V. INSURANCE and INDEMNIFICATION

- A. Each Participating Utility shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. With respect to Worker’s Compensation coverage, each Participating Utility shall carry Worker’s Compensation insurance as required by law.
- B. Nothing herein shall act or be construed as a waiver of any sovereign immunity or other exemption or limitation of liability that a Participating Utility may enjoy pursuant to the terms Of any State or federal law. The Damaged Utility agrees to indemnify and hold harmless the Assisting Utility from any claim, including the costs of defense and attorneys’ fees, which may arise in the performance of this Agreement.

- C. Notwithstanding the above, each party shall be responsible for any Worker's Compensation claim which may arise from its own employees in the performance of this Agreement.
- D. Notwithstanding the above, with respect to loaned equipment, the Damaged Utility shall be responsible for damage to equipment loaned by the Assisting Utility where the Damaged Utility's employees were operating said equipment. In the event that the Assisting Utility's employees were operating the loaned equipment at the time of damage, the Assisting Utility shall be responsible for the damage to the equipment.

ARTICLE VI. ARBITRATION

All disputes between two or more Participating Utilities arising from participation in this Agreement, which cannot be settled through negotiation, shall be submitted to binding arbitration before a panel of three persons chosen from the remaining members of this Mutual Aid Agreement which are Participating Utilities, excluding those members that are parties to the dispute.

Each party to the dispute shall choose one panel member and those panel members shall agree on one additional panel member.

The panel shall adopt rules of procedure and evidence, determine all issues in dispute by majority vote, and shall assess damages. The decision of the panel shall be final and binding upon the parties to the dispute.

NOW, THEREFORE, in consideration of the covenants and obligations contained herein, the participating utility listed here, as a Participating Utility duly executes this SMRWC Mutual Aid Agreement this _____ day of _____, 2006.

Witness:

Biddeford & Saco Water Company
By: _____
Title: _____

PRINTED NAME

Witness:

Kennebunk, Kennebunkport & Wells W. D.
By: _____
Title: _____

PRINTED NAME

Witness:

Kittery Water District

By: _____

Title: _____

PRINTED NAME

Witness:

Portland Water District

By: _____

Title: _____

PRINTED NAME

Witness:

Sanford Water District

By: _____

Title: _____

PRINTED NAME

Witness:

South Berwick Water District

By: _____

Title: _____

PRINTED NAME

Witness:

York Water District

By: _____

Title: _____

PRINTED NAME