

**DEPARTMENT OF ENVIRONMENTAL SERVICES
CAPITAL BUDGET LAPSE EXTENSION REQUEST
Presented to House Public Works & Highway Committee
March 12, 2021**

The Department of Environmental Services (DES) respectfully requests that the following capital budget appropriations be extended because the funds are needed to pay for ongoing or anticipated capital projects during fiscal years 2022/2023. The explanations are grouped by subject matter. Attached to the end of this request is a Table showing the balances of the Capital Accounts with lapse extension requests.

Section 69 *L'15, 220:1, VI-B Hazardous Waste Match*
Section 66 *L'17, 228:1, VIII-F Hazardous Waste Match*

These appropriations are currently being used for the State's 10% cost match for the cleanup of contaminated groundwater at the following Superfund sites, the New Hampshire Plating Company site in Merrimack and the Savage Municipal Water Supply Well site in Milford. The Federal Superfund Program by statute requires the State to contribute a 10% cost share to match the Federal 90% share for the cleanup of Superfund sites. The remaining available balance of these appropriations of \$770,783 will leverage over \$7 million in Federal funds. All federal Superfund work is dependent on which sites EPA prioritizes and the availability of federal funds. Therefore, any work on a specific site during a given biennium may be modified and other sites may be placed at a higher priority based on EPA's prioritization.

=====
Section 62 *L'19, 146:1, VI-D Drinking Water State Revolving Fund State Match*
Section 65 *L'17, 228:1, VIII-B DWSRF Match*

Federal mandates for the Drinking Water State Revolving Fund (DWSRF) program require a 20% state match to the federal grant. Consequently, to receive and benefit from a federal DWSRF grant, the State must demonstrate that its budget includes the required 20% state match. The DWSRF grant is composed of two main components: loans for water infrastructure projects, and set-asides. Set-asides are portions of each DWSRF grant earmarked for specific costs such as 15% for source water protection grants, 4% for administration, 2% for technical assistance, and 10% for state program management. Set-asides are drawn directly from the federal grant, while all of the state match funds are combined with the federal grant funds to make loans to public water systems.

Typically, it takes an average of 3 to 4 years between the time DES receives the DWSRF matching funds and the time DES is able to fully expend the match funds for public water supply projects funded by the DWSRF program. For each loan, DES allows up to approximately one year to allow for project planning and Town Meeting votes. In addition to this one year period, there is also a period

of approximately two - three years between the time DES enters into a loan for a given project, and the time that the project is completed. Historically, this has been due to the long time frame inherent in the municipal drinking water facility construction and, therefore, loan disbursements. The communities that own and operate the water systems develop and implement the construction schedules. DES can only close projects out and complete payments after construction has been completed.

DES is currently spending out of 2019 and 2020 grant awards for both loans and the Set-Aside portion of the DWSRF program. The Set-aside portion of the DWSRF program includes funds for 23 staff who manage the loan program, perform large groundwater withdrawal and discharge permitting, provide technical assistance to communities and award asset management grants. Without the matching funds currently being requested to be retained, we would have to lay off these staff and close the program, resulting in NH communities losing the advantage of these low-interest loans.

=====

Section 61 *L'19, 146:1, VI-C Clean Water State Revolving Fund State Match*

Section 65 *L'17, 228:1, VIII-C Clean Water SRF State Matching Funds*

Like the Drinking Water SRF program, federal mandates for the Clean Water (Wastewater) State Revolving Fund (CWSRF) program also require a 20% state match to the yearly federal capitalization grant. Consequently, to receive and benefit from a federal CWSRF grant, the State must demonstrate that its budget includes the required 20% state match.

Historically, delays in expenditure of these match funds are related to the long time frame required for major wastewater project design, procurement and construction. Currently, an average of 4 to 5 years may elapse from the time that DES receives the loan match funds to when DES is able to fully expend the match funds for a project. It is important to note that match funds are dedicated to a particular project until construction has been completed. Only then may any unspent project match funds be re-obligated to another project. As a result, a considerable length of time may ensue before a match fund appropriation is entirely drawn down. DES is currently spending out of the 2019 and 2020 grant award for loans.

=====

Section 59 *L'19, 146:1-VI-A Dam Repairs & Reconstruction*

Of the \$4,144,500 appropriated for Dam Repairs and Reconstruction, nearly \$2,000,000 have been expended or encumbered on dam repair or reconstruction projects as of March 1, 2021. Delays in projects have been due in part on effects of the COVID-19 pandemic and infections experienced within the state's Dam Construction Crew which required quarantines. Over the next nine months, we expect to obligate the remaining balance of the appropriation on dam repair and reconstruction

projects currently underway, including the reconstruction of Weeks Pond Dam in Warren and Howe Reservoir Dam in Harrisville.

Section 60 **L'19, 146:1-VI-B** **Construction and Operations Facility**

Section 67 **L'17, 228:1-VIII-G** **Construction and Operations Facility**

Design and construction of the facility is being managed by the Department of Administrative Services, Division of Public Works. The design has been completed, the project has been bid, and the construction contract is expected to be approved by the Governor and Executive Council in April 2021. Construction should be underway soon thereafter. The contract calls for the construction to be completed by April 2022.

Section 68 **L'17, 228:1-VIII-H** **Ossipee Lake Dam**

The construction contract was awarded in July 2019. Because work could not be performed in the winter and during the spring runoff periods when streamflows at the site are too high to divert, the construction had to be performed over two construction seasons. The construction is essentially complete, but work on installation of the SCADA system to automatically control the spillway gates remains to be completed under the construction contract. Other work to be done includes upstream channel modifications to be performed on a force account basis to improve flow conditions upstream of the new spillway.

Section 71 **L'15, 220:1-VI-D** **Natural Resources Conservation Service Dams**

The Site 8 South Branch Flood Control Dam in Dorchester was built in 1967 by the federal Natural Resources Conservation Service (NRCS) under Public Law 566. DES owns, operates and maintains the dam to reduce flooding in Dorchester as well as further downstream along the mainstem of the Baker River in Rumney and Plymouth.

DES has analyzed this dam, with funding provided by the NRCS under the Watershed Rehabilitation Program, and has identified deficiencies that need to be corrected. Specifically, the dam has insufficient discharge capacity and would be overtopped during the design flood, which would cause it to fail.

Under NRCS's Watershed Rehabilitation Program, dams constructed under Public Law 566, are eligible for federal assistance to rehabilitate them to upgrade them to meet current dam safety standards. Federal financial assistance is 65% of the construction costs. The State is responsible for the remaining 35% of the rehabilitation costs. NRCS will also fund 100% of the planning, design and field engineering needed for the rehabilitation projects.

The appropriation of \$3,927,500 is comprised of \$2,272,500 in federal funds with state matching funds of \$1,155,000. We are currently awaiting the NRCS to finalize the award of the federal funds

so that work on the dam can proceed. Before the federal funds can be made available, a Supplemental Watershed Plan for the Baker River Watershed had to be prepared to document the proposed changes to the dam and the environmental impact of the proposed changes. That Supplemental Watershed Plan was completed and filed with NRCS in September 2020. Currently, DES is engaging the services of an engineering consultant to prepare the final design, plans and specifications and bid documents for the preferred alternative identified in the Supplemental Watershed Plan. This work is also being funded 100% by the NRCS, and is expected to be completed by December 2022. Once this work is completed, the timing of the construction and the expenditure of the Capital Appropriation will depend on the availability of the funds for the federal share in the federal budget.

=====

Section 70 L'15, 220-1:VI-C Suncook River Infrastructure Protection Project

These appropriations are being used to fund the ongoing monitoring and emergency construction responses of engineered structures installed in the Suncook River and across the floodplain to protect the U.S. Route 4 Bridge in Epsom. Prior to construction, infrastructure was at risk of becoming compromised by river adjustments triggered by the shortening of the river's course by about one and a half miles. The river stabilization practices were carefully considered and selected by representatives from the river valley towns, Central New Hampshire Regional Planning Commission, DES, Department of Transportation, Department of Safety, and the Governor's Office. This task force worked together to target resources resulting in the greatest benefits to citizens and their safety in the face of a river undergoing continuous adjustment and encroachment into public and private infrastructure.

With designs for a river and floodplain stabilization project for the Suncook River developed by Inter-Fluve, Inc., and construction services provided by F.L. Merrill, the Suncook River stabilization project was completed in December of 2018. However, the discovery of several sink holes within the project area, extended the construction period and underscores the need for continued assessment, monitoring, and emergency construction services extending out to at least 2023 to ensure that all stabilization practices are performing as designed. Inter-Fluve, Inc. and F.L. Merrill are currently under contract to ensure that professional project and construction oversight paired with long-term assessment and evaluation of all installed practices continues by the firms that designed, engineered, and constructed them. This is one of the largest river stabilization projects in the state and these contracts are essential for the protection the U.S. Route 4 Bridge, the safety of the traveling public, and working, agricultural fields in Epsom, NH.

=====

Section 72 L'15, 220:1-VI-F Permitting, Environmental Monitoring and Flood Forecasting

Of the \$1,000,000 appropriated to DES, the funds were allocated between three major components; (1) replacement of aging air monitoring equipment, (2) flood forecasting system upgrade and (3) database system upgrades. Of the total appropriation, \$918,332 (92%) have been spent or obligated. The air monitoring equipment has been purchased and is currently being installed at our sites. The flood forecasting system upgrade is also complete. DES is working on the ongoing modernization of the agency's core back-end IT systems. While some of the back-end system has been upgraded, additional work is still underway.

=====

Section 63 L'19, 146:1, VI-E IT Upgrades for E-Permitting and Automation

Of the \$1,460,970 appropriated to DES for *IT Upgrades for E-Permitting and Automation* the funds were allocated across four projects including: 1) eLRM Web Platform; 2) Mobile Inspections for Public Bathing Facility Program; 3) Air Monitoring Station upgrades; and 4) Next Generation LiDAR for Coastal NH. The Air Monitoring station upgrades and the Next Generation LiDAR projects have been fully completed. Funding for eLRM Web Platform has been encumbered and is currently in process. The remainder of the capital budget of \$98,988 needs to be carried forward for the development of a modernized web-capable, map-based computer application and field inspection tool for the DES Public Bathing Facility Program (aka Pools Program). This application will be developed in conjunction with work currently underway to optimize the department-wide geographical information system assets through a state-wide contract with ESRI.

=====

Section 64 L'19, 146:1, VI-F Comprehensive Monitoring Program for the Piscataqua Region Estuaries

Two contracts have been written to purchase monitoring equipment to support the estuary restoration efforts in the Piscataqua River region. The first contract for \$19,983 was fully expended by June 30, 2020. This enabled critical monitoring equipment investments to be implemented so that coastal communities around Great Bay can meet regulatory obligations. The funds were used replace existing equipment and to acquire new equipment to conduct remote assessments of estuarine habitats. The second contract for \$80,016 to complete the estuary monitoring purchases was delayed by the COVID 19 pandemic and was just recently approved by Governor and Council this past February 2021. The project is expected to be completed by this fall.

=====

Section 73 L'11, 253:1-VI-E Winnepesaukee River Basin Improvements

The Winnepesaukee River Basin wastewater collection and treatment plant has been in continuous operation for over 40 years. Much of the original equipment at the treatment plant and 13 pump stations have reached the end of their useful life, is either at or over capacity, or technological advances provide significant opportunities to increase efficiency, regulatory compliance, and/or reduce operating costs. In consultation with the WRBP Advisory Board, a Capital Improvements Plan (CIP) was completed in 2009 and is updated annually. The WRBP CIP identifies and prioritizes upgrades to the facilities buildings and infrastructure, including equipment, electrical and communications/monitoring systems. Priority is given to projects where a single point of failure represents a significant risk of non-compliant operations potentially leading to environmental impact or would have a short term return on investment with increased efficiency and safety of operations.

Design and construction projects in the CIP are anticipated to utilize the capital budget in L'11 Ch253:1-VI-E. Studies and evaluations need to precede any design or construction project, including those envisioned for FY22/23. The evaluations currently underway include alternatives analyses for construction, equipment replacement and optimization centered on the solids and biogas handling processes. Significant retrofits of pump stations' emergency back-up power generators have also been prioritized and options are under review. Alternatives analyses, engineering design, programming, and equipment retrofits of the supervisory control and data acquisition (SCADA) with associated monitoring electronics and radio telemetry at the 13 remote WRBP pump stations are also included in the CIP using Capital Budget funding.

The WRBP requested a reduced capital budget amount for FY 22/23 in contemplation that this appropriation would be extended in order to support the on-going design efforts and the forecast solids handling project. If this capital budget is not extended there is a risk that necessary projects would be substantially delayed, potentially leading to an increased cost of operation and maintenance passed along to the communities which fund the WRBP, regulatory non-compliance, or infrastructure failure leading to environmental impact.

As in the past, WRBP capital projects will request a CWSRF loan or grant funding, if available, and use private local funds for repayment. Therefore, no State bond is required for the WRBP Capital Budget in L'11 Ch253:1-VI-E.

=====

REQUEST TO REPURPOSE PRIOR CAPITAL APPROPRIATION:

The Department would like to repurpose the funds listed below from providing matching funds for a now former Superfund Hazardous Waste Site to be used to for a coastal flooding modeling study. Currently the state lacks available, accurate flood risk data for the coastal area. These funds would support the development and distribution of a high resolution, dynamic coastal flood risk model and map set to inform floodplain management, state and local infrastructure design, emergency preparedness and natural resource management. This project will hopefully minimize future state and local losses due to coastal storms and sea level rise.

Lapse of Prior Capital Balance; General Funds; Capital Appropriation for Department of Environmental Services Project.

I. The amount of \$161,890 is hereby lapsed from the unencumbered balances from the following state capital projects:

(a) The appropriation made to the department of environmental services in 2003, 240:1, VI,F extended by 2005, 259:25, 53 XXVIII extended by 2007, 264:29, XXXV extended by 2009, 145:19, 31 extended by 2011, 253:28, 53 extended by 2013, 195:47, 54 extended by 2015, 220:23, 51, extended by 2017, 228:22, 62, extended by 2019, 143:20, 73 for hazardous waste superfund match.

II. The sum of \$161,890 is hereby appropriated for the fiscal year ending June 30, 2022 to the department of environmental services for coastal flooding modeling. Said funds shall not lapse until June 30, 2023.

III. To provide funds for the appropriation made in paragraph II, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$161,890 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the general fund of the state.

In addition, the Department will be lapsing \$224,550 from another Superfund Match capital appropriation for which we have no lapse extension authority.

TABLE 1

**Department of Environmental Services
Capital Budget Lapse Extension Summary Table**

HB 25 Ref #	Chapter Cite	Title	Original Appropriation	Balance as of 03.12.21	LESS:			Remaining Available
					Current Encumbrances	Match Commitment		
59	2019, 146:IV:A	Dam Repairs	\$ 4,144,500	\$ 2,676,244	\$ 689,427		\$ 1,986,816	
60	2019, 146:IV:B	Constr Facility	8,235,000	8,004,949	204,020		7,800,929	
61	2019, 146:IV:C	CWSRF State Match	6,573,000	6,573,000		6,573,000	0	
62	2019, 146:IV:D	DWSRF State Match	3,348,200	3,348,200		3,348,200	0	
63	2019, 146:IV:E	IT Upgrades	1,460,970	835,412	736,423		98,989	
64	2019, 146:IV:F	Coastal Monitoring	100,000	80,017	80,016		1	
65	2017, 228:1-VIII:C	CWSRF State Match	3,333,700	211,142		211,142	0	
66	2017, 228:1-VIII:F	Hazardous Waste Match	445,000	445,000	445,000		0	
67	2017, 228:1-VIII:G	Constr Facility	595,000	116,997	74,156		42,841	
68	2017, 228:1-VIII:H	Ossipee Dam	4,909,000	751,705	345,633		406,072	
69	2015, 220:1 VI-B	Hazardous Waste Match	500,000	325,784	25,869	299,914	0	
70	2015, 220:1 VI-C	Suncook River	1,800,000	126,696	126,696		0	
71	2015, 220:1 VI-D	Natural Res Council Dams	3,927,500	3,927,500			3,927,500	
72	2015, 220:1 VI-F	Environmental Monitoring	1,000,000	170,619	88,950		81,668	
73	2011, 253:IVI-E	WRB Cap Improvement	3,950,000	3,950,000			3,950,000	
TOTALS:			\$ 44,321,870	\$ 31,543,263	\$ 2,816,191	\$ 10,432,256	\$ 18,294,816	