

**DEPARTMENT OF ENVIRONMENTAL SERVICES
CAPITAL BUDGET LAPSE EXTENSION REQUEST
Presented to House Public Works & Highways Committee
March 13, 2023**

The Department of Environmental Services (DES) respectfully requests that the following capital budget appropriations be extended as the funds are needed to pay for ongoing or anticipated capital projects during fiscal years 2024/2025. The explanations are grouped by subject matter: A summary of account balances is attached in Table 1.

- Section 94 *L'15, 220:1, VI-B Hazardous Waste Match***
- Section 91 *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, the Collins & Aikman Plant in Farmington, 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.

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Section 81 *L'21, 107:1 V-3 Drinking Water State Revolving Fund State Match*

Federal mandates for the Drinking Water State Revolving Fund (DWSRF) program require a 20% state match to the federal grant (capitalization 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 2021 and 2022 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.

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Section 88 *L'19, 146:1, VI-C Clean Water State Revolving Fund State Match*

Section 79 *L'21, 107:1 V-3 Clean Water State Revolving Fund State Match*

Like the Drinking Water SRF program, federal mandates for the Clean Water (Wastewater and Stormwater) 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.

Typically, it takes an average of 3 to 5 years between the time DES receives the CWSRF matching funds and the time DES is able to fully expend the match funds for public wastewater infrastructure projects funded by the CWSRF program. For each loan, there is a one-year period on average to allow for project planning and Town Meeting votes. In addition to this one-year period, there is also a period of approximately two to four years between the time DES enters into a loan for a given project, and the time that the project is completed. It takes several years to design, bid and construct multi-million dollar wastewater infrastructure projects. The CWSRF program disburses loan funds as costs are incurred, therefore it takes several years to disburse all funds. In addition, DES can only close projects out and complete payments after construction has been completed. 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. DES is currently spending out of the 2021 and 2022 grant awards for loans.

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Section 86 L'19, 146:1-VI-A Dam Repairs & Reconstruction
Section 80 L'21 107:1 V-2 Dam Repairs & Reconstruction

Of the \$4,144,500 appropriated in 2019 for Dam Repairs and Reconstruction, nearly \$3,872,000 has been expended or encumbered on dam repair or reconstruction projects as of March 1, 2023. Delays in projects have been due in part on effects of the COVID-19 pandemic and construction material shortages. For the FY 21 appropriation of \$8,100,000, nearly \$5,700,000 has been expended or encumbered on dam repair or reconstruction projects as of March 1, 2023. Construction is currently ongoing at Copps Pond Dam in Tuftonboro and will commence this spring at Kilton Pond Dam in Grafton. Construction at Highland Lake Dam in Stoddard and design work for the Pawtuckaway Lake Dams will be starting this summer.

Section 87 L'19, 146:1-VI-B Construction and Operations Facility

Of the \$8,235,000 appropriated in 2019 for the Construction and Operations and Watershed/Spill Response facilities on Silk Farm Road in Concord, just over \$8,000,000 has been expended or encumbered as of March 1, 2023. NHDES is still in the process of following up on the payment of invoices from existing encumbrances and change orders, and purchases of equipment, tools and materials to complete the occupation and function of both facilities. These activities and expenditures are expected to continue through the end of 2023.

Section 92 L'17, 228:1-VIII-G Construction and Operations Facility

Of the \$595,000 appropriated in 2017 for the architectural design contract for the Construction and Operations and Watershed/Spill Response facilities on Silk Farm Road in Concord, almost all of the appropriation has been expended or encumbered as of March 1, 2023. NHDES is still in the process of following up with the architect on the final oversight of construction and payment of invoices from existing encumbrances. These activities and expenditures are expected to continue through the end of 2023.

Section 93 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 follow up minor defects associated with the hydraulics and the SCADA system to automatically control the spillway gates is still under way. In addition, upstream channel modification work done in early 2023 had to be done in higher than desired flow conditions, and additional work on the upstream channel, armoring of the side slopes, minor rehabilitation of the private road access, and re-establishment of vegetation in key area will be performed on a force account basis throughout the 2023 construction season.

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Section 95 L'15, 220-1:VI-C Suncook River Infrastructure Protection Project

The 2006 avulsion on the Suncook River in Epsom is widely regarded as the most significant river change in New Hampshire recorded history. Following the avulsion, the Suncook River abandoned over a mile of its former channel, forging a new course through wetlands, working agricultural fields, and forested tracts of land. The newly formed channel was unstable and threatened to undermine the structural integrity of the U.S. Route 4 Bridge. NHDES assumed the leadership role in the project area and worked with a myriad of project partners to develop river stabilization designs, permits, and plans that resulted in the Suncook River stabilization project that was completed in 2019. Since that time, design, assessment, and construction contractors remain involved with the project ensure that construction practices are meeting the design objectives to protect the safety of the traveling public, river stabilization and ecological goals, and the state and federal permit requirements and conditions associated with this work.

This appropriation supports contracts due to expire in December 2023 that are essential for the assessment and construction firms engaged with this project to complete outstanding tasks and to respond to emergency construction needs should they arise. Additional site work in 2023 includes repair of sink holes, planting of 50 white pine trees along with a three-year vegetation maintenance agreement, a final full-scale topographical and geomorphologic assessment of the project areas, and final submittal by NHDES to FEMA of the Letter of Map Revision to the Flood Insurance Rate Maps in New Hampshire. This is one of the largest river stabilization projects in the state and extending this appropriation is essential for the continued protection of the U.S. Route 4 Bridge, the safety of the traveling public, residential dwellings, and working, agricultural fields in Epsom.

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Section 90 L'19, 146:1, VI-E IT Upgrades for E-Permitting and Automation

Section 82 L-21 107:1 V-4 One Stop/IT Systems Upgrades

DES has a five-phase plan for updating its OneStop system to display internal program data and information about regulated entities and environmental concerns to the public.

DES is within 3 months of issuing a contract for Phase 1 of its OneStop redevelopment effort. The purpose of this effort is to establish a new cloud-based Data Management Environment (DME), which is part of a planned multi-phase effort to upgrade or replace the current OneStop's three (3) functions, the OneStop Basic Search and Program Specific Pages, OneStop Data Provider, and OneStop Data Mapper, with a modern customer service platform that can support most of, if not all, NHDES programs.

In a separate E-permitting effort, DES has scoped, tested and managed releases of 3 major enhancements to the DoIT nForm form software, which allows the online intake of information and

payment from the public. Three additional enhancements are in development by the vendor and six are in pre-scope development.

Without retaining the balances of these accounts currently being requested, existing software enhancements and the redevelopment effort would be cancelled, requiring DES to continue to maintain its 20-year old IT solution and heavily rely on paper transactions to satisfy public need for permits and information.

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Section 97 L'15 220:1 VI-F Permitting, Environmental Monitoring and Flood Forecasting

Of the \$1,000,000 appropriated 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 installed at our sites. The flood forecasting system upgrade is 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.

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Section 98 L'11, 253:1-VI-E Winnepesaukee River Basin Improvements

Section 84 L'21 107:1 V-6 WRBP Upgrades

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, lacks sufficient redundancy, 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 originally 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 will utilize both the 2011 and the 2021 capital funds. 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.

We respectfully request that the available capital funds be extended so that planned projects can be sufficiently funded, as necessary.

As in the past, WRBP capital projects will request a NHDES 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.

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Section 83 L'21, 107:1 V-5 Coastal Flood Model

Section 85 L'21, 107:1 14-IV Coastal Flood Model

The Capital Budget appropriation is for the development of a hydrodynamic model for NH's coast and estuaries: the NH Coastal Flood Risk Model (NH-CFRM). The goal of the NH-CFRM and its data is to help state and local decision-makers and stakeholders in New Hampshire's Coastal Zone examine the flood risk of tidal flooding, storm surge, and present and future sea-level rise (SLR) on assets, infrastructure and natural resources.

Currently, statewide maps of water levels during coastal storm events and under potential SLR scenarios provide a rudimentary "bathtub" approach to depicting flood risk that does not account for ocean conditions such as waves and winds or for physical features on the landscape that dynamically interact with tidal floodwaters. Consequently, existing maps predict inundation in areas where flooding will not occur, while also misidentifying some areas as remaining dry that would be inundated. The results of the NH-CFRM will be publicly available for municipalities, state agencies, residents, and other stakeholders to understand flood risk on a parcel level scale for a variety of storm conditions and SLR scenarios.

The project was delayed by 6-8 months due to an issue with a critical data set. As such, we respectfully request that the available capital funds be extended so that the project may be completed.

CHANGES TO HB 25:

1. DELETE Section 96 L'15, 220:1-VI-D Natural Resources Conservation Service Dams

This appropriation was established based on anticipated construction work on the Site 8 South Branch Flood Control Dam in Dorchester that was built in 1967 by the federal Natural Resources Conservation Service (NRCS) under Public Law 566. NHDES 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.

While NRCS has provided funding to NHDES for the Dam's site assessment and for engineering & design work, it has become clear that any actual construction work is years away. Therefore, NHDES is asking that this appropriation lapse as of June 30, 2023.

Total Appropriation	\$3,927,500
Federal Funds	<u>\$2,272,500</u>
General Funds	\$1,155,000

2. DELETE Section 89 L'19, 146:1, VI-D Drinking Water State Revolving Fund State Match

This appropriation has now been fully expended.

TABLE 1

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

HB 25 Ref #	Chapter Cite	Title	Original Appropriation	Balance as of 03:09.23	LESS:			Remaining Available
					Current Encumbrances	Match Commitment		
79	2021, 107:1 V-1	CWSRF State Match	8,489,400	8,489,400		8,489,400	-0-	
80	2021, 107:1 V-2	Dam Repairs	8,100,000	7,936,194	5,686,658		2,249,537	
81	2021, 107:1 V-3	DWSRF State Match	6,476,200	6,476,200		6,476,200	-0-	
82	2021, 107:1 V-4	IT Upgrades	4,825,390	4,536,149	69,456		4,466,693	
83	2021, 107:1 V-5	Coastal Flood Model	188,110	188,110	188,110		-0-	
84	2021, 107:1 V-6	WRBP Upgrade	10,673,000	10,673,000			10,673,000	
85	2021, 107:14-IV	Coastal Flood Model	161,890	161,890	161,811		79	
86	2019, 146:IV:A	Dam Repairs	4,144,500	237,730	237,730		-0-	
87	2019, 146:IV:B	Constr Facility	8,235,000	567,639	333,031		234,609	
88	2019, 146:IV:C	CWSRF State Match	6,573,000	247,290		247,290	-0-	
89	2019, 146:IV:D	DWSRF State Match	Removed				-0-	
90	2019, 146:IV:E	IT Upgrades	1,460,970	570,172	496,890		73,282	
91	2017, 228:1-VIII:F	Hazardous Waste Match	445,000	445,000	445,000		-0-	
92	2017, 228:1-VIII:G	Constr Facility	595,000	29,026	28,939		87	
93	2017, 228:1-VIII:H	Ossipee Dam	4,909,000	352,847	2,374		350,474	
94	2015, 220:1 VI-B	Hazardous Waste Match	500,000	325,784	55,869	269,914	-0-	
95	2015, 220:1 VI-C	Suncook River	1,800,000	93,146	93,146		-0-	
96	2015, 220:1 VI-D	Natural Res Council Dams	Removed					
97	2015, 220:1 VI-F	Environmental Monitoring	1,000,000	127,614	30,481		97,133	
98	2011, 253:1VI-E	WRB Cap Improvement	3,950,000	3,950,000			3,950,000	
			\$ 72,526,460	\$ 45,407,192	\$ 7,829,494	\$ 15,482,804	\$ 22,094,894	

