

**MtBE Remediation Fund Implementation Plan**

**Prepared for:**

**New Hampshire Department of Justice**

**Prepared by:**

**New Hampshire Department of Environmental Services**

**MtBE Remediation Bureau**

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**Date: July 11, 2014**



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## MtBE Remediation Bureau Project Plan

### 1.0 INTRODUCTION

In 2003, the Department of Justice (DOJ) sued gasoline manufacturers and marketers of methyl tert butyl ether (MtBE) for damages to the State from MtBE contamination. In 2013 the State of New Hampshire settled with all but one of the defendants. After deductions from the settlement agreements for legal and administrative costs, \$81,630,000 was available to establish a MtBE Remediation Fund (Fund). The Fiscal Committee of the legislature approved the expenditure of \$22,316,661 from the Fund for the current biennium (ending on June 30, 2015). A Memorandum of Understanding (MOU) between the New Hampshire Department of Environmental Services (DES) and DOJ for the management of the Fund was executed and the MOU was subsequently submitted to the fiscal committee as part of a funding request package (Appendix A-1). The MOU requires development of a long range work proposal (a.k.a. project plan) for DOJ approval. This document fulfills the MOU requirement for a project plan and provides a discussion of the public outreach efforts that were undertaken during the development of the project plan, project eligibility guidelines, project selection guidelines, implementation, reporting and record keeping associated with the use of the Fund to address MtBE impacts.

It should be noted that this project plan is intended to be a “living document” that is expected to be revised as appropriate, subject to DOJ approval, so that DES and DOJ are able to address new or unanticipated circumstances that might arise during the existence of the Fund and assure cost effective management of the Fund and timely response actions.

### 2.0 PUBLIC OUTREACH SUMMARY

Three public listening sessions were scheduled and held in Concord, Portsmouth and Lancaster. Similar presentations were provided to Southwest Regional Planning Commission, Southern New Hampshire Planning Commission, North Country Council, Inc., and Lakes Region Planning Commission. DES participated in meetings with the City of Dover, Town of Plaistow and the Town of Derry to discuss the MtBE program and specific potential projects. DES also gave a presentation during the plenary session of the annual source water protection conference in April 2014. Finally, DES participated in a New Hampshire Municipal Association (NHMA) webinar to specifically target municipalities. The webinar is available online at the following website <http://youtu.be/u-yHIIWgIRk>. The public responded favorably and provided significant valuable program input. A summary of key public input is included in Appendix A-2.

### 3.0 TYPES OF ELIGIBLE PROJECTS

The MOU specifies five general types of activities that would be eligible for funding. These activities are:

- 1) investigation and remediation of MtBE contaminated sites;
- 2) sampling and analysis of at-risk private drinking water wells within an appropriate radius of contamination source sites;
- 3) provision of safe, clean drinking water to impacted citizens;
- 4) installation and improvement of public water supply infrastructure in areas having significant MtBE contamination; and
- 5) implementation of measures to prevent further MtBE contamination.

The following sections describe each of these classes of activities. Additional eligible activities may be identified and proposed for DOJ approval as this work plan is implemented.

#### 3.1 Investigation and Remediation of MtBE Contamination Sites

There are over 600 known MtBE contamination sites in the State of New Hampshire. Investigation and remediation of these sites is an activity eligible for Fund coverage. Many of these sites are currently being addressed with either the Oil Discharge and Disposal (ODD) or Gasoline Remediation and Elimination of Ethers (GREE) petroleum reimbursement funds and have specific remedial or investigation needs that have been identified. The Fund will be used to expedite some or all of these projects and help address ODD and GREE funding limitations for MtBE sites. The MtBE Remediation Bureau will also evaluate existing open and closed sites to determine whether all necessary MtBE-related investigation and remedial actions have been completed.

#### 3.2 Private Well Sampling and Analysis

The private well sampling and analysis program is currently envisioned as having three elements. The first element will involve the identification and evaluation of drinking water supply wells in the vicinity of the 228 high risk sites identified during the litigation. This evaluation will include sampling and analysis of drinking water quality at these potentially at-risk water supply wells. The second element will involve identification and sampling of at-risk private water supply wells near gasoline service stations, auto recycling, or auto repair businesses. The labor associated with these tasks will typically be completed by MtBE Remediation Bureau field and technical staff.

A broader understanding of the nature and extent of MtBE impacts to private drinking water supplies could be accomplished by encouraging private home owners to sample their well water and submit the samples to a private analytical laboratory for analysis. Accordingly, DES is proposing to establish a private laboratory reimbursement program to cover the cost of homeowner requested Volatile Organic Compound analyses (to be piloted in DES defined high risk areas initially).

DES may be able to leverage additional water quality assessment funds from EPA or USGS to augment the Fund sampling program impact. Leveraged funding could be used to evaluate other emerging or high risk compounds that could not be evaluated with the Fund. If DES can find and secure additional funding sources to cover the cost of developing data on other contaminants or the homeowner is willing to pay for the cost of the testing, it would be advantageous to make provisions to collect more comprehensive water quality data during the residential well testing for MtBE.

### 3.3 Providing Safe, Clean Drinking Water

The private well sampling and analysis program and site investigation programs are likely to identify MtBE contaminated water supplies. If contaminated water supplies are discovered, the Fund could provide temporary assistance via the delivery of bottled water or longer term assistance such as the installation of a point of entry treatment system (POE) or facilitation of connections to an existing public drinking water distribution system.

### 3.4 Infrastructure

Infrastructure projects are eligible for Fund coverage when necessary to address MtBE contamination of aquifers. Examples of potentially eligible infrastructure projects would include the construction of a water line from a water company or municipal water system to properties where water supply wells are impacted or significantly threatened by MtBE. Additional examples would include construction of water treatment systems to address MtBE contamination of water supplies or relocation of a water supply well to an uncontaminated or less contaminated portion of the aquifer.

### 3.5 Prevention

DES has identified a number of activities that can prevent or reduce the potential for future releases of MtBE to New Hampshire's aquifers. These activities include the removal of underground storage tanks (USTs) and assistance to automobile salvage yards for development and compliance with best management practices (BMPs). The presence of USTs often impedes adequate investigation and remediation of contaminated soils. The removal of these USTs will facilitate timely and complete assessment of the extent of contamination and the removal of contaminated soils that represent a source for continued release of MtBE to groundwater. USTs in temporary closure, single wall USTs or piping and USTs that are not in significant operational compliance represent a threat for future releases of MtBE if the tanks contain older MtBE-containing gasoline.

MtBE is commonly present in the fuel tanks of discarded vehicles. Mishandling of these fuel tanks or drained fluids can result in impacts to groundwater quality. Funding to assist motor vehicle salvage yards with implementation and adherence to best management practices will reduce the potential for further MtBE releases. Such assistance could include but not be limited to, the development of facility specific operation plans and funding assistance in the design and construction of fluid removal, transfer and storage facilities.

## 4.0 SELECTION OF PROJECTS

This section describes how sites will be selected for funding by this program.

### 4.1 Applications and Project Eligibility

Information and requests with respect to possible remediation possibilities can be submitted to the State in any manner; however, DES has developed an application form that citizens, site owners and municipal officials may use to nominate projects for Fund coverage. The application provides information on: 1) why the proposed activity is related to MtBE contamination; 2) a description of the proposed activity; and 3) the approximate cost. A blank application form is provided in Appendix A-3. DES will review the application and determine whether money from the Fund can be used on the proposed activity. DES may also propose projects. In this case, documentation similar to what is contained in the application form will be developed by DES and the documentation will be placed on file.

Every project must be screened to determine whether it is MtBE-related. Analysis will vary for each of the five categories of projects outlined in Section 3. The following illustrates the types of analysis that may be used for each of these types of projects.

Investigation or Remediation : For a project to be considered for Fund coverage, the investigation or remediation must be related to MtBE contamination. MtBE must be a significant factor in the work that is required. For example, additional investigations required to determine the extent of MtBE-impacted groundwater or the remediation of an ongoing source of MtBE soil and/or groundwater contamination would be eligible. Projects involving sites where MtBE is merely present and is not the driving force behind the investigation or remediation would either be ineligible or be given a low priority. Examples of projects that would not be eligible for Fund coverage include projects solely focused on the delineation of the extent of benzene, naphthalene or other contaminants as the purpose of the investigation or remediation of a contamination plume source which is not the source of observed MtBE contamination.

Private Well Sampling and Analysis: DES Staff will review the 228 existing sites that were determined to be of high risk during the MtBE lawsuit and determine what additional sampling is appropriate. DES will initiate the additional sampling of private wells near those sites on an expedited basis. Eighty-five of the 228 high risk sites were determined to be of the highest risk. Private wells in the vicinity of any of these highest risk sites will automatically be considered eligible for water supply quality sampling and analysis assistance. Bureau staff will prioritize the highest risk sites for expanded water supply well sampling and analysis based upon the following factors: 1) existing MtBE impacts in a drinking water well; 2) density of potential drinking water wells in the area of the MtBE release; 3) community acceptance; and 4) risk posed by the MtBE contamination. Since DES will select the private wells for sampling based on the MtBE contamination threat, no application process will be necessary.

The private well sampling and analysis program will also be used in a strategic fashion to reduce public health threats from MtBE contamination. To accomplish this, DES intends to provide sampling services

to water supply well owners that are deemed to be at risk of MtBE contamination. For example, DES might sample water supplies that are: 1) located near gas stations; 2) near auto recycling facilities in areas with drinking water supply wells; or 3) at locations that were previously contaminated by MtBE. As stated in Section 3.2, DES will evaluate the potential use of leveraged funds to sample for other high risk contaminants, such as arsenic and radon or other general water quality criteria.

The lab reimbursement program will be used to expedite collection and analysis of water samples from residential water supplies. To ensure that the funding is appropriately used, DES will: 1) pilot the program before full scale implementation; 2) train participating labs; and 3) require submission of the results to DES with important location, contact and well construction information. DES envisions the pilot test would run initially with a small number of labs in DES defined high risk areas. After receiving fund and data submittal training, the participating labs would be able to analyze up to a set amount of homeowner well samples for MtBE. DES would be provided with the sample results, homeowner contact information and well construction details. The lab would provide copies of the information and the analytical results with a request for reimbursement for the analysis. DES believes that this process would promote more comprehensive analysis of private water well quality and would yield useful information on the prevalence of MtBE.

Providing Safe Drinking Water: DES operates a program that installs and maintains treatment systems for MtBE contaminated water supplies. DES currently has a contract (aka the POE contract) with Secondwind Environmental to design, install and maintain these water treatment systems. This program is predominately funded by the GREE Fund. The GREE fund will likely continue to fund the operation of many of these systems. However, the private well sampling and analysis program may potentially identify a significant number of additional private wells with MtBE contamination that might require POEs. The Fund would supplement GREE funding of the POE contract, if necessary. The contracting, work scope and budgeting process would likely be the same as currently employed by the existing program. Use of the Fund as an additional funding source for POE installation and maintenance will require amendment of the current POE contract via the Governor and Council (G&C) approval process or procurement of a new independent contract. The current POE contract expires on June 30, 2015, and will be put out to bid in January 2015. Due to the short period remaining under the current contract and the labor associated with the bidding and contracting process, DES will likely ask to amend the existing POE contract to include MtBE Program Funding.

Initially, the installation, operation and maintenance of these POE systems for MtBE contamination will be predominately managed by the GREE Fund. Decisions to supplement the GREE Fund with the MtBE remediation program funding would be made on a case by case basis. Factors to be considered in determining the POE funding source would include but not necessarily be limited to: (1) the rate of new contaminated water supply well discovery; and (2) relationship of newly discovered contaminated wells to contaminated sites being assessed and remediated by the Fund.

Infrastructure: DES anticipates working on three types of infrastructure projects: a) water line extensions to areas where MtBE has contaminated drinking water wells in excess of ambient groundwater quality standards (AGQS); b) replacement of contaminated water supplies; and c)

treatment of MtBE contaminated water supplies. Water line extension projects will be evaluated based on the cost effectiveness of the proposed project. In general, DES prefers permanent solutions, such as water line extensions or well replacement, over temporary solutions (e.g., bottled water or a POE). However, the permanent solution must be cost effective. When water supplies are contaminated, it may be desirable in some cases to drill a replacement well.

In addition, contaminated municipal water wells pose a much greater potential risk to human health due to the larger population that is served. Municipal water supply wells also take significantly more time to replace since it is harder to locate and site high yield wells and this type of project requires a substantial amount of engineering and construction work. As a result, it is prudent to initiate a municipal water supply project when MtBE is persistent or when a substantial MtBE plume is impacting the water supply well even in cases where AGQS is not exceeded. A private well replacement project, on the other hand, might be funded only when drinking water standards are consistently exceeded.

Prevention – USTs: The proposed underground storage tank (UST) removal prevention projects will likely focus on: (1) abandoned tanks; (2) tanks that need to be removed to facilitate remedial activities; and (3) higher risk tanks (for example, tanks or piping systems that will not meet the 2015 tank upgrade standards). Expediting the removal of these types of tanks will reduce the threat of MtBE contamination. DES will select facilities that it believes are eligible for assistance and will fill out an information sheet that documents the basis for finding the facility eligible prior to removing the tanks. An owner will likely need to fill out an access agreement prior to the start of site work.

DES believes that it would be reasonable to remove UST systems in cases where there is limited information indicating potential petroleum releases (investigation opportunity) or when there is soil contamination near the tanks and removal would facilitate remediation. If recent groundwater monitoring data is available and MtBE is not detected in the vicinity of the USTs, removal of the tanks would not be eligible for the funding unless the tanks have MtBE containing gasoline and pose a potential threat of a future release.

As with all potential projects, DES will evaluate other sources of funding cleanup including financial responsibility of an owner or responsible party.

Prevention – Auto Recyclers: Releases of MtBE have been documented at auto-recycling facilities after the MtBE ban was enacted. This can happen if old gasoline is improperly stored onsite or when fluids are not removed from cars that are currently stored on the property. Cleanup of a release of MtBE is expensive so investment in prevention of releases is cost effective. The auto recycler prevention activity would focus on best management practices to prevent releases. This may entail upgrades to fluid transfer and storage areas of a recycling facility. The assistance would take advantage of the existing State's Greenyards program. DES would use the prevention funding for response actions, if old gasoline is found at an uncontrolled site. This could be a former auto repair-related business, dump site or "residential auto graveyard" for example.



## 4.2 Project Selection

Projects will be selected by DES primarily based on the threat that the site poses to human health. DES intends to initially focus on the list of 85 highest priority sites as well as any newly identified sites with water supply wells contaminated above the MtBE AGQS. The broader list of 228 sites that are not contained in the 85 highest priority sites will also be closely analyzed. Other new sites that pose a threat to drinking water wells but are not already in one of the two lists will also be considered.

Drinking water well sampling projects, due to the widespread impact of MtBE, will be considered for prevention, investigation and remedial projects regardless of whether the sampling area is associated with the sites referenced above. All other activities will be considered to be lower priority. All projects will be reviewed for cost effectiveness and implementability. Larger projects, such as waterline construction or extension may involve the development and review of a feasibility study. Based on a review of the feasibility study, DES may decide to forgo projects that are not cost effective or have serious implementability concerns. DES will also consider ancillary benefits when determining the priority of a project. Ancillary benefits might include reduction in risks posed by arsenic or other contaminants that might be present. A project must be able to stand on its own merits as a solution to a Fund eligible MtBE problem before ancillary benefits can be considered.

## 5.0 PROJECT IMPLEMENTATION

The MtBE Remediation Bureau intends to provide a mix of direct services and reimbursements. Direct services would include site investigations, remediation and tank removal in cases where the State of New Hampshire would take the lead on the project. This work would be completed by contracted consultants with DES project manager oversight.

Reimbursement of eligible costs is the preferred approach for most site investigation, remediation and infrastructure projects facilitated by the Fund because this approach is essentially a force multiplier and provides a means for maximizing efficiency and promoting timely investigation and mitigation of MtBE impacts. In the case of site investigation or remediation projects, it is likely that many sites are already participating in one of the existing petroleum reimbursement funds (ODD or GREE Funds). These projects would have an existing responsible party, consultant and ORCB project manager that are knowledgeable about site conditions. Employing a similar reimbursement mechanism to complete the required work using MtBE Remediation Funds would preserve the existing project team and avoid delays inherent in the State procurement and contracting process. It would also closely resemble the existing mechanism (ODD or GREE Fund) employed to complete similar work at the site. This would facilitate the transition of the project from its existing funding source to the Fund. For infrastructure projects, reimbursing a municipality for a water line extension or similar projects has a number of additional advantages. A municipality or water company, for example, might be able to provide an in-kind match to the monies provided by the Fund by using their in-house engineering and water system expertise. Pre-approval of eligible activities and budgets would be required.

## 5.1 Direct Services

5.1.1 Contracts: For DES to provide direct services at sites using the Fund, existing contracts will need to be amended or new contracts procured. DES currently has multi-year contracts for spill response and remediation services with four emergency response firms. DES also has multi-year contracts for environmental consulting services with five consulting firms.

The current consulting contracts expire on June 30, 2015. A request for proposals (RFP) will be put out for new environmental consulting contracts in September/October of 2014 the associated awarded contracts would be in effect for the period July 1, 2015 through June 30, 2019. DES intends to include the MtBE remediation bureau contractual needs in that RFP. If a project arises before the procurement process is completed, the existing contract could be amended through the G & C process so that this additional funding source can be used. Expansion of the number of consulting firms selected for the next set of consulting contracts (FY 2016 through FY 20) will be considered.

The spill response/remediation contract ends June 30, 2017. This contract includes all major response firms operating in the State of New Hampshire. DES will include the MtBE Remediation Bureau funding in the RFP for these contracts when they come up for re-procurement. Due to the lengthy and labor intensive nature of the procurement process, DES recommends amendment of the existing contracts with our emergency response/remediation contractors through the remaining contract performance period.

The DES-wide outside lab services contract has been recently awarded. This existing contract is relatively small. DES will issue a separate Request for Proposal (RFP) for VOC analysis for the MtBE Bureau to prevent a windfall for the current contract recipient. Use of the DHHS lab, due to length of time required for the procurement of laboratory services, will be the method initially used for analysis of water samples collected by MtBE Remediation Bureau staff. The mix of DHHS and outside lab use will ultimately depend on the relative cost of VOC analysis, etc.

5.1.2 Types of Direct Services: DES intends to use a combination of DES contractors and DES oversight staff for state lead tank removals, site investigations, remedial actions, laboratory analysis, POE system installation, POE maintenance and water supply sampling. Many of these activities can also be managed as reimbursed activities. The decision on whether the state or some other party takes the lead on a project will depend on the willingness, capability and expertise of the responsible party to manage and complete the proposed project in a timely manner.

## 5.2 Project Reimbursement Process

The reimbursement process involves the following steps: a) preparation and review of work scopes and budgets; b) review of deliverables; c) submission and processing of reimbursement claims; and d) payment.

### 5.2.1 Work Scopes and Budgets

Preapproval of budgets ensures that the scope of services is eligible for funding and competitively priced. A copy of the proposed work scope and budget approval form is included in Appendix A-4. The existing rate setting system may not be appropriate for water supply and auto recycler best management practices (BMP) work. This type of work is fundamentally different from ODD and GREE funded investigation and remediation work. In this case, bid prices may be used or DES will evaluate the costs based on market rates for similar services.

### 5.2.2 Deliverable Review

DES anticipates that reimbursements will be contingent on the submission of a satisfactory deliverable (site investigation report, soil disposal receipt submission, etc.). However, progress payments may be appropriate for large scale infrastructure projects and would be based on tangible measure of progress such the installation of a thousand feet of water line.

### 5.2.3 Reimbursement Claims

The public may use the petroleum reimbursement fund's existing internet based system of claims submissions. This system minimizes transcription errors and expedites claims processing. Paper claims can also be submitted but DES' experience is that most claims now are submitted via the online system.

### 5.2.4 Payment Process

Once claims are approved they will be processed for payment in a batch.

## 5.3 Oversight and Document Review

DES intends to oversee the implementation of eligible projects. This will involve onsite presence during key phases of field work and the review of reports developed on the project. In some cases this oversight will be conducted by the MtBE Remediation Bureau and in other cases by staff of the Oil Remediation and Compliance Bureau to maximize the efficient use of existing resources. Infrastructure and water resource projects will be managed in general accordance with the existing processes in the Water Division. This includes the use of Pre-Qualified Contractors for water supply engineering work and rules that govern water systems. DES will use resources in the Water Division to review engineering plans and other water supply related infrastructure deliverables. Associated Water Division labor costs would be charged to the Fund.

## 5.4 Records Handling

There are two main categories of records that will be produced by the new bureau - financial records and technical records. All records will be maintained in a digital format and stored in the existing DES site remediation database. The records will be organized using the existing site numbering

organizational methodology, but under a separate MtBE project created for each site. Private well testing results, due to the projected volume of locations and results will be kept in a separate database that will be designed/constructed by MtBE Remediation Bureau Staff or appropriate contractors. Records dealing with work scope approvals and reimbursement claims will use existing project activity codes so that information on the number of claims in the approval queue and the claims that have been approved can be readily extracted from the database.

## 6.0 REPORTING

The MOU and fiscal committee require two types of reporting. Reporting summarizing expenditures, work initiated/completed, and the financial status of the Fund will be provided to DOJ on a quarterly basis and to the legislature on an annual basis. This section discusses the reporting responsibilities.

### 6.1 Quarterly DOJ Reporting

The proposed quarterly reporting format is shown in Appendix A-5. The quarterly reports will include: a) a table of the expenditures that were incurred during the quarter and the percent of the total budget expended; b) a brief description of the progress made at large projects; and c) aggregate statistics on the smaller projects.

### 6.2 Annual Legislative Reporting

An annual report will be prepared and submitted to the governor, executive council and legislature. The reporting format will be somewhat similar in nature to the ODD Fund Board annual report and will discuss the nature and type of projects funded and the expenditures by category. The ODD Fund Board annual report can be accessed via the following link:

[http://des.nh.gov/organization/divisions/waste/orcb/fms/prfp/documents/annual\\_report.pdf](http://des.nh.gov/organization/divisions/waste/orcb/fms/prfp/documents/annual_report.pdf)

Appendix A-1  
Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING  
STATE OF NEW HAMPSHIRE  
DEPARTMENT OF JUSTICE  
DEPARTMENT OF ENVIRONMENTAL SERVICES

A. Agreement

This Memorandum of Understanding between the Department of Justice (hereinafter "DOJ") and the New Hampshire Department of Environmental Services (hereinafter "DES") sets forth the terms and conditions whereby DOJ will dispense up to \$81,630,242.00 in settlement funds received in the case of *State v. Hess, et al* (hereinafter "MTBE case") to DES to implement mutually agreed-upon programs to prevent exposure to MTBE by identifying and remediating contamination of groundwater in New Hampshire, and providing safe, clean drinking water to those who have been affected.

B. Development of a Project Plan

DOJ and DES agree that the settlement funds should be used in a manner that will provide benefit to the greatest number of affected citizens, while focusing on those high priority sites that pose the most immediate danger to drinking water sources. DOJ and DES recognize that it is critical to the success of the MTBE remediation projects that the input of legislators and other stakeholders be considered as a detailed project plan is developed. DOJ and DES agree that by March 31, 2014, they will jointly schedule and attend meetings with legislators and various other stakeholders to seek input as to the use of the funds. Thereafter, DES will develop a long-range work proposal for: (1) investigation and remediation of existing contamination sites, (2) testing at-risk private drinking water wells within a location radius of contamination source sites, (3) providing safe, clean drinking water to impacted citizens, (4) installation and improvement of public water supply infrastructure in areas having significant MTBE contamination, and (5) implementation of measures to prevent further MTBE contamination. The plan must be approved by DOJ prior to implementation.

C. Scope of Work

DES will create an MTBE Remediation Bureau within the agency, which will have primary responsibility for implementing the approved work plan. The Bureau's efforts will include coordination of MTBE site cleanup, drinking water quality assessment, public and private drinking water supply improvements, and prevention work. Staff will be responsible for establishing and implementing comprehensive plans to sample at-risk private and transient public water supply wells to identify areas affected by MTBE contamination and for the investigation and cleanup of priority MTBE-contaminated sites. Where drinking water impacts are identified, staff will work to provide appropriate treatment or connection to new or existing private or public water systems. DES may engage the services of outside professionals as needed to implement the plan.

D. Payment

DOJ will reimburse DES on a quarterly basis for expenditures incurred. Prior to the ends of FY 2015, and FY 2017, respectively, DOJ and DES shall jointly determine the amount of funds that will be necessary to support the MTBE remediation program for the following biennium. Unless instructed otherwise by the Governor or the Legislature, DOJ will seek the approval of the Fiscal Committee and the Governor and Council to transfer that sum to DES by the beginning of the following fiscal year. Payments in total shall not exceed \$81,630,242.00.

E. Reporting

On a quarterly basis, DES will provide a report to DOJ that will include the name of each project, the total amount spent, what the money was spent on, and a copy of its appropriation summary report. DOJ may audit DES expenditures. DES shall seek DOJ approval of any single project expenditure in excess of \$1,000,000.00.

10/31/2013

Date

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Joseph A. Foster, Attorney General  
New Hampshire Department of Justice

10/31/2013

Date

\_\_\_\_\_  
Thomas S. Burack, Commissioner

## Appendix A2 - Public Outreach Summary

### Public Information Sessions

#### **Concord**

Location: Health and Human Services Building Auditorium

Date and Time: April 24, 2014 at 7PM

Attendees: Approximately 30 attendees, mostly consulting and laboratory services company employees

#### **Portsmouth**

Location: DES Coastal Offices, Pease International Tradeport

Date and Time: April 28, 2014 at 7PM

Attendees: 14 attendees, mostly consulting and laboratory services company employees

#### **Lancaster**

Location: North Country Resource Center, 629B Main Street in Lancaster

Date and Time: May 5, 2014 at 7PM

Attendees: Approximately 8 attendees, mostly consulting and laboratory services company employees

### Source Water Protection Conference

Location: Grappone Conference Center, Concord

Date and Time: April 30, 2014 at 9 AM

Attendance: Plenary Session Speaker with the full 230 conference participants in attendance. Mix of municipal, nonprofit, public and consulting firm attendees.

### Regional Planning Commission Presentations

#### **Southwest Regional Planning Commission**

Location: Southwest Regional Planning Commission Offices, Brownfields Advisory Committee Meeting

Date and Time: May 7, 2014 at noon

Attendance: 14 attendees, attendees included representatives from SWRPC (Tim Murphy, J.B. Mack and RPC staffer), Ransom Environmental (Steven Rickerich), DES (Gary Lynn and Jennifer Marts), City of Keene, Town of Hinsdale, Town of Winchester (John Garmarolo), Town of Marlborough and Town of Peterborough (Rodney Bartlett, Public Works Director)

#### **North Country Council**

Location: North Country Council Offices, monthly regional meeting

Date and Time: May 14, 2014 at 10 AM

Attendance: 12 attendees, included representatives for NCC (Jeff Solacki, Christine Frost and Jenney Devost), Berlin (Pam LaFlamme), Haverhill (Glenn English), Randolph (Bill Andreas), Lancaster (Ben

Oleson), Sugar Hill (Chris Thayer), Stratford (Vicki Delalla), Lancaster (Peter Powell) and Colebrook (Benoit Lamontagne, also represents DRED)

**Southern New Hampshire Regional Planning Commission**

Location: Planning Commission Offices on Dubuque Street in Manchester, monthly regional meeting

Date and Time: June 24, 2014 at 10:30AM

Attendance: TBD

**Lakes Region Planning Commission**

Location: Lakes Region Planning Commission offices in Meredith, monthly regional meeting

Date and Time: May 22, 2014 at 9:30 AM

Attendance: 5 attendees, Jeff Hayes (LRPC), David Jeffers (LRPC), John Edgar (Town of Meredith Community Development Director), Carolyn Higley (Town of Meredith, Environmental Science Intern) and Dick Lewis (City of Franklin)

Municipality Specific Meetings

**Town of Plaistow**

Location: Plaistow Town Offices

Date and Time: May 1, 2014 at 10AM

Attendance: Sean Fitzgerald (Town Manager), Leigh Komornick, Chief McCardle, Robert Varney, Paul Indeglia, Gary Lynn and Talcott Hubbard

Topic: Discussed public input needs and remediation of the Plaistow Lido site.

**Town of Derry**

Location: Southern New Hampshire Regional Planning Commission Offices

Date and Time: April 9, 2014 at 2PM

Attendance: Jack Munn, David Preece and Tom Carrier (Deputy Public Works Director, Town of Derry)

Topic: Discussed public input needs and Derry's water line extension project.

**Town of Dover**

Location: Dover Town Offices

Date and Time: May 8, 2014 at 2PM

Attendance: Dean Peschel and Anthony Blenkinsop

Topic: Discussed public input needs and Dover's water well relocation projects.

Miscellaneous

**DES Town Hall Meeting Presentation**

Location: Health and Human Services Building Auditorium

Date and Time: March 27, 2014 at 10 AM and 2PM



Attendance: Over 200 total

**Municipal Association Webinar**

Location: New Hampshire Municipal Association

Date and Time: May 27, 2014 from 12 to 1PM

Attendees: Four including Tim Fortier of the NH Municipal Association. The webinar was recorded and is also online for viewing.

**Public Information Session Input**

The new program will need to be flexible and shouldn't have rigid eligibility criteria.

If there is much greater need than available funding, should there be a match to better leverage available funding?

If the need is much greater than available funding, should the state recover funds from responsible parties that were negligent?

I believe that the contracts required for this new program should be put out to bid.

How would a site become approved for this new program? Is there a list of MtBE sites?

Source control should be a higher priority than risk management.

How will existing sites be managed, will the new bureau take over these existing sites? Would sites currently operating under the Gasoline and Elimination of Ethers Fund (GREE) be automatically switched over to the new program?

What will the state do if non-MtBE volatile organic contaminants (VOCs) are detected? The additional contaminants could impact property values, if detected and not addressed.

How can consulting community become involved and help?

What is the breakdown of planned funding activities, how much is going to be spent on remedial versus infrastructure projects?

Will vapor intrusion risks be considered during prioritization of sites for funding?

What should be the funding eligibility trigger, ambient groundwater quality standards (AGQS) or something lower?

Would auto recyclers that are currently ineligible for GREE funding be eligible for this funding?

How soon will it be up and running?

Will the GREE fund be converted or merged with this new program?

Will the fund address MtBE source areas?

Can the new fund be used to help with the 2015 underground storage tank (UST) compliance deadline?

Can these funds be used to remove NH DOT USTs?

Can the funds be used to remove municipal tanks? Meredith currently has gasoline tanks that have to be upgraded due to the 2015 upgrade deadline. Would removal of these tanks be eligible for funding?

Will there be future public input opportunities?

Should the AGQS be looked at again?

Will full VOC scans be completed or will the state analyze only for MtBE?

How will the state go about discovering new sites and will the state evaluate sites that have been closed in the past?

What involvement will the PUC have with the infrastructure projects?

What happens at the end of six years, why was 6 years selected for the duration of this fund?

What will the funding eligibility criteria be for municipal water supply well replacement projects?

Summary: As can be seen from the above comments, most of the input was in the form of an effort by the public to understand the new program and how it will operate. The audiences were all very supportive of the key aspects and proposed structure of the new program but wanted to have future opportunities for input and wanted the state to leverage the funding when appropriate to obtain the best overall outcome.

**Appendix A-3 MtBE Remediation Fund Application Form**



**MtBE Reimbursement Fund**

FOR STATE USE ONLY

Date Received: \_\_\_\_\_  
DES#: \_\_\_\_\_

**MtBE Reimbursement Fund Assistance Application**

The State of New Hampshire received settlement funds to resolve litigation related to MtBE contamination. The use of funds is restricted to projects that are related to and address MtBE contamination. Municipalities and individuals applying for MtBE reimbursement fund assistance may fill out the following form. DES will then evaluate the applications and contact applicants to discuss eligibility for assistance. Please complete the following application form and, if necessary, attach additional sheets to provide the requested information:

**I. Applicant Information**

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/Town: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Contact's Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Email Address \_\_\_\_\_

**II. Project Description**

Project Name: \_\_\_\_\_

DES Site# (MtBE contamination source, if known): \_\_\_\_\_

Proposed Project Overview: \_\_\_\_\_

\_\_\_\_\_

Risk Posed by MtBE (check all that apply):

Groundwater Contamination       Potential Indoor Air Threat

Soil Contamination                       Surface Water Contamination

Drinking Water Wells>AGQS (13 ppb)       Other \_\_\_\_\_

Drinking Water Wells<AGQS (13 ppb)

MtBE Contamination Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Previous relevant report(s) available?  Yes  No

If yes, please list key reports (note: site information can be found at the DES ONESTOP website

<http://des.nh.gov/onestop/index.htm> or by contacting DES). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**III. Assistance Requested**

Please describe the scope of the assistance being requested. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What are the estimated costs and basis for the estimate? If an estimate is unavailable, qualitative information such as the extent of contamination or number of homes impacted can be provided. \_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please describe benefits of the proposed project: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Send the completed application to:      DES/Waste Management Division  
   MtBE Remediation Bureau  
   P.O. Box 95, 29 Hazen Drive  
   Concord, NH 03302-0095

DES will attempt to provide a response within 30 days of receipt of a complete application. If you have any questions about the MtBE Remediation Fund, please contact DES at (603) 271-8873.

## Appendix A-4 - Work Scope Approval Form

# WORK SCOPE AUTHORIZATION - MtBE Fund

Use this form (s) to obtain pre-approval from DES for performing corrective action at sites eligible for the MtBE Remediation Fund. Contact DES for guidance on use of this form and the need for additional documentation to describe the proposed work.



**NOTE:** You must receive prior approval before initiating work.

**\*\*REIMBURSEMENT CANNOT BE AUTHORIZED IF A COMPLETE ESTIMATE IS NOT PRE-APPROVED BY DES\*\***

Facility Name: _____	NHDES No.: _____
Location Address: _____	Project Type: _____
Location Town: _____	Project Phase: _____
Facility Owner: _____	Consultant: _____
Dates of Work: _____	Contractor: _____

Task Summary: \_\_\_\_\_  
 \_\_\_\_\_

Description	Unit Basis (1)	Rate (1)	# Units	Comments	Estimated Cost
<b>Task total:</b>					

Task Summary: \_\_\_\_\_  
 \_\_\_\_\_

Description	Unit Basis (1)	Rate (1)	# Units		Estimated Cost
<b>Task total:</b>					

Task Summary: \_\_\_\_\_  
 \_\_\_\_\_

Description	Unit Basis (1)	Rate (1)	# Units		Estimated Cost
<b>Task total:</b>					

page 1 of 2

**Task Summary:** \_\_\_\_\_  
 \_\_\_\_\_

Description	Unit Basis (2)	Rate (2)	# Units		Estimated Cost
<b>Task total:</b>					

**Task Summary:** \_\_\_\_\_  
 \_\_\_\_\_

Description	Unit Basis (1)	Rate (1)	# Units		Estimated Cost
<b>Task total:</b>					

Task Summary: Laboratory Analysis

DES Approved 24 HR  
Turnaround?

Description	Unit Basis (1)	Rate (1)	# Units	Y/N	Estimated Cost
	Each				
<b>Task total:</b>					
<b>Total All Services:</b>					

Owner's Representative: \_\_\_\_\_  
(signature/date)

DES Approval: \_\_\_\_\_  
(signature/date)

You may refer to Section VI of the ODD Fund Guidance Manual for information on unit-based costs and rates. Current rates are published on the fund program web page in advance of Manual updates. Transportation and disposal should be performed at lowest cost. For landfill disposal of VPC soil, total transportation and disposal costs should be equal to or less than the thermal treatment cost. Additional disposal-related charges for waiting time, minimum loads and administrative fees will be considered on a case-by-case basis. Markup does not apply for transportation of contaminated materials, either on a time and materials or per-ton basis. For trucks and heavy equipment, the listed NTE rates in the Manual are intended for owned-equipment only. Rental equipment should be given as cost plus 10% markup, which should not exceed the owned-equipment rate.

A report documenting the approved work must be provided to DES by: \_\_\_\_\_

Appendix A-5 - Proposed Quarterly Reporting Format

**STATUS REPORT for MTBE Settlement Fund**

**Quarter Ending June 30, 2014**

**Prepared by:**

**Gary S. Lynn, P.E.**

**MTBE Remediation Bureau**

**Waste Management Division**

**New Hampshire Department of Environmental Services**

**Tel: 603-271-8873**

**E-mail: [Gary.Lynn@des.nh.gov](mailto:Gary.Lynn@des.nh.gov)**

**Date: July 10, 2014**



## **Introduction**

The Governor and Council and the Fiscal Committee of the Legislature have authorized the expenditure of \$22,316,661 of MtBE settlement funds during FY 2014 and 2015. Based on the terms of the court ordered settlement agreements, the funds must be used for MtBE related purposes. The Department of Justice (DOJ) and the New Hampshire Department of Environmental Services (DES) developed a memorandum of understanding (MOU) prior to the fiscal committee review and approval of the program budget. The MOU specifies the submittal of quarterly report to DOJ and an annual report to the legislature. An additional provision requires DOJ prior approval of expenditures greater than \$1 million. This quarterly report is developed in accordance with these requirements for the period specified in the cover page.

## **Fund Status**

Table 1 lists the expenses incurred during the quarter, the total expenses and the percentage of the budget expended to date. Note: The information provided in Table 1 is obtained from the Statement of Appropriation form dated July 1, 2014. The totals may change slightly if labor/benefit transfers occur after the date of that statement. Table 2 lists the approved work scopes and budgets and the total amount of authorized project budgets. In Table 2 the type of project is listed (i.e., investigation work, remediation work, assessment of impacts to water supply wells and mitigation of impacts to water supply wells). Table 3 is a list of all reimbursements that are pending or were approved during this quarter.

## **Site Work Initiated During the Reporting Period**

During this time period, the following work was completed (exclusive of infrastructure projects):

- Site investigations and remediation: DES approved \$115k in work scopes and budgets for our first remedial project, a soil excavation project at the Richmond Four Corner Store site. The project will be coordinated with Southwest Regional Planning Commission (SWRPC). SWRPC will remove the existing underground storage tank with their EPA Petroleum Brownfields Assessment grant funding. DES will use MtBE Remediation Fund money to reimburse for the cost of the contaminated soil excavation. DES is in the process of evaluating additional sites and will initiate additional cleanups based on the results of that evaluation.
- Prevention: No prevention projects were initiated this quarter. The existing response contract needs to be modified prior to the execution of tank removal projects. DES is in the process of developing a G&C contract amendment.
- Private well sampling: DES posted the sampler positions and the positions closed at the end of the quarter. DES ordered sampling equipment and the laptop computers for the sampling crews. DES also initiated work to develop a system to store the analytical results and track the private well owner contacts and scheduling information.

During this time period, a number of large infrastructure projects were approved. The following progress was made on the infrastructure projects:

- **Griffin Well Replacement Project:** The Griffin well is a municipal water supply well located in Dover. This well has been contaminated by a MtBE plume originating from the Madbury Metals site. The current approved phase of the project involves the installation of test wells and completion of a pump test to evaluate a potential location for a replacement well. DES/DOJ approved a work scope and budget during this quarter for this project. Work has been initiated.
- **Little Falls Cooperative Water Line Extension Project:** The Little Falls Mobile Home Cooperative project addresses MtBE contamination of the Cooperative's water supply wells. The project consists of extending the nearby Rochester municipal water line to the Cooperative. The Cooperative has selected Provan and Lorber to be the project engineer. Provan and Lorber is on the State of New Hampshire's list of engineers that are pre-approved for water supply work. A transition budget for their current environmental consulting firm (Stonehill Environmental) has been approved to facilitate bringing the new engineering firm up to speed.
- **Plaistow Lido Fire Suppression System Conversion Project:** The Plaistow Lido site has contaminated a significant portion of central Plaistow. The Town of Plaistow has a fire suppression system that extends to the impacted area and to nearby potential potable water sources. Conversion of the fire suppression system into a potable water system would permanently address the water supply wells that are impacted by the Plaistow Lido site. The current phase of work is the preparation of the feasibility study that will evaluate the costs and logistics of conversion of the fire suppression system. This phase of work was initiated under the GREE fund but will be converted to the MtBE Remediation Fund lead, if DOJ concurs with the change.

### **Site Work Completed During the Reporting Period**

During this time period, no projects were completed. The projects have recently been initiated and there has been insufficient time to complete the approved work.

Table 4 summarizes the number of active and closed MtBE Settlement Fund projects.

### **Administrative, Planning, and Outreach Activities Initiated/Completed**

During this quarter, the MtBE Remediation Bureau was established, four staffers were hired and an additional five positions were posted. It is anticipated that all bureau hiring will be complete by the end of the next quarter.

The MtBE Remediation Bureau completed significant public outreach efforts. Three public listening sessions were scheduled and held in Concord, Portsmouth and Lancaster. Similar presentations were provided to Southwest Regional Planning Commission, Southern New Hampshire Planning Commission, North Country Council, Inc., and Lakes Region Planning

Commission. There were also meetings with the City of Dover, Town of Plaistow and the Town of Derry regarding the new MtBE program and specific potential projects. DES also gave a presentation during the plenary session of the annual source water protection conference in April 2014. Finally, DES participated in a New Hampshire Municipal Association (NHMA) webinar in an effort to extend our outreach to a broader number of municipalities. The webinar is available online at the following website: <http://youtu.be/u-yHIIWgIRk>. DES estimates that the outreach effort reached approximately 500 New Hampshire citizens.

DES has initiated private well sampling planning efforts. The Geographic information system and various databases have been used to develop private well sampling plans for selected sites. Sampling supply ordering and other logistical needs are actively being addressed.

DES is also implementing changes in the existing database and reimbursement system to accommodate the new funding source. DES hopes to have functionality similar to the existing Petroleum Reimbursement Funds so that claims can be electronically uploaded, processed and paid.



**Table 1 - NH MtBE Remediation Fund**  
**Summary of Income & Expenses – 4th Quarter FY 2014**  
**April 1 to June 30, 2014**

	Budget	Expenses Current Period	Expenses To Date	Percent Expended
<b>INCOME</b>				
Initial Authorization	\$ 22,316,661	68,778.58	68,778.58	0.3%
<b>EXPENSES</b>				
CL 18 Overtime	12,000	1,299.25	1299.25	10.8%
CL 42 Additional Fringe Benefits	40,658			
CL 50 Temporary Part Time	755,201			
CL 59 Temporary Full Time	599,394	34,907.39	34,907.39	5.7%
CL 60 Benefits	702,001	17,102.41	17,102.41	2.4%
CL 66 Employee Training	<u>3,750</u>	<u>50</u>	<u>50</u>	1.3%
Subtotal Personnel & Benefits:	2,113,004	54,659.24	54,659.24	2.6%
CL 20 Current Expense	32,773	813.60	813.60	2.5%
CL 22 Outside Rents/Leases	4,301			
CL 24 Maintenance	420			
CL 27 Transfers to OIT	74,146			
CL 28 Transfers to Gen. Ser.	67,906			
CL 30 Equipment	52,500	1,671.06	1,671.06	3.2%
CL 37 PC Desktop Hardware	25,736	8,328.88	8,328.88	32.4%
CL 38 PC Desktop Software	3,237	3,237.00	3,237.00	100%
CL 39 Telecommunications	9,750			
CL 40 Indirect Costs	186,605			
CL 70 In-State Travel	4,533	68.80	68.80	1.5%
CL 101 Contractual - Medical Monitoring	6,750			
CL 102 Contractual	<u>4,825,000</u>	<u>0</u>	<u>0</u>	
Subtotal Expenses (1):	5,293,657	14,119.34	14,119.34	0.3%
CL 300 MtBE Fund Reimbursements	<u>14,910,000</u>	<u>0</u>	<u>0</u>	0%
Subtotal Reimbursements/Contractual (1):	14,910,000	0	0	0%
<b>Total Expenses:</b>	<u>\$ 22,316,661</u>	<u>\$ 67,478.39</u>	<u>\$ 67,478.39</u>	0.3%

**Table 2 – Authorized Work Scopes and Budgets**

<b>Project Name</b>	<b>DES Site #</b>	<b>Town</b>	<b>Phase of Work</b>	<b>Approved Budget</b>
<b>Griffin Well Replacement</b>	<b>198401044</b>	<b>Dover</b>	<b>Hydro-geo Investigation and Pump test</b>	<b>\$125,000</b>
<b>Richmond Four Corners</b>	<b>199206008</b>	<b>Richmond</b>	<b>Soil Excavation</b>	<b>\$115,873.16</b>
<b>Total Approved</b>				<b>\$240,873.16</b>

**Notes: No work scopes or budgets were approved during this time period for state led sites.**

**Table 3 – List of all Reimbursements Approved and Pending in Quarter**

**No reimbursements are either pending or approved.**

Table 4 – Summary Statistics

**TABLE 4 - STATE OF NEW HAMPSHIRE MtBE SETTLEMENT FUND  
SUMMARY STATISTICS FOURTH QUARTER 2014**

**FACILITY OR PROJECT ELIGIBILITY**

		Active	Completed	Total
Infrastructure Projects		2		2
Remedial or Investigation Projects		1		1
Prevention Projects				
Drinking Water Samples Analyzed				

**REIMBURSEMENT SUBMITTALS & ACTIONS**

		Number
Reimbursement Submittals		0
Submittal Actions		0
Submittals Pending Action		0

**SETTLEMENT FUND CONTRACTUAL PAYMENTS OR REIMBURSED COSTS**

	By Contract for Quarter	Reimbursed for Quarter	Total
Remedial or Investigation Projects			\$0
Infrastructure Projects			\$0
Prevention Projects			\$0
Drinking Water Analysis			\$0