



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner



81
 Burack

May 26, 2016

The Honorable Neal M. Kurk, Chairman
 Fiscal Committee of the General Court
 State House

Her Excellency, Governor Margaret Wood Hassan
 and the Honorable Council
 State House
 Concord, NH 03301

REQUESTED ACTION

Pursuant to RSA 14:30-a, VI, authorize the Department of Environmental Services (DES) accept and expend \$5,198,361 in MtBE settlement funds from the Department of Justice (DOJ) to implement an MtBE corrective action plan, effective upon Fiscal Committee and Governor and Council approval through June 30, 2017. Funding is 100% MTBE Settlement funds.

Funding is to be appropriated as follows:

MTBE Settlement
 03-44-44-444010-88930000

Class	Budget Category	FY 2016 Original Budget	Requested Action	Revised Budget
Income				
009-407624	MtBE Funds	(19,079,599)	(5,198,361)	(24,277,960)
Expenditures				
018-500106	Overtime	10,000	15,176	25,176
020-500200	Current Expense	26,042	18,150	44,192
022-500255	Rents - Leases Other Than State	7,448	4,327	11,775
024-500227	Main Other Than Building	420	0	420
026-500251	Dues	0	435	435
027-502799	Transfers to DOIT	58,011	23,636	81,647
028-500292	Transfers to General Services	64,500	51,851	116,351
030-500320	Equipment New Replacement	82,607	15,760	98,367
037-500173	Technology - Hardware	17,407	0	17,407
038-500175	Technology - Software	10,000	6,941	16,941
039-500188	Telecommunications	9,300	6,852	16,152
040-500800	Indirect Costs	133,037	53,848	186,885
042-500620	Additional Fringe Benefits	41,780	29,519	71,299

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
 (603) 271-7174 • TDD Access: Relay NH 1-800-735-2964

(Continued)

Class	Budget Category	FY 2016 Original Budget	Requested Action	Revised Budget
049-584495	Transfer to Other Agencies	0	403	403
050-500109	Personnel Service Temp Appoint.	477,084	354,139	831,223
059-500117	Temporary Full Time	403,805	392,803	796,608
060-500601	Benefits	382,268	397,053	779,321
066-500543	Employee Training	9,000	2,379	11,379
070-500705	In-State Travel Reimbursement	7,158	2,725	9,883
080-500715	Out-of-State Travel Reimbursement	0	6,900	6,900
101-500729	Medical Payments to Providers	6,622	3,578	10,200
102-500731	Contracts for Program Services	5,541,352	2,192,264	7,733,616
300-500830	Reimbursements	11,791,758	1,619,622	13,411,380
	Total	19,079,599	5,198,361	24,277,960

EXPLANATION

In 2003, DOJ sued gasoline manufacturers and marketers to obtain damages for the statewide problem of MtBE contamination. DOJ has since settled with every defendant other than ExxonMobil. After deductions from the settlement for legal fees, costs, and administrative expenses, \$81.6 million in settlement money is available for remediation of MtBE contamination in groundwater and drinking water. The MtBE Remediation Bureau is operating under the terms of a Memorandum of Understanding (MOU) with DOJ regarding the use of the settlement funds. The purpose of this request is to authorize DES to accept and expend additional settlement funds from DOJ, to continue with implementation of the MtBE corrective action plan. This includes the use of state cleanup, remediation, water treatment, analytical laboratory contractors, and reimbursement to affected parties for state approved remedial costs and for DES personnel. This request is to supplement the existing FY2016/2017 budget. The FY2016/2017 budget was funded by reallocating unexpended funds for the FY2014/2015 budget. It is now necessary to provide additional funding to ensure that there is sufficient budget to last until the end of the biennium.

Expenditures itemized by Class included in this request are described as follows:

- Class 018 To cover the cost for overtime for personnel.
- Class 020 To cover costs for postage, office supplies, field supplies and vehicle expenses.
- Class 022 To cover costs for rent related to office equipment, such as a copier/scanner, and lease space at the Pease International Tradeport office of DES for seacoast area field work.
- Class 026 To cover costs for National Groundwater Association Dues (reduces the costs of NGWA training and provides access to technical publications and scientific literature collections)
- Class 027 To cover costs for Information Technology services.
- Class 028 To cover costs for Hazen Drive building rent.

Class 030 To cover costs for office equipment.
 Class 038 To cover the costs of software purchases and licenses.
 Class 039 To cover the costs for telecommunications.
 Class 040 To cover the program share of statewide indirect costs.
 Class 042 To cover the program share of additional fringe benefits.
 Class 049 To cover costs to participate in the employee assistance program.
 Class 050 To cover the costs for 8 full-time permanent positions currently funded in other programs but working on MtBE cleanup projects. These positions have been temporarily reassigned to the MtBE program. It will also cover the costs for other staff that perform support services and charge those costs to the MtBE program. MtBE funds will be used to supplant funding of the positions which are currently budgeted as follows:

Vacant Positions to be Temporarily Reassigned to the MtBE Program

Position #	Title	Budget (03-44-44-)	Funding Mix	\$ Amount
40492	Hydrogeologist V	444010-25140000	100% Federal	75,609
12030	Hydrogeologist III	444010-53920000	100% Other	31,366
19746	Environmentalist III	443010-91030000	100% Other	46,391
19736	Environmentalist II	442010-38550000	100% Other	18,876
43355	Environmentalist II	442010-36730000	100% Other	37,752
43359	Environmentalist II	442010-36730000	100% Other	44,480
12105	Environmentalist II	442010-12000000	100% Other	39,293
42224	Executive Secretary	443010-90030000	100% Other	29,796
				Total: 323,563

Existing Positions That Will Charge Limited Time to the MtBE Program

Position #	Title	Budget (03-44-44-)	Funding Mix	\$ Amount
16792	Civil Engineer VI	444010-14090000	100% Other	1,650
42135	Civil Engineer V	444010-14210000	100% Other	4,150
42141	Hydrogeologist III	444010-14210000	100% Other	4,150
19883	Hydrogeologist III	444010-20750000	100% Federal	1,650
18330	Hydrogeologist IV	444010-14210000	100% Other	4,150
42142	Environmentalist IV	444010-14210000	100% Other	1,650
41644	Administrator IV	441018-47900000	100% Other	4,076
19124	Hydrogeologist V	441018-47900000	100% Other	4,650
42731	Accountant III	440010-59230000	100 % Other	4,450
				Total: \$30,576

Total for Class 50: \$354,139

Class 059 To cover the costs for the full-time, temporary bureau personnel that were approved by Fiscal Committee item# FIS 13-246 (approved on November 22, 2013) with extensions

The Honorable Neal M. Kurk, Chairman
Fiscal Committee of the General Court

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
page 4

in service dates amended by Fiscal Committee item # FIS 15-117 (July 29, 2015) and by
Fiscal Committee item # FIS 15-239 (December 18, 2015).

Class 060	To cover benefits for full-time and part-time personnel.
Class 066	To cover costs for employee training.
Class 070	To cover travel to various contaminated sites and to perform outreach and education.
Class 080	To cover travel costs for training.
Class 101	To cover the costs for field personnel health and safety training and medical monitoring.
Class 102	To cover the costs of laboratory, site cleanup and engineering services contracts.
Class 300	To cover costs for reimbursement of approved remedial project costs, including site investigation and remediation and provision of safe drinking water.

We respectfully request your approval.


Thomas S. Burack, Commissioner



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

October 26, 2015

The Honorable Neal M. Kurk, Chairman
Fiscal Committee of the General Court
State House

APPROVED
FISCAL COMMITTEE
DATE 12/18/15
ITEM # 15-239

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

APPROVED G & C
DATE 12/16/15
ITEM # 58

REQUESTED ACTIONS

1. Pursuant to RSA 14:30-a, VI, authorize the Department of Environmental Services (DES) to amend Fiscal Committee item# FIS 13-246 (approved on November 22, 2013) and G&C item# 22 (approved on December 4, 2013) as amended by Fiscal Committee item # FIS 15-117 (July 29, 2015) and G&C item # 61 (August 5, 2015) by extending the end date from December 31, 2015 to June 30, 2017 for the purpose of implementing the MtBE Settlement Agreements. No increase in funding is requested at this time. 100% MtBE Settlement Funds.
2. Pursuant to the provisions of RSA 124:15,I, authorize DES to extend the existing, five (5) full-time temporary positions end date from December 31, 2015 to June 30, 2017 effective upon Fiscal Committee approval. The positions were approved by the Division of Personnel on October 23, 2013. The positions were subsequently established by Fiscal Committee item# FIS 13-246, approved on November 22, 2013 and amended by Fiscal Committee item # FIS 15-117 (July 29, 2015).

Classification	Administrator IV	Administrator III	Civil Engineer VI	Environmentalist IV (2 positions)
Position #:	9T2655	9T2666	9T2666	9T2667/9T2668
Labor Grade:	33	31	32	27
Salary Range:	\$67,431 – \$92,313	\$61,484 – \$84,669	\$64,409 – \$88,491	\$51,773 – \$70,064

3. Pursuant to RSA 14:30-a, VI, authorize the Department of Environmental Services (DES) to amend Fiscal Committee item# FIS 13-246 (approved on November 22, 2013) and G&C item# 22 (approved on December 4, 2013) as amended by Fiscal Committee item # FIS 15-117 (July 29, 2015) and G&C item # 61 (August 5, 2015) to extend the end date for the reallocation of \$1,579,195 of MTBE Settlement funds from December 31, 2015 to June 30, 2017; effective upon Fiscal Committee and Governor and Council approval. 100% MTBE Settlement funds.

EXPLANATION

The MtBE Remediation Bureau budget extension, transfer of funds, and continuation of five full time temporary positions, was approved by the Joint Legislative Fiscal Committee on July 29, 2015, FIS 15-117. The Governor and Executive Council subsequently approved the budget extension and transfer of funds on August 5, 2015, Item# 61. At the time of approval of the program's budget extension, the State was operating under a Continuing Resolution, resulting in the budget and positions being authorized for only the first six months of state Fiscal Year 2016 through December 31, 2015. Now that the State's budget for the full Fiscal Year 2016/2017 biennium has been signed into law, the approved budget, budget reallocation and temporary personnel end dates are being requested to extend through the end of the Fiscal Year 2016/2017 biennium.

The following is intended to address the seven questions required by the Fiscal Committee with respect to the acceptance of federal and other funds in which new positions are established or extended:

Q-1. List all Personnel by Classification, Labor Grade, and Salary:

See table above for temporary full-time personnel (positions originally approved on November 22, 2013 with extension approved on July 29, 2015).

Q-2. Explain the Nature, Need and Duration of the Program:

The positions subject to this request will be funded until June 30, 2017. Additional future funding requests are anticipated to fully utilize the MTBE settlement funding. The primary responsibility of the new and reassigned positions is to develop, administer, and manage a statewide MTBE corrective action plan, including work by DES contractors and distribution of financial assistance to affected parties. This requires a level of technical knowledge and skill that is consistent with the position classifications.

Q-3. What is the Relationship to Existing Programs?

The new positions are needed to provide DES with specific and dedicated expertise to implement a complex and comprehensive plan to address statewide MTBE contamination. Although current DES personnel perform MTBE contamination work in existing programs using existing funding, and are expert in that regard, their workload is too great to absorb all the new work planned for the settlement funds.

Q-4 Has a Substantially Similar Program been Requested of the Legislature and Denied?

No. This situation is unique and unprecedented.

Q-5 Why was this Program and its Funding Not Included in the Operating Budget?

At the time that the program was originally established, the State Operating Budget was being prepared, the case was still in litigation, and settlements with settling parties had not been completed. The program was established at that point in time as a temporary program and with the expectation of separate fiscal requests to reauthorize the program in each subsequent biennium until all settlement funds have been expended (currently projected to be approximately six years).

The Honorable Neal M. Kurk, Chairman
Fiscal Committee of the General Court

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
page 3

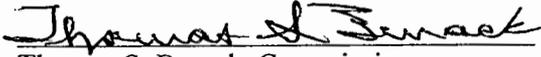
Q-6 Can any Portion of the Funds Be Utilized if Either, None, or Only Part of the Positions are Authorized?

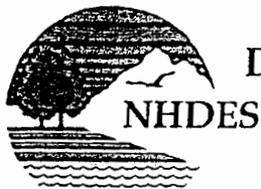
Yes. However, due to existing workload, significant limitations would be placed on timely implementation of the full settlement funding plan. A much longer timeframe than the projected 6 years would be necessary.

Q-7 What is the Estimate of the Amount of Funding Required to Continue the Positions in Future Years?

The positions created with settlement funds are not currently anticipated to be converted to permanent positions once all of the settlement funds have been expended. At this time, potential future funding needs are too difficult to predict, but in no case are they currently expected to involve any General Funds.

We respectfully request your approval.


Thomas S. Burack, Commissioner



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

July 1, 2015

The Honorable Neal M. Kurk, Chairman
 Fiscal Committee of the General Court
 State House

APPROVED
 FISCAL COMMITTEE
 DATE 7/29/15
 ITEM # FIS 15-117

Her Excellency, Governor Margaret Wood Hassan
 and the Honorable Council
 State House
 Concord, NH 03301

APPROVED G & C
 DATE 8/5/15
 ITEM # 61

REQUESTED ACTIONS

1. Pursuant to RSA 14:30-a, VI, authorize the Department of Environmental Services (DES) to **retroactively** amend Fiscal Committee item# FIS 13-246 and G&C item# 22 (approved on December 4, 2013) by extending the end date from June 30, 2015 to December 31, 2015 for the purpose of implementing the MtBE Settlement Agreements. No increase in funding is requested at this time. 100% MtBE Settlement Funds.

2. Pursuant to the provisions of RSA 124:15,I, authorize DES to **retroactively** extend the existing, five (5) full-time temporary positions end date from June 30, 2015 to December 31, 2015 effective upon Fiscal Committee approval. The positions were approved by the Division of Personnel on October 23, 2013. The positions were subsequently established by Fiscal Committee item# FIS 13-246, approved on November 22, 2013.

Classification	Administrator IV	Administrator III	Civil Engineer VI	Environmentalist IV (2 positions)
Position #:	9T2655	9T2666	9T2666	9T2667/9T2668
Labor Grade:	33	31	32	27
Salary Range:	\$67,431 – \$92,313	\$61,484 – \$84,669	\$64,409 – \$88,491	\$51,773 – \$70,064

3. Pursuant to RSA 14:30-a, VI, authorize the Department of Environmental Services (DES) to amend Fiscal Committee item# FIS 13-246 and G&C item# 22 (approved on December 4, 2013) MTBE Settlement by reallocating \$1,579,195 for better utilization of funds; effective upon Fiscal Committee and Governor and Council approval through December 31, 2015. 100% MTBE Settlement funds.

Funding is to be rebudgeted as follows:

MTBE Settlement
03-44-44-444010-88930000
FY 2016/2017

Class	Budget Category	Current Budget	Requested Action	Revised Budget
Income				
009-407624	MtBE Funds	\$ (18,094,027)	-0-	\$ (18,094,027)
Expenditures				
18-500106	Overtime	6,631	3,369	10,000
20-500200	Current Expense	14,300	11,950	26,250
22-500255	Rents/Leases	4,301	3,147	7,448
24-500227	Contract Repairs	420	-0-	420
27-502799	Transfers to OIT	13,052	49,754	62,806
28-500292	Transfers to General Services	9,474	59,317	68,791
30-500320	Equipment	10,317	17,795	28,112
37-500173	Hardware	17,407	-0-	17,407
38-500175	Software	1,034	8,966	10,000
39-500188	Telecommunications	7,884	1,416	9,300
40-500800	Indirect Costs	132,057	3,203	135,260
42-500620	Additional Fringe Benefits	11,906	31,204	43,110
50-500109	Temporary Personnel	490,269	16,468	506,737
59-500117	Full Time Temporary	225,524	175,052	400,576
60-500601	Benefits	361,265	36,967	398,232
66-500543	Employee Training	1,551	7,449	9,000
70-500705	In-State Travel	127	7,071	7,198
101-500729	Medical Providers	6,622	-0-	6,622
102-500731	Contracts for Program Services	3,408,933	1,146,067	4,555,000
300-500830	Reimbursements	13,370,953	(1,579,195)	11,791,758
	Total	\$ 18,094,027	-0-	\$ 18,094,027

EXPLANATION

In 2003, the NH Department of Justice (DOJ) sued gasoline manufacturers and marketers to obtain damages for the statewide problem of MtBE contamination. DOJ has since settled with every defendant other than ExxonMobil. After deductions from the settlement for legal fees, costs, and administrative expenses, \$81,630,000 in settlement money is available for remediation of MtBE contamination in groundwater and drinking water. The MtBE Remediation Bureau is now fully staffed and is operating under the terms of a Memorandum of Understanding (MOU) with DOJ regarding the use of the settlement funds (see attached

MOU). Program related contracts and the reimbursement process are in place making it possible to accelerate the rate of cleanup and infrastructure improvements.

The purpose of this request is to extend the authorization period for the 5 full-time temporary MtBE Remediation Bureau staff, to carry forward the FY 14/15 funding authorization into the current FY 16/17 biennium and to rebudget previously approved funds to allow DES to continue to operate the new MtBE Remediation Fund and Bureau. When the FY14/15 budget for the MtBE Remediation Fund was established, many of the details and needs of the program were not yet established. Additionally, the Department did not expend funds as quickly as anticipated since the program has been fully operational less than a year instead of the anticipated year and a half. Extension of the existing funding authorization will allow DES to continue to operate the program until December 31, 2015. The extension of the personnel authorization is necessary to ensure that sufficient personnel are in place to administer the program. A supplemental funding request will be made when additional spending authorization is needed. The proposed changes have been discussed with the Department of Justice (DOJ) and DOJ approves of the changes to the budget.

DES is requesting to rebudget these funds as shown below:

- Class 018 To cover the cost for overtime for personnel expenses.
- Class 020 To cover costs for public outreach, postage, office supplies, field supplies and vehicle
- Class 022 To cover costs for rent related to office equipment, such as a copier/scanner, and to lease space at the Pease International Tradeport office of DES for seacoast area field work.
- Class 027 To cover costs for Department of Information Technology services.
- Class 028 To cover costs for Hazen Drive building rent.
- Class 030 To cover costs for a field vehicle and scientific instrumentation.
- Class 038 To cover the costs of database and GIS desktop software for the efficient processing, interpretation and presentation of the collected water quality data.
- Class 039 To cover the costs of telecommunications.
- Class 050 Extension of the existing budget deadline will provide funds to cover the costs for 8 full-time permanent positions currently funded in other programs but working on MtBE cleanup projects. These positions have been temporarily reassigned to the MtBE program. It will also cover the costs for 10 other staff who will perform support services and charge those costs to the MtBE program. MtBE funds will be used to supplant funding of the positions which are currently budgeted as follows:

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council

page 4

Vacant Positions to be Temporarily Reassigned to the MtBE Program

Position #	Title	Budget (03-44-44-)	Funding Mix	Biennium \$ Amount
40492	Hydrogeologist V	444010-25140000	100% Federal	71,497
12030	Hydrogeologist III	444010-53920000	100% Other	62,098
19746	Environmentalist III	443010-91030000	100% Other	45,929
19736	Environmentalist II	442010-38550000	100% Other	40,572
43355	Environmentalist II	442010-36730000	100% Other	38,898
43359	Environmentalist II	442010-36730000	100% Other	44,038
12105	Environmentalist II	442010-12000000	100% Other	38,898
42224	Executive Secretary	443010-90030000	100% Other	29,503
Total:				\$371,433

Existing Positions That Will Charge Limited Time to the MtBE Program

Position #	Title	Budget (03-44-44-)	Funding Mix	\$ Amount
12127	Administrator IV	444010-14000000	100% Other	7,100
16792	Civil Engineer VI	444010-14090000	100% Other	10,650
42135	Civil Engineer V	444010-14210000	100% Other	14,200
42141	Hydrogeologist III	444010-14210000	100% Other	14,200
19883	Hydrogeologist III	444010-20750000	100% Federal	10,650
18330	Hydrogeologist IV	444010-14210000	100% Other	14,200
42142	Environmentalist IV	444010-14210000	100% Other	10,650
41644	Administrator IV	441018-47900000	100% Other	10,650
19124	Hydrogeologist V	441018-47900000	100% Other	10,650
42731	Accountant III	440010-59230000	100 % Other	32,354
Total:				\$135,304

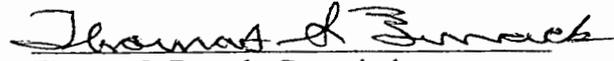
Total for Class 50: \$506,737

- Class 059 To cover the costs for the full-time, temporary bureau personnel.
- Class 060 To cover benefits for full-time personnel.
- Class 066 To cover costs for employee training.
- Class 070 To cover travel to various contaminated sites and to perform outreach and education.
- Class 101 To cover the costs for field personnel OSHA required medical monitoring.
- Class 102 To cover contracts for cleanup and drinking water contracts.
- Class 300 A reduction is requested to facilitate the above requested budget revisions without increasing the total program appropriation. The reduction in this class will not adversely affect the ability of the program to complete its work.

The Honorable Neal M. Kurk, Chairman
Fiscal Committee of the General Court

Her Excellency, Governor ~~Margaret Wood Hassan~~
and the Honorable Council
page 5

We respectfully request your approval.


Thomas S. Burack, Commissioner



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

FIS 13 246



Thomas S. Burack, Commissioner

November 22, 2013

The Honorable Mary Jane Wallner, Chairman
 Fiscal Committee of the General Court
 and

Her Excellency, Governor Margaret Wood Hassan
 and the Honorable Council
 State House
 Concord, New Hampshire 03301

REQUESTED ACTIONS

- Pursuant to RSA 14:30-a VI, authorize the Department of Environmental Services (DES) to accept and expend \$22,316,661 in "MTBE" settlement funds from the Department of Justice (DOJ) to implement an MTBE corrective action plan, effective upon Fiscal Committee and Governor and Council approval through June 30, 2015.

Funding to be appropriated as follows:

100% MTBE settlement funds.

MTBE Settlement
03-44-44-444010-88930000

Class	Title	FY 14 Current Budget	Requested Action	Revised Budget
	Revenue			
009-407624	MTBE Funds	\$0	(\$22,316,661)	(\$22,316,661)
	Expenditures			
18-500106	Overtime	\$0	\$12,000	\$12,000
20-500200	Current Expense	\$0	\$32,773	\$32,773
22-500255	Rents/Leases	\$0	\$4,301	\$4,301
24-500227	Contract Repairs	\$0	\$420	\$420
27-502799	Transfers to OIT	\$0	\$74,146	\$74,146
28-500292	Transfers to General Services	\$0	\$67,906	\$67,906
30-500320	Equipment	\$0	\$52,500	\$52,500
37-500173	PC Desktop Hardware	\$0	\$25,736	\$25,736
38-500175	PC Desktop Software	\$0	\$3,237	\$3,237
39-500188	Telecommunications	\$0	\$9,750	\$9,750
40-500800	Indirect Costs	\$0	\$186,605	\$186,605
42-500620	Additional Fringe Benefits	\$0	\$40,658	\$40,658
50-500109	Temporary Personnel	\$0	\$755,201	\$755,201
59-500117	Full Time Temporary	\$0	\$599,394	\$599,394
60-500601	Benefits	\$0	\$702,001	\$702,001

DES Web Site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
 Telephone: (603) 271-3899 Fax: (603) 271-2181 TDD Access: Relay NH 1-800-735-2964

66-500543	Employee Training	\$0	\$3,750	\$3,750
70-500705	In-State Travel	\$0	\$4,533	\$4,533
101-500729	Medical Providers	\$0	\$6,750	\$6,750
102-500731	Contracts for Program Services	\$0	\$4,825,000	\$4,825,000
300-500830	Reimbursements	\$0	\$14,910,000	\$14,910,000
	Total:	\$0	\$22,316,661	\$22,316,661

2. Pursuant to the provisions of RSA 124:15,I, authorize DES to establish five (5) full-time, temporary positions effective upon Fiscal Committee and Governor and Council approval through June 30, 2015. The positions were approved by the Division of Personnel on October 23, 2013. A copy of the approval documentation is attached.

Classification:	Administrator IV	Administrator III	Civil Engineer VI	Environmentalist IV (2 positions)
Position #:	9T2655	9T2666	9T2669	9T2667 / 9T2668
Labor Grade:	33	31	32	27
Salary Range:	\$67,343 - \$92,209	\$61,411 - \$84,561	\$64,325 - \$88,386	\$51,696 - \$69,968

EXPLANATION

In 2003, the Department of Justice (DOJ) sued gasoline manufacturers and marketers to obtain damages for the statewide problem of MTBE contamination. DOJ has since settled with every defendant other than ExxonMobil.¹ After deductions from the settlement payments for legal fees, costs, and administrative expenses, \$81,630,000 in settlement money is available for remediation of MTBE contamination in groundwater and drinking water. The purpose of this request is to authorize DES to accept and expend \$22,316,661 in settlement funds from DOJ, to establish and begin implementation of a comprehensive MTBE corrective action plan. This includes the use of state cleanup/remediation contractors, reimbursements to affected parties for approved remedial costs, and DES personnel. Activity will be reported annually to the Fiscal Committee, Governor and Council, and House and Senate leadership.

In consultation with DOJ, DES is developing a detailed plan for use of the settlement funds that will be presented in early 2014, after public input. The estimated time period for implementing the entire plan is 6 years. The plan will include funds allocated for: (1) installation and improvement of public water supply infrastructure in areas having significant MTBE contamination, (2) investigation and remediation of existing contamination sites where private water wells are impacted, (3) testing at-risk private water wells within a location radius of contamination source sites, and (4) implementation of measures to prevent further MTBE contamination. In the near term, work will begin on plan elements that involve the most significant public health risk concerns. This includes private water well testing and work at highly contaminated sites. Due to the significant technical complexity and expertise needed for the development and implementation of the plan, as well as annual reporting, high-level professional personnel are necessary.

The five requested full-time temporary positions will be combined with eight (8) temporarily reassigned existing vacant DES positions to form an MTBE remediation bureau that will implement the workplan. The

¹ The State also obtained a jury verdict of approximately \$236M against ExxonMobil. The verdict is currently under appeal. This request applies only to the settlement funds.

bureau's efforts will be divided between MTBE site cleanup and drinking water quality assessment. Three staff will work on the investigation and cleanup of priority MTBE-contaminated sites. Three staff will work on establishing and implementing comprehensive plans to sample at-risk private and transient public water supply wells to identify areas impacted by MTBE contamination. An additional five staff will support the field sampling efforts, and will only be hired after comprehensive sampling plans and lab analysis contracts are in place. The bureau will be led by an administrator and supported by an executive secretary. Staff in the bureau will also utilize existing DES staff in related programs on an as-needed basis to provide support to this important work.

Expenditures itemized by Class included in this request are budgeted for a partial year in FY 2014 and a full year in FY 2015, and described as follows:

- Class 018 To cover the cost of overtime for full-time temporary personnel.
- Class 020 To cover costs for public outreach, postage, office supplies, and vehicle expenses.
- Class 022 To cover costs for rented office equipment.
- Class 024 To cover costs for equipment repairs and maintenance.
- Class 027 To cover costs for Information Technology services.
- Class 028 To cover costs for building rent and related services.
- Class 030 To cover start up costs including vehicles, scientific instrumentation, and office equipment.
- Class 037 To cover the costs for desktop computers for the new staff
- Class 038 To cover the costs for desktop software for the new staff
- Class 039 To cover the costs for telecommunications.
- Class 040 To cover the program share of statewide indirect costs.
- Class 042 To cover the program share of additional fringe benefit costs.
- Class 050 To cover the costs for 8 full-time, permanent positions currently funded in other programs. These vacant positions will be filled and temporarily reassigned to the MTBE program. To cover the costs for 9 part-time equivalent personnel that work in related programs and will perform support services and charge those costs to the MTBE program. MTBE funds will be used to supplant funding of the positions, which are currently budgeted as follows:

Vacant Positions to be Temporarily Reassigned to MTBE Program

Position #	Title	Budget	Funding Mix	\$ Amount
40492	Hydrogeologist V	03-44-44-444010-25140000	100% Federal	118,191
12030	Hydrogeologist III	03-44-44-444010-53920000	100% Other	93,754
19746	Environmentalist III	03-44-44-443010-91030000	100% Other	93,754
19736	Environmentalist II	03-44-44-442010-38550000	100% Other	58,715
43355	Environmentalist II	03-44-44-442010-36730000	100% Other	58,715
43359	Environmentalist II	03-44-44-442010-36730000	100% Other	58,715
12105	Environmentalist II	03-44-44-442010-12000000	100% Other	66,082
42224	Executive Secretary	03-44-44-443010-90030000	100% Other	47,672
Total:				\$595,598

Existing Positions That Will Charge Limited Time to the MTBE Program

Position #	Title	Budget	Funding Mix	\$ Amount
12127	Administrator IV	03-44-44-444010-14000000	100% Other	12,756
16792	Civil Engineer VI	03-44-44-444010-14090000	100% Other	25,892
42135	Civil Engineer V	03-44-44-444010-14210000	100% Other	17,673

42140	Civil Engineer V	03-44-44-444010-14210000	100% Other	23,144
19883	Hydrogeologist III	03-44-44-444010-20750000	100% Federal	21,154
18330	Hydrogeologist IV	03-44-44-444010-14210000	100% Other	19,619
41644	Administrator IV	03-44-44-442010-47900000	100% Other	7,029
19124	Hydrogeologist V	03-44-44-442010-47900000	100% Other	32,336
				Total: \$159,603
				Total for Class 50: \$755,201

Funding that is budgeted in the accounts for the current positions referenced above will either be lapsed or closed-to-control.

- Class 059 To cover the costs for the 5 full-time, newly-established temporary positions for management, administration, and technical support that are listed on page 2.
- Class 060 To cover benefits for full-time and part-time personnel.
- Class 066 To cover costs for employee training.
- Class 070 To cover travel to various contaminated sites, and to perform outreach and education.
- Class 101 To cover costs for personnel medical monitoring.
- Class 102 To cover costs for DES contractors performing work at MTBE contaminated sites, work to prevent further contamination, and work to provide safe drinking water.
- Class 300 To cover costs for reimbursement of approved remedial project costs, including site investigation and remediation, and provision of safe drinking water.

The following is intended to address the seven questions required by the Fiscal Committee with respect to the acceptance of federal and other funds in which new positions are established or extended:

Q-1. List All Personnel by Classification, Labor Grade, and Salary:

See tables above for new temporary full-time personnel and temporary personnel reassignments.

Q-2. Explain the Nature, Need, and Duration of the Program:

The positions subject to this request will be funded until June 30, 2015. Additional FY funding requests are anticipated to fully utilize the MTBE settlement funding. The primary responsibility of the new and reassigned positions is to develop, administer, and manage a statewide MTBE corrective action plan, including work by DES contractors and distribution of financial assistance to affected parties. This requires a level of technical knowledge and skill that is consistent with the position classifications.

Q-3. What is the Relationship to Existing Programs?

The new positions are needed to provide DES with specific and dedicated expertise to implement a complex and comprehensive plan to address statewide MTBE contamination. Although current DES personnel perform MTBE contamination work in existing programs using existing funding, and are expert in that regard, their workload is too great to absorb all the new work planned for the settlement funds.

Q-4. Has a Substantially Similar Program been Requested of the Legislature and Denied?

No. This situation is unique and unprecedented.

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court

Her Excellency, Margaret Wood Hassan
And the Honorable Council
Page 5

Q-5 Why was this Program and Its Funding Not Included in the Operating Budget?

At the time that the State Operating Budget was being prepared the case was still in litigation, and settlements with settling parties had not been completed.

Q-6 Can any Portion of the Funds Be Utilized if Either, None, or Only Part of the Positions are Authorized?

Yes. However, due to existing workload, significant limitations would be placed on timely implementation of the full settlement funding plan. A much longer timeframe than 6 years would be necessary.

Q-7 What is the Estimate of the Amount of Funding Required to Continue the Positions in Future Years?

The positions created with settlement funds will not be converted to permanent when the settlement funds are expended. At this time, potential future funding needs are too difficult to predict, but in no case would they involve any General Funds.

We respectfully request your approval.


Thomas S. Burack, Commissioner

Attachment: Division of Personnel Approval