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Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Assistant Commissioner

Bureau of Environment
June 8, 2021

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

In accordance with the requirements approved by Governor and Executive Council on April 17, 2019 (Item #39), authorize the Department of Transportation (DOT) to continue to make payments to the Department of Natural and Cultural Resources (DNCR) (Vendor #177887) Natural Heritage Bureau (NHB) for reviews of rare plants and exemplary natural communities, as well as rare wildlife associated with DOT construction projects and maintenance activities for FY 2022 and FY 2023, in compliance with RSA 217-A, and NH Code of Administrative Rules Res 1105.02 Projects by State Agencies, effective upon Governor and Executive Council approval through June 30, 2023.

Funding for this request is contingent upon the availability and continued appropriation of funds in FY 2022 and FY 2023.

EXPLANATION

Pursuant to RSA 217-A:7, "All state agencies, consistent with their authority and responsibilities, shall assist and cooperate with the [DNCR] commissioner to carry out the purpose of this chapter. To the extent possible actions funded or carried out by state agencies shall not jeopardize the continued existence of any protected plant species or exemplary natural community." In addition, RSA 217-A:7-a establishes that the DNCR commissioner may charge a fee for screening NHB records for instances of protected species or environmental reviews. The NHB has established a fee of \$25.00 for access to these records. Having the flexibility for these payments is crucial to the nature of the work performed and completed by DOT.

In addition, and as approved by the Governor and Executive Council on April 17, 2019 (Item #39), at the conclusion of each fiscal year, an informational item will be provided identifying the NHB payments. This reporting system further assists the Governor and Executive Council in understanding this component of the DOT's work.

Your approval of this resolution is respectfully requested.

Sincerely,

Victoria F. Sheehan
Commissioner

VFS/ktn
Attachments

6-Jul-20

RSA 217-A Payments Summary

FY	217-A Project \$	DSA \$	Total
2020	\$1,370.00	\$730.00	\$2,100.00
2019	\$1,400.00	\$532.00	\$1,932.00
2018	\$1,725.00	\$532.00	\$2,257.00
2017	\$1,350.00	\$1,060.00	\$2,410.00
Total	\$5,845.00	\$2,854.00	\$8,699.00



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

G+C # 39
Date 4-17-19



William Cass, P.E.
Assistant Commissioner

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Bureau of Environment
March 4, 2019

REQUESTED ACTION

1. Authorize the Department of Transportation (DOT) to retroactively make payments to the Department of Natural and Cultural Resources (DNCR) (Vendor #177887) Natural Heritage Bureau (NHB) for reviews of rare plants and exemplary natural communities, as well as rare wildlife associated with DOT construction projects and maintenance activities for FY 2019, in compliance with RSA 217-A, and NH Code of Administrative Rules Res 1105.02 Projects by State Agencies, effective upon Governor and Council approval through June 30, 2019.

Funding for this request is available for FY 2019 based upon the source of funds for each particular project or activity.

2. Further authorize the Department to enter into a Data Sharing Agreement (DSA) with NHB for \$532.00 for access to NHB data, which enables DOT to self-screen and review certain construction projects and maintenance activities in order to streamline environmental reviews, in compliance with RSA 217-A, and NH Code of Administrative Rules Res 1105.02 Projects by State Agencies, effective upon Governor and Council approval through January 23, 2020. 100% Highway Funds.

Funding for this request is available as follows:

04-96-96-962015-3032	<u>FY 2019</u>
Bureau of Environment	
046-500464	
Gen Consultants Non-Benefit	\$532.00

EXPLANATION

This item is retroactive because DOT began making periodic payments to NHB for environmental reviews beginning on July 1, 2018, with DSA data transmitted in September of 2018. It wasn't until after this time that DOT realized the \$10,000.00 interagency transfer threshold had been reached. The NHB is mandated by the Native Plant Protection Act of 1988 (RSA 217-A) to determine protective measures and requirements necessary for the survival of native plant species in the state, to investigate the condition and degree of rarity of plant species, and to distribute information regarding the condition and protection of these species and their habitats. The Nongame & Endangered Wildlife Program of the NH Fish & Game Department coordinates protection efforts for the state's wildlife that are not hunted, fished, or trapped. The Nongame Program works closely with NHB to maintain a database of rare and imperiled wildlife populations throughout the state.

Pursuant to RSA 217-A:7, "All state agencies, consistent with their authority and responsibilities, shall assist and cooperate with the [DNCR] commissioner to carry out the purpose of this chapter. To the extent possible actions funded or carried out by state agencies shall not jeopardize the continued existence of any protected plant species

or exemplary natural community." In addition, RSA 217-A:7-a establishes that the DNCR commissioner may charge a fee for screening NHB records for instances of protected species or environmental reviews. The NHB has established a fee of \$25.00 for access to these records.

The DSA further streamlines DOT's review of construction projects and maintenance activities by allowing DOT Bureau of Environment staff to access a subset of data for self-screening of projects/activities where:

- Construction is located within 15 feet of a paved roadway on paved/gravel or mowed areas; and
- All work is within the existing right-of-way; and
- Permits pursuant to RSA 482-A are not required; and
- Drainage work is conducted in-kind; and
- Coverage under the US Environmental Protection Agency's Construction General Permit is not required; and
- There is no change in the footprint of paved areas.

Having the flexibility for these payments is crucial to the nature of the work performed and completed by DOT.

Below is a summary of the payments made by the DOT to DNCR pursuant to RSA 217-A, and NH Code of Administrative Rules Res 1105.02 for the past two (2) fiscal years:

RSA 217-A Payments Made to the Department of Natural and Cultural Resources

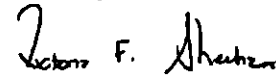
State FY	# of 217-A Project Payments to DNCR	Total Project Payments to DNCR	Data Sharing Agreement Fee	Total
2019 (YTD)	19	\$475.00	\$0.00	\$475.00
2018	69	\$1,725.00	\$532.00	\$2,257.00
2017	54	\$1,350.00	\$528.00	\$1,878.00
Total	142	\$3,550.00	\$1,060.00	\$4,610.00

Similar to the Governor and Executive Council-approved process for payments to the Department of Environmental Services for permitting and mitigation fees (G&C Item #28, November 18, 2016), at the conclusion of FY 2019 an informational item will be provided identifying the NHB payments made during FY 2019. In addition, a request will be made for continued approval for payments in the next fiscal year.

FY 2019 YTD vendor is over the Governor and Council threshold.

Your approval of this resolution is respectfully requested.

Sincerely,



Victoria F. Sheehan
Commissioner

VFS/ktn
Attachments