

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

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October 29, 2013

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court
State House
Concord, NH 03301

M. J. Rice 11/22/13
Approved by Fiscal Committee Date

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

REQUESTED ACTION

1. Pursuant to RSA 14:30-a, VI, authorize the Department of Justice to budget and expend prior year carry forward funds in the amount of \$22,316,661 from the MtBE settlement funds for the remediation of MtBE contamination in groundwater and drinking water effective with the approvals of the Fiscal Committee and Governor and Council through June 30, 2015. 100% Other Funds (MTBE Settlements).

These funds are to be budgeted in account #02-20-20-200010-3343, Department of Justice, MtBE Settlements as follows:

MtBE Settlements		Current	Requested	New
02-20-20-200010-3343		Budget	Action	Budget
<u>Class</u>	<u>Description</u>			
073-500582	Grants to other State Agencies	\$0	\$22,316,661	\$22,316,661
Revenue				
009-407129	Other Income	\$0	(\$22,316,661)	(\$22,316,661)
MtBE Settlements				

2. Contingent upon approval of requested action number one, authorize the Department of Justice to enter into a Memorandum of Understanding (MOU) with the Department of Environmental Services (DES) and grant DES \$22,316,661 to establish and begin the implementation of an MtBE corrective action plan for cleanup of the contamination of groundwater and drinking water effective with the date of Governor and Council approval through June 30, 2015.

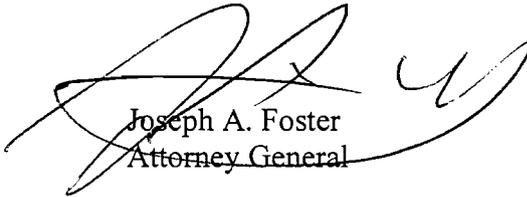
EXPLANATION

In 2003, the Department of Justice (DOJ) sued gasoline manufacturers and marketers seeking damages for the statewide problem of MtBE contamination. The State settled with all but one of the defendants. After deductions from the settlement payments for legal fees, costs, and administrative fees, the State has \$81,630,000 available for remediation of MtBE contamination in groundwater. The settlements, entered as orders of the court, require that the money be spent on MtBE-related remediation. The Department of Environmental Services (DES) has developed a plan for the efficient use of these funds. This plan is being presented to the committee as a separate DES item. DOJ requests authorization to grant \$22,316,661 to DES for implementation of the plan during the current biennium. DOJ and DES have entered into a separate Memorandum of Understanding (MOU) that allows DES to implement this plan while DOJ retains the right to review DES expenditures quarterly and to review any single expenditure over one million dollars (MOU attached).

Please let me know if you have any questions concerning this request.

Your consideration is greatly appreciated.

Respectfully submitted,



Joseph A. Foster
Attorney General

JAF/k
#964192

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.

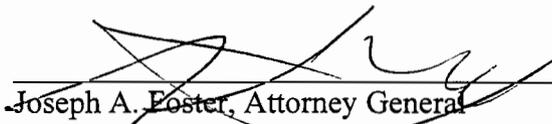
Prior to the ends of FY 2015, and FY 2017, respectively, DOJ and DES shall jointly determine the amount of funds that will be necessary to support the MTBE remediation program for the following biennium. Unless instructed otherwise by the Governor or the Legislature, DOJ will seek the approval of the 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.

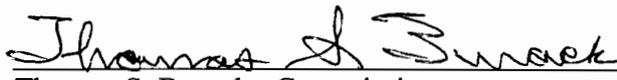
DES shall seek DOJ approval of any single project expenditure in excess of \$1,000,000.00.

10/31/13
Date



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

10/31/2013
Date



Thomas S. Burack, Commissioner
Department of Environmental Services