The State of New Hampshire
NHDES **Department of Environmental Services**

Robert R. Scott, Commissioner

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June 11, 2021

His Excellency, Governor Christopher T. Sununu
and The Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the NH Department of Natural and Cultural Resources, Natural Heritage Bureau (DNCR), (VC# 314716-B001) the NH Fish and Game Department, Nongame & Endangered Wildlife Program (F&G), (VC# 311244-B001) and the NH Department of Environmental Services, (NHDES) to (1) enter into a Memorandum of Agreement (MOA) in the amount of $15,200 to cost share the maintenance of an online application, the ("Data Check Tool") and (2) to authorize DNCR and F&G to each transfer $3,800 annually to NHDES for their respective share of costs, effective as of July 1, 2021 through June 30, 2023 upon approval by Governor and Council. Funding is 100% Other Funds.

Funds are available in the following accounts. Funding for FY 2022/2023 is contingent upon continued appropriation and availability of funds.

	FY 2022	FY 2023
03-35-35-351010-34070000-049-584944	$3,800	$3,800

Dept of Natural & Cultural Resources, Natural Heritage Fund, Transfer to Other State Agencies

	FY 2022	FY 2023
03-75-75-751520-21250000-049-584944	$3,800	$3,800

NH Fish & Game Department, Wildlife Program, Nongame Management, Transfer to Other State Agencies

EXPLANATION

DNCR is mandated by the NH Native Plant Protection Act of 1987 (RSA 217-A), in relevant part, to determine protective measures and requirements necessary for the survival of native plant species and exemplary natural communities in the state. F&G is mandated by the Endangered Species Conservation Act of 1979 (RSA 212-A) and the Nongame Species Management Act (RSA 212-B) to develop nongame and endangered wildlife research, management, and education programs. NHDES is mandated by RSA 485-A:17 to protect the State's surface waters, drinking water supplies and groundwater by controlling soil erosion and managing stormwater runoff

from developed areas and the Shoreland Water Quality Act, to fulfill the state's role as trustee of its waters and to promote public health, safety, and the general welfare, and requires the establishment of standards for the subdivision, use, and development of the shorelands of the state's public waters.

The Data Check Tool is an online application, maintained at NHDES, that allows for wetland, shoreland and terrain alteration permit applicants to submit project information, including a map, and receive a review letter from DNCR with an initial assessment of potential impacts to protected species and exemplary natural communities. DNCR maintains a database which contains detailed records on known tracked plant, tracked animal, and exemplary natural community occurrences in New Hampshire. Wildlife data is maintained in cooperation with the F&G Nongame Program. A subset of these tracked species, including threatened and endangered plants and wildlife and select special concern species, are used to screen projects submitted to the Data Check Tool.

The attached MOA between DNCR, F&G and NHDES would allow for a sharing of the anticipated annual maintenance costs of $11,400 for the Data Check Tool through June 30, 2023. DNCR and F&G annual share of costs for FY 2022 and FY 2023 shall not exceed $3,800 individually. A one-time payment at the beginning of each fiscal year shall be made by DNCR and F&G upon the receipt of an invoice from NHDES.

This MOA has been approved by the Office of the Attorney General as to its form, substance, and execution.

We respectfully request your approval.

Robert R. Scott, Commissioner
Department of Environmental Services

Sarah L. Stewart, Commissioner
Department of Natural and Cultural Resources

Scott R. Mason, Executive Director
Department of Fish and Game

COST SHARE
Memorandum of Agreement (MOA)
Between the
New Hampshire Department of Natural and Cultural Resources,
New Hampshire Fish and Game Department,
And New Hampshire Department of Environmental Services

This MOA is entered into by the NH Department of Natural and Cultural Resources, Natural Heritage Bureau, a program within the Division of Forests & Lands, hereafter referred to as the "Natural Heritage Bureau" or "NHB", having its principal address at 172 Pembroke Road, Concord, NH 03301, the NH Fish and Game Department, Nongame & Endangered Wildlife Program, a program within the Wildlife Division, hereafter referred to as "Nongame Program," having its principal address at 11 Hazen Drive, Concord, NH 03301 and the N.H. Department of Environmental Services, Wetlands Bureau and Alteration of Terrain Bureau, hereafter referred to as "Wetlands Bureau" and "AoT Bureau", having its principal address at 29 Hazen Drive, Concord, NH 03301. The purpose of this MOA is to establish a relationship between the parties to cost share the maintenance of an online application used by the parties the ("Data Check Tool").

WHEREAS the Department of Natural and Cultural Resources, Natural Heritage Bureau is mandated by the NH Native Plant Protection Act of 1987 (NH 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 to assist and cooperate with all state agencies to carry out these purposes; and

WHEREAS the New Hampshire Fish & Game Department is mandated by the Endangered Species Conservation Act of 1979 (NH RSA 212-A) and the Nongame Species Management Act (NH RSA 212-B) to develop nongame and endangered wildlife research, management, and education programs and has established the Nongame Program to accomplish these goals; and

WHEREAS the Department of Environmental Services is mandated by RSA 482-A to regulate the activities in the State's wetlands, surface waters, sand dunes, and tidal buffer zones. RSA 482-A:1 finds that, "unregulated alteration will adversely affect the value of such areas as sources of nutrients for finfish, crustacean, shellfish and wildlife of significant value [and] will damage or destroy habitats and reproduction areas for plants, fish and wildlife of importance"; and

WHEREAS the Department of Environmental Services is mandated by RSA 485-A:17 to protect the State's surface waters, drinking water supplies and groundwater by controlling soil erosion and managing stormwater runoff from developed areas. RSA 458-A:17, states that, "any person proposing to dredge, excavate, place fill, mine, transport forest products or undertake construction in or on the border of the surface waters of the state, and any person proposing to significantly alter the characteristics of the terrain, in such a manner as to impede the natural runoff or create an unnatural runoff, shall be directly responsible to submit to the department detailed plans concerning such proposal and any additional relevant information requested by the department..."; and

WHEREAS the Shoreland Water Quality Act, 483-B:1 483-B:2 states: "To fulfill the state's role as trustee of its waters and to promote public health, safety, and the general welfare, the general court declares

a. Maintain data and files provided by the Natural Heritage Bureau in a secure location accessible to the Natural Heritage Bureau, Nongame & Endangered Wildlife Program and the Wetlands Bureau (including Shoreland Program) and Alteration of Terrain Bureau.

b. Upload for use in the Data Check Tool refined or updated screening layers from the Natural Heritage Bureau and Nongame & Endangered Wildlife Program such as GIS layers with amended buffers around protected species and exemplary natural community occurrences.

d. Maintain the application to include only bug fixes or application and database failures.

5. Any Data Check Tool upgrades, changes in function, enhancements to presentation, reports or graphical user interface elements are outside the scope for maintenance of the Data Check Tool and this MOA. Any upgrades and enhancements required by any party will require the requesting agency to prepare detailed business requirements and rules to facilitate a level of effort and cost estimate by NHDES. Projects of this type will be considered within the NHDES Project Intake and Ranking Process that establishes the priority that any project takes within NHDES' projects portfolio. All non-maintenance costs will be paid by the requesting party.

6. This MOA may be amended by mutual agreement of all parties and Governor and Council approval.

In witness of the Memorandum of Agreement:

5/25/21
Date

Robert R. Scott, Commissioner
Department of Environmental Services

5/20/21
Date

Sarah L. Stewart, Commissioner
Department of Natural and Cultural Resources

5/24/21
Date

Scott R. Mason, Executive Director
Department of Fish and Game

Approved by the Attorney General this 14th day of June 2021 as to form, substance, and execution.

Attorney General's Office