



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner
 December 18, 2025

69



ARC
 JS

JAN 28 2026

Her Excellency, Governor Kelly A. Ayotte
 and the Honorable Council
 State House
 Concord, NH 03301

REQUESTED ACTION

Authorize the New Hampshire Department of Environmental Services (NHDES) to enter into a **RETROACTIVE** Memorandum of Understanding (MOU) with the New Hampshire Fish and Game Department (NHFG) (VC# 311244-B001) in the amount of \$400,000 for permitting assistance regarding protected wildlife species, effective as of December 1, 2025 to June 30, 2027, upon Governor and Council approval through June 30, 2027. 100% Water Resources Fund.

Funding is available in the account as follows with the authority to adjust encumbrances in each of the state fiscal years through the Budget Office, if needed and justified.

	<u>FY 2026</u>	<u>FY 2027</u>
03-44-44-442010-4077-049-584975	\$200,000	\$200,000
Dept Environmental Services, LRM-Wildlife, Transfer to Other State Agencies		

EXPLANATION

Beginning in FY 2026, permitting responsibility for threatened and endangered species was consolidated within NHDES to create a "one stop shop" for applicants. Some staff and functions were moved from NHFG and the New Hampshire Department of Natural and Cultural Resources to NHDES to implement this change. However, coordination between the agencies is still needed because NHFG retained responsibility for tracking observations of threatened and endangered species and for providing biological expertise on the species upon request. Therefore, NHDES and NHFG have entered into a MOU regarding the responsibilities of each department regarding permitting for potential impacts to protected wildlife species. The MOU is retroactive to December 1, 2025, because the last staff and functions were transferred to NHDES on this date.

In the event that Water Resource Funds become no longer available, General funds will not be requested to support this program. This agreement has been approved by the Attorney General's Office as to form, substance, and execution.

We respectfully request your approval.

Robert R. Scott, Commissioner

State of New Hampshire

Interagency Memorandum of Understanding

(For use between an executive branch agency and another agency or branch of government of the State of New Hampshire)

Whereas, the Department of Environmental Services [*“AGENCY 1”*] is a duly constituted agency or branch of government of the State of New Hampshire;

Whereas, the Fish and Game Department [*“AGENCY 2”*] is a duly constituted agency or branch of government of the State of New Hampshire;

Whereas, pursuant to RSA 212-A [*insert, for example, RSA or Chapter Law number*] *AGENCY 1* is responsible for:
NHDES is responsible for providing an ecological review for any permit, approval, or written authorization required pursuant to RSA 482-A, RSA 485-A, and RSA 236 to ensure that actions authorized by the applicable permit, approval, or written authorization do not appreciably jeopardize the continued existence of threatened and endangered wildlife species;

Whereas, *AGENCY 1* desires to:
Enter into this Memorandum of Understanding for mutual benefit, the benefit of the State, and in furtherance of constitutional or statutory authority and objectives.

Whereas, pursuant to RSA 212-A and 212-B [*insert, for example, RSA or Chapter Law number*] *AGENCY 2* is responsible for:
NHFG is responsible for developing wildlife research, management, and education programs for the protection of nongame species, including protected wildlife species; and has established the Nongame Program to accomplish these goals;

Whereas, *AGENCY 2* desires to:
Enter into this Memorandum of Understanding for mutual benefit, the benefit of the State, and in furtherance of constitutional or statutory authority and objectives.

NOW, THEREFORE, the parties enter into this Memorandum of Understanding to their mutual benefit, the benefit of the State and in furtherance of constitutional or statutory authority and objectives.

1. The Department of Environmental Services [*AGENCY 1*] agrees to [*check all that apply*]:

- A. Pay *AGENCY 2* the amount of \$_____ for the services described in the attached MOU Exhibit A, which is hereby incorporated by reference.

Execute the following if Box 1., A is checked: Payment shall be provided from [*IDENTIFY FUND*]:

-
- B.** Perform the services described in the attached MOU Exhibit A, which is hereby incorporated by reference.

2. The Fish and Game Department [AGENCY 2] agrees to *[check all that apply]*:

- A.** Pay *AGENCY 1* the amount of \$_____ for the services described in the attached MOU Exhibit A, which is hereby incorporated by reference.

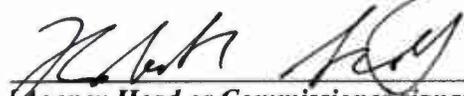
Execute the following if Box 2. A is checked: Payment shall be provided from *[IDENTIFY FUND]*:

-
- B.** Perform the services described in the attached MOU Exhibit A, which is hereby incorporated by reference.

3. The method of payment and payment amount for the above-referenced services, if any is required, is described in the attached MOU Exhibit B, such exhibit being hereby incorporated by reference.
4. All obligations hereunder are contingent upon the availability and continued appropriation of funds. The agencies shall not be required to transfer funds from any other account in the event that funds are reduced or unavailable.
5. The Memorandum of Understanding is effective until 6/30/2027 *[DATE]*.
6. This Memorandum of Understanding may be amended by an instrument in writing signed by both parties. Either party may terminate this agreement by providing written notice to the other party at least 60 *[NUMBER]* days prior to termination.
7. The Parties agree that the obligations, agreements and promises made under this Memorandum of Understanding are not intended to be legally binding on the Parties and are not legally enforceable.
8. Disputes arising under this Memorandum of Understanding which cannot be resolved between the agencies shall be referred to the New Hampshire Department of Justice for review and resolution.
9. This Agreement shall be construed in accordance with the laws of the State of New Hampshire.

- 10. The parties hereto do not intend to benefit any third parties and this Memorandum of Understanding shall not be construed to confer any such benefit.
- 11. In the event any of the provisions of this Memorandum of Understanding are held to be contrary to any state or federal law, the remaining provisions of this Memorandum of Understanding will remain in full force and effect.
- 12. This Memorandum of Understanding, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Memorandum of Understanding and understandings between the parties, and supersedes all prior Memoranda of Understanding and understandings relating hereto.
- 13. Nothing herein shall be construed as a waiver of sovereign immunity, such immunity being hereby specifically preserved.

14. **FOR AGENCY 1** [Name of Agency]: Department of Environmental Services


[Agency Head or Commissioner signature] Date 12/30/25

Robert Scott, Commissioner
[Agency Head or Commissioner name in print]

15. **FOR AGENCY 2** [Name of Agency]: Fish and Game Department


[Agency Head or Commissioner signature] Date 9 DEC 2025

Stephanie Simek, Executive Director
[Agency Head or Commissioner name in print]

Approved by the New Hampshire Department of Justice for form, substance, and execution:

By: Melissa Fzles On: 1/2/26
[Name of Assistant Attorney General] Date

Approved by the Governor and Executive Council

By: _____ On: _____
Date

EXHIBIT A

Project Title: Permitting Assistance Regarding Protected Wildlife Species for SFY 2026 and SFY 2027

Project Period: December 1, 2025 through June 30, 2027

Project Objectives: This Memorandum of Understanding (MOU) between the NH Department of Environmental Services (NHDES) Water Division and the NH Fish and Game Department (NHFG) Wildlife Division, describes the responsibilities of each department in reviewing information submitted to NHDES for potential impacts to protected wildlife species. Pursuant to RSA 212-A:9, IV, NHDES is responsible for providing an ecological review for any permit, approval, or written authorization required pursuant to RSA 482-A, RSA 485-A, and RSA 236 to ensure that actions authorized by the applicable permit, approval, or written authorization do not appreciably jeopardize the continued existence of threatened and endangered wildlife species. Pursuant to 212-A:9, III, NHFG shall assist other departments and agencies in carrying out ecological reviews for protected wildlife species. Therefore, because NHFG has protected wildlife experts on staff, NHFG will provide expert opinions, biological information, and current best practices for conservation regarding protected wildlife species to NHDES, when requested, in accordance with the scope of services in this MOU.

Scope of Work: For SFY 2026 and SFY 2027, NHDES will request assistance from NHFG, as needed, to review permits for land development projects that could potentially impact protected wildlife species. If requested by NHDES, the services that NHFG will provide are:

1. In collaboration with the Department of Natural and Cultural Resources, at least quarterly, create for NHDES a Screening Layer based on the current records of protected species, and habitat designated as critical, and update the metadata, protocols, and other supporting information associated with the Screening Layer;
2. Provide expert guidance to NHDES on the biology of and conservation measures for protected wildlife species to support timely decision-making for ecological reviews including verification of site survey results;
3. Develop, and update as needed, species-level guidelines for NHDES to reference in performing ecological reviews of threatened and endangered protected wildlife, including guidance on when consultation with a species biologist is recommended;
4. Coordinate with NHDES to develop species-level standardized conservation measures for use by permit applicants for those species where standardized measures are appropriate;

5. Participate in any public listening sessions held by NHDES in anticipation of drafting administrative rules about species mitigation and provide comments on any proposed mitigation rules proposed by NHDES;
6. Conduct information sessions for NHDES staff regarding the latest science on current best practices and recent developments for protected species conservation; and
7. Attend meetings to resolve questions regarding ecological reviews under RSA 212-A.

Results Reporting: Provide quarterly invoices for staff time spent on authorized tasks.

EXHIBIT B

Project Title: Permitting Assistance Regarding Protected Wildlife Species for SFY 2026 and SFY 2027

Project Period: December 1, 2025 through June 30, 2027

Funding Amount:

The funding allocated to this project is allocated in the Water Resources Fund 442010-4077-049. The available budget by task is listed on the table below. Cumulative invoices for each SFY cannot exceed the amounts listed in this table.

Task	SFY 2026	SFY 2027	Total
1-7	\$200,000	\$200,000	\$400,000

Invoicing: NHFG will submit invoices to NHDES on a quarterly basis with supporting documentation of staff hours spent on the project. The billing rate shall include only the salary and benefits for each employee, not agency indirect costs.