

**APPENDIX D-4**  
**Beneficiary Eligible Mitigation Action Certification**

**BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION**

Beneficiary State of Delaware

Lead Agency Authorized to Act on Behalf of the Beneficiary Department of Natural Resources and Environmental Control  
*(Any authorized person with delegation of such authority to direct the Trustee delivered to the Trustee pursuant to a Delegation of Authority and Certificate of Incumbency)*

<b>Action Title:</b>	Class 8 Dump Truck Replacements
<b>Beneficiary's Project ID:</b>	Phase 3- B
<b>Funding Request No.</b>	<i>(sequential)</i> 5
<b>Request Type:</b> (select one or more)	<input type="checkbox"/> Reimbursement <input checked="" type="checkbox"/> Advance <input type="checkbox"/> Other (specify): _____
<b>Payment to be made to:</b> (select one or more)	<input checked="" type="checkbox"/> Beneficiary <input type="checkbox"/> Other (specify): _____
<b>Funding Request &amp; Direction (Attachment A)</b>	<input checked="" type="checkbox"/> Attached to this Certification <input type="checkbox"/> To be Provided Separately

**SUMMARY**

<b>Eligible Mitigation Action</b>	<input checked="" type="checkbox"/> Appendix D-2 item (specify): <u>Phase 3 - Class 8 Dump Truck Replacements</u>
<b>Action Type</b>	<input type="checkbox"/> Item 10 - DERA Option (5.2.12) (specify and attach DERA Proposal):
<b>Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):</b> Please see Summary Attachment	
<b>Estimate of Anticipated NOx Reductions (5.2.3):</b> It is estimated that the State of Delaware will reduce 0.166 short tons NOx reductions for the dump truck replacements.	
<b>Identification of Governmental Entity Responsible for Reviewing and Auditing Expenditures of Eligible Mitigation Action Funds to Ensure Compliance with Applicable Law (5.2.7.1):</b> The Delaware Department of Natural Resources and Environmental Control	
<b>Describe how the Beneficiary will make documentation publicly available (5.2.7.2).</b> Please see Summary Attachment	
<b>Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).</b> The Class 8 Dump trucks will be funded by the VW Trust in the amount of \$628,482.92 (100%). The dump trucks are government owned. The project partner will have to pay any administrative fees for an extended warranty, taxes, titles, etc.	
<b>Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).</b> Please see Summary Attachment	

If applicable, describe how the mitigation action will mitigate the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10).  
Please see Summary Attachment

**ATTACHMENTS**  
**(CHECK BOX IF ATTACHED)**

- |                                     |                     |   |
|-------------------------------------|---------------------|---|
| <input checked="" type="checkbox"/> | <b>Attachment A</b> | <b>Funding Request and Direction.</b>   |
| <input checked="" type="checkbox"/> | <b>Attachment B</b> | <b>Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4).</b>   |
| <input checked="" type="checkbox"/> | <b>Attachment C</b> | <b>Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11).</b>   |
| <input checked="" type="checkbox"/> | <b>Attachment D</b> | <b>Detailed cost estimates from selected or potential vendors for each proposed expenditure exceeding \$25,000 (5.2.6). [Attach only if project involves vendor expenditures exceeding \$25,000.]</b> |
| <input type="checkbox"/>            | <b>Attachment E</b> | <b>DERA Option (5.2.12). [Attach only if using DERA option.]</b>  |
| <input type="checkbox"/>            | <b>Attachment F</b> | <b>Attachment specifying amount of requested funding to be debited against each beneficiary's allocation (5.2.13). [Attach only if this is a joint application involving multiple beneficiaries.]</b> |

**CERTIFICATIONS**


By submitting this application, the Lead Agency makes the following certifications:

1. This application is submitted on behalf of Beneficiary Delaware, and the person executing this certification has authority to make this certification on behalf of the Lead Agency and Beneficiary, pursuant to the Certification for Beneficiary Status filed with the Court.
2. Beneficiary requests and directs that the Trustee make the payments described in this application and Attachment A to this Form.
3. This application contains all information and certifications required by Paragraph 5.2 of the Trust Agreement, and the Trustee may rely on this application, Attachment A, and related certifications in making disbursements of trust funds for the aforementioned Project ID.
4. Any vendors were or will be selected in accordance with a jurisdiction's public contracting law as applicable. (5.2.5)
5. Beneficiary will maintain and make publicly available all documentation submitted in

support of this funding request and all records supporting all expenditures of eligible mitigation action funds subject to applicable laws governing the publication of confidential business information and personally identifiable information. (5.2.7.2)

DATED:

7/06/21

  
\_\_\_\_\_  
[NAME] Lisa Boerwester  
[TITLE] Deputy Secretary

Department of Natural Resources and Environmental Control

\_\_\_\_\_  
[LEAD AGENCY]

for

State of Delaware

\_\_\_\_\_  
[BENEFICIARY]

## SUMMARY ATTACHMENT

### **Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1):**

The primary goal of the State of Delaware's Volkswagen Environmental Mitigation plan is to improve and protect ambient air quality by implementing eligible mitigation projects that will achieve significant and sustained reductions in NOx emission exposures in areas with poor air quality; areas with historical air quality issues; and areas that receive a disproportionate quantity of air pollution from diesel. The Delaware Department of Natural Resources and Environmental Control (DNREC) Division of Air Quality (DAQ) is partnering with the Delaware Division of Fish and Wildlife (DFW) to scrap and replace the following diesel, government-owned Class 8 dump trucks under Appendix-D-2 under the Volkswagen Environmental Mitigation Plan:

- 2004 Ford Sterling 10-Wheel Dump Truck
- 2005 Ford Sterling 10-Wheel Dump Truck
- 2005 Ford Sterling Flatbed 6-Wheel Dump Truck
- 2009 International 10-Wheel Dump Truck
- 2009 International 10-Wheel Dump Truck

Air pollution from diesel vehicles has health implications for everyone. This project will serve as a way to reduce vehicle emissions and improve air quality in the state, which is in alignment with the goals set forth in DNREC's Volkswagen Beneficiary Mitigation Plan. The Volkswagen Environmental Mitigation Plan is attached to further support this funding request.

### **Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):**

DNREC is partnering with the DFW to scrap and replace 5 government-owned diesel dump trucks. The vehicles will utilize Volkswagen Mitigation Funds as the entire cost share (Phase 3) less administrative fees. The new vehicles will serve the entire state.

Air pollution from diesel vehicles has health implications for everyone. This project will serve as a way to reduce vehicle emissions and improve air quality in the state, which is in alignment with the goals set forth in DNREC's Volkswagen Beneficiary Mitigation Plan. The lifetime emission reductions (in short tons) for the dump truck replacements are as follows:

Phase 3	Trucks	NOx	PM2.5	HC	CO
Appendix D-2 Eligible Mitigation Action Replacement (Class 8 Dump Trucks)	5	0.031	0.031	0.072	0.144

**Describe How the Beneficiary will Make Documentation Publicly Available (5.2.7.2)**

Subparagraph 5.2.7.2 of the Environmental Mitigation Trust Agreement for State Beneficiaries requires that Beneficiaries include in their funding requests:

*A commitment by the Beneficiary to maintain and make publicly available all documentation submitted in support of the funding request and all records supporting all expenditures of Eligible Mitigation Action funds, subject to applicable laws governing the publication of confidential business information and personally identifiable information, together with an explanation of the procedures by which the Beneficiary shall make such documentation publicly available;*

The Department of Natural Resources and Environmental Control (DNREC) in the State of Delaware is committed to maintaining and making publicly available all documentation submitted in support of the funding requests and all records supporting all expenditures of Eligible Mitigation Action funds. The public will be able to view funding requests on the DNREC website. DNREC will maintain these records on the Volkswagen Environmental Mitigation Trust Fund specific webpage. The webpage is designed to support public access and limit burden for the general public. The webpage can currently be found at <https://dnrec.alpha.delaware.gov/air/mobile-sources/vw-mitigation-plan/>.

DNREC has also created an electronic listserv. The Listserv is open to the public, used to communicate news, events, and information related the Environmental Mitigation Trust Fund. The listserv is advertised through the website and at public events related to the Volkswagen Environmental Mitigation Fund.

**Describe How the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9)**

The Delaware Department of Natural Resources and Environmental Control sent emails to the representatives from the U.S. Department of the Interior and the U.S. Department of Agriculture listed in subparagraph 4.2.8 of the State Trust Agreement on February 19, 2018.

**If applicable, describe how the mitigation action will mitigate the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10).**

The State of Delaware has been designated by the U.S. Environmental Protection Agency (EPA) as non-attainment for ozone (2008 and 2015 standards) in New Castle County and Sussex (2008 standards). Delaware's New Castle County has also been re-designated as attaining the fine particulate matter standard for both 1997 and 2006. New Castle County has a 10-yr maintenance plan in place.

The Department has recommended that a portion of Phase 3 be used to replace 5 state owned, Class 8 diesel dump trucks with cleaner vehicles under the VW Mitigation Plan. DNREC's 2017 Emissions Inventory has concluded that up to 38% of in-state NOx emissions can be attributed to the transportation sector. Delaware's emissions from heavy and medium duty vehicles (which include dump trucks) are becoming an increasingly larger source of overall mobile source emissions for nitrogen oxides (NOx). Lastly, replacing these dump trucks with new vehicles will assist the Department in reducing emissions in Delaware's environmental justice areas.

**ATTACHMENT B**

**Eligible Mitigation Action Management Plan Including Detailed Budget and  
Implementation and Expenditures Timeline**

**Project management Plan/ Project Schedule and Milestones**

<b>Milestone</b>	<b>Date</b>
Solicitation of Phase 3 DERA Option Project Partner	Q1 2020
DFW selected for Phase 3	Q3 2020
DNREC DFW MOU signed for Phase 3	Q3 2021
DFW solicits vendor	Q3 2021
DFW orders replacement vehicles	Q3 2021
Trustee Receives Funding Request - Funding Approved and Issued to DNREC	Q3 2021
DNREC makes reimbursements	Q4 2022

**Project Budget**

<b>Budget Category</b>	<b>Federal DERA Grant Funds</b>	<b>Share of Total Budget Funded by the Trust</b>	<b>Cost Share (Paid by Project Partner)</b>	<b>Sub-Total</b>
Class 8 Dump Truck Replacements – VW Phase 3 (5 trucks)	\$0.00	\$628,482.92	\$0	\$628,482.92
Project Totals	<b>\$0</b>	<b>\$628,482.92</b>	<b>\$0</b>	<b>\$628,482.92</b>
Percentage	0%	100%	0%	

**PROJECTED TRUST ALLOCATIONS**

	<b>2021</b>
1. Anticipated Annual Project Funding Request to be paid through the Trust	\$628,482.92
2. Anticipated Annual Cost Share	\$ 0
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$628,482.92
4. Cumulative Trustee Payments Requested/Made to Date Against Cumulative Approved Beneficiary Allocation	\$ 0
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$628,482.92
6. Total Funding Allocated to Beneficiary, inclusive of Current Action by Year (line 4 plus line 5)	\$628,482.92
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$ 6,562,200.22
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 6)	\$ 5,933,717.30



## ATTACHMENT C

### **Detailed Plan For Reporting On Eligible Mitigation Action Implementation**

The Delaware Department of Natural Resources and Environmental Control (DNREC) will provide detailed reporting on Volkswagen Phase 3 in the following ways:

- Timely updates to DNREC Volkswagen (VW) Environmental Mitigation Plan webpage;
- Delaware's semiannual reporting obligations to Wilmington Trust (the "Trustee"); and
- Quarterly reports submitted to the Environmental Protection Agency (EPA).

DNREC maintains a Volkswagen (VW) Environmental Mitigation specific webpage that has been designed to support public access and limit burden for the general public. DNREC's VW specific webpage can be found at <https://dnrec.alpha.delaware.gov/air/mobile-sources/vw-mitigation-plan/>. Timely updates to the webpage will inform the general public on the each project's status.

DNREC shall, in the next semiannual report following the Trustee's approval of this project, describe the progress implementing this Eligible Mitigation Action that will include a summary of all costs expended on the Eligible Mitigation Action through the reporting date per 5.3 of the Environmental Mitigation Trust Agreement for State Beneficiaries. The report will also include a complete description of the status, development, implementation (including project schedule and milestone updates), and any modification to this Eligible Mitigation Action.

**ATTACHMENT D**

**Detailed Cost Estimates From Selected or Potential Vendors For Each Proposed Expenditure Exceeding \$25,000.**

The Delaware Department of Natural Resources and Environmental Control (DNREC) has provided detailed cost estimates from the Division of Fish and Wildlife. DNREC will reimburse the entire cost of the vehicles \$628,482.92. All administrative fees (extended warranty, taxes, title, etc.) will be covered by the DFW.

Equipment for Replacement			
Vehicle	VIN	Model Year	Cost
Ford Sterling 10-Wheel Dump Truck	2FZAATDC54AN43879	2004	\$106,909.34
Ford Sterling 10-Wheel Dump Truck	2FZAZCGC65AU15694	2005	\$92,148.30
Ford Sterling Flatbed 6-Wheel Dump Truck	2FZHAZDE95AU74439	2005	\$143,141.76
International 10-Wheel Dump Truck	1HTWXAHT19J096564	2009	\$143,141.76
International 10-Wheel Dump Truck	1HTWXAHT39J096565	2009	\$143,141.76
Total Cost			\$628,482.92



International Trucks is pleased to provide you with this proposal compliant with all terms of the Sourcewell Vehicles and Chassis Contract #081716-NVS awarded to Navistar, Inc for new International Truck. If you have any questions regarding enrollment in Sourcewell or detailed contract terms and conditions, please see your International Truck sales representative.

PROPOSAL PREPARED FOR:		PROPOSAL PREPARED BY:
Sourcewell Member:	146983 DNREC	610618
Contact:	Henry Ford	Beth Brittingham
Address:		
City/State/Zip:	Little Creek, DE	
Phone:	(302) 632-0416	
Email:	<a href="mailto:henry.ford@delaware.gov">henry.ford@delaware.gov</a>	

Proposal Number	3878-01
Date	6/12/2020
Quantity of this Specification	1
Single Sourcewell Transaction Total Volume	

Chassis		
New 2021 International HV507 4x2 Chassis		\$ 128,234.00
Base Chassis List	\$ 95,041.00	
Options List	\$ 33,193.00	
Sourcewell Contract Discount	\$ 0.33	\$ (42,830.16)
Volume Incentive		\$ -
Net Sourcewell Chassis Price		\$ 85,403.84
Sourcewell Partner Body		
		\$ -
		\$ -
		\$ -
		\$ -
Non-Sourcewell Dealer Supplied Body		
10ft Steel Godwin Dump Body		\$ 20,823.00
		\$ -
		\$ -
		\$ -
Handling Fee		\$ -
Additional Post Build Work		
PDI, center steering wheel, install fire extinguisher, fuel, clean up		\$ 650.00
		\$ -
		\$ -
		\$ -
		\$ -
Handling Fee	5.00%	\$ 32.50
Service Contracts		
allison 5 year extended		\$ 1,160.00
Cummins 5 year/100,000 mile Extended Engine and Aftertreatment		\$ 4,380.00
		\$ -
Additional Freight		
		\$ -
		\$ -
Additional Floorplan		
		\$ -
		\$ -
Additional Fees & Taxes		
title fee		\$ 100.00
		\$ -
<b>Total Sourcewell Customer Price FOB Little Creek, DE</b>		<b>\$ 112,549.34</b>

Terms:





International Trucks is pleased to provide you with this proposal compliant with all terms of the Sourcwell Vehicles and Chassis Contract #081716-NVS awarded to Navistar, Inc for new International Truck. If you have any questions regarding enrollment in Sourcwell or detailed contract terms and conditions, please see your International Truck sales representative.

PROPOSAL PREPARED FOR:		PROPOSAL PREPARED BY:
Sourcewell Member:	DNREC	610618
Contact:	Henry Ford	Beth Brittingham
Address:	Little Creek	
City/State/Zip:	DE	
Phone:	(302) 739-6130	
Email:	<a href="mailto:Henry.Ford@state.de.us">Henry.Ford@state.de.us</a>	

Proposal Number	3945-01
Date	6/12/2020
Quantity of this Specification	2
Single Sourcewell Transaction Total Volume	

Chassis		
New 2021 International HV513 6x4 Chassis		\$ 213,554.00
Base Chassis List	\$ 172,454.00	
Options List	\$ 41,100.00	
Sourcewell Contract Discount	\$ 0.49	\$ (103,787.24)
Volume Incentive		\$ -
Net Sourcewell Chassis Price		\$ 109,766.76
Sourcewell Partner Body		
J&J 15' Aluminum DynaHauler		\$ 32,325.00
		\$ -
		\$ -
		\$ -
Non-Sourcewell Dealer Supplied Body		
		\$ -
		\$ -
		\$ -
		\$ -
Handling Fee	5.00%	\$ -
Additional Post Build Work		
PDI, Clean Up, Fuel, Center Steering Wheel, Install Fire Extinguisher		\$ 1,000.00
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
Handling Fee	5.00%	\$ 50.00
Service Contracts		
Engine/Aftertreatment 3 year/300,000 miles		\$ 3,150.00
Fuller Transmission 5year Extended Warranty		\$ 1,200.00
		\$ -
Additional Freight		
		\$ -
		\$ -
Additional Floorplan		
		\$ -
		\$ -
Additional Fees & Taxes		
		\$ -
		\$ -
<b>Total Sourcewell Customer Price FOB</b>		<b>\$ 147,491.76</b>

Terms:





International Trucks is pleased to provide you with this proposal compliant with all terms of the Sourcwell Vehicles and Chassis Contract #081716-NVS awarded to Navistar, Inc for new International Truck. If you have any questions regarding enrollment in Sourcwell or detailed contract terms and conditions, please see your International Truck sales representative.

PROPOSAL PREPARED FOR:		PROPOSAL PREPARED BY:
Sourcewell Member:	DNREC	610618
Contact:	Henry Ford	Beth Brittingham
Address:		
City/State/Zip:	Little Creek, DE	
Phone:	(302) 739-6130	
Email:	<a href="mailto:Henry.Ford@state.de.us">Henry.Ford@state.de.us</a>	

Proposal Number	3953-01
Date	6/12/2020
Quantity of this Specification	1
Single Sourcewell Transaction Total Volume	95204.3

Chassis		
New 2021 International MV607 4x2 Chassis		\$ 112,096.00
Base Chassis List	\$ 93,638.00	
Options List	\$ 18,458.00	
Sourcewell Contract Discount	\$ 0.33	\$ (36,431.20)
Volume Incentive		\$ -
Net Sourcewell Chassis Price		\$ 75,664.80
Sourcewell Partner Body		
		\$ -
		\$ -
		\$ -
		\$ -
Non-Sourcewell Dealer Supplied Body		
Waynes Welding		\$ 15,696.00
		\$ -
		\$ -
Handling Fee		\$ -
Additional Post Build Work		
Center Steering, install fire extinguisher, full detail, fuel		\$ 750.00
		\$ -
		\$ -
		\$ -
		\$ -
Handling Fee	5.00%	\$ 37.50
Service Contracts		
Cummins B6.7 60month/100,000		\$ 2,100.00
Allison extended 5yr		\$ 956.00
		\$ -
Additional Freight		
		\$ -
		\$ -
Additional Floorplan		
		\$ -
		\$ -
Additional Fees & Taxes		
		\$ -
		\$ -
<b>Total Sourcewell Customer Price FOB DNREC</b>		<b>\$ 95,204.30</b>

Terms:



**ENVIRONMENTAL MITIGATION PLAN ATTACHMENT**

A Copy of Delaware's Environmental Mitigation Plan is attached.



DELAWARE DEPARTMENT OF  
**NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**

## **Volkswagen Environmental Mitigation Plan**

**December 2018  
As amended on  
February 2020  
June 2021**

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## I. BACKGROUND

On October 18, 2016, an initial Partial Consent Decree was finalized between the U.S. Justice Department, the Volkswagen (VW) Corporation, and its subsidiaries regarding the installation and use of emissions testing defeat devices in approximately 590,000 2.0 and 3.0 liter engine vehicles sold and operated in the United States beginning with model 2009 through 2014. A second partial settlement was approved for the 3.0 liter engine class of vehicles on May 17, 2017. Use of these defeat devices has increased air emissions of nitrogen oxide (NOx), resulting in adverse impacts to air quality and violating the federal Clean Air Act. NOx emissions contribute to the formation of ground-level ozone, which impairs lung function and cardiovascular health.

The Environmental Mitigation Trust Agreement for State Beneficiaries (Trust) dated October 2, 2017 has been established as part of the Partial Consent Decrees. Funds are to be used for environmental mitigation projects that reduce emissions of nitrogen oxides ("NOx") where the Subject Vehicles were, are, or will be operated. The Trust Agreement is intended to fully mitigate the total, lifetime excess NOx emissions from the Subject Vehicles where the Subject Vehicles were, are, or will be operated.

The State of Delaware has been allocated approximately \$9.6 million from the Environmental Mitigation Trust based on the number of affected vehicles in Delaware. Delaware applied for Beneficiary status on November 27, 2017 and officially became eligible to receive funds on January 29, 2018. Wilmington Trust, as the court appointed Trustee, holds all funds and will disburse the funds upon receiving a state submitted work plan and budget. The Trust establishes a process to administer and receive the funds, including the development of a mitigation plan, and the types of mitigation projects eligible for funding<sup>1</sup>.

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<sup>1</sup> Appendix D of the Partial Consent Decree MDL No. 2672 CRB (JSC)

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In addition to projects that reduce NO<sub>x</sub> emissions, under the partial consent decree, states may allocate up to 15% of the funds towards zero emission vehicle fueling and charging infrastructure (i.e. Hydrogen fueling and electric vehicle charging stations).

## **II. OVERVIEW, OBJECTIVES AND FUNDING PRIORITIES**

On behalf of the State of Delaware, the Department of Natural Resources & Environmental Control (DNREC) has developed this Proposed Environmental Mitigation Plan to provide the public with insight into the state's vision and overall approach to use the mitigation trust funds. The primary goal of the State of Delaware's mitigation plan is to improve and protect ambient air quality by implementing eligible mitigation projects that will achieve significant and sustained reductions in NO<sub>x</sub> emission exposures in the following:

- Areas with poor air quality;
- Areas with historical air quality issues; and
- Areas that receive a disproportionate quantity of air pollution from diesel vehicles.

In accordance with Appendix D of the Partial Consent Decree,<sup>2</sup> this Proposed Environmental Mitigation Plan specifically describes:

- The funding priorities established to guide the planning, solicitation, and project selection processes,

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<sup>2</sup> Section 4.1 Beneficiary Mitigation Plan, Appendix D of the Partial Consent Decree MDL No. 2672 CRB (JSC).

- 
- The categories of eligible mitigation projects anticipated to be appropriate to achieve the stated goals and the assessment of the allocation of funds anticipated to be used for each type of eligible mitigation project,
  - How the state may consider the potential beneficial impact of the selected eligible mitigation projects on air quality in areas that historically bear a disproportionate share of the air pollution burden, and
  - The anticipated ranges of emission benefits that would be realized by implementation of the eligible mitigation projects identified in the Environmental Mitigation Plan.

In addition to the above listed Environmental Mitigation Plan components, DNREC will seek and consider public comments on the State of Delaware's Proposed Environmental Mitigation Plan, which will be included in the final plan as required by the Consent Decree<sup>3</sup>.

The State of Delaware has the discretion to adjust its objectives and specific spending plan when necessary to achieve the plan's goal; for that reason, this plan is a living document. The State of Delaware will provide updates of the mitigation plan to the Trustee and on DNREC's public webpage about Delaware's actions for meeting the requirements of the Partial Consent Decree and the Mitigation Trust, at:

<http://www.dnrec.delaware.gov/air/Pages/VWMitigationPlan.aspx>

This Proposed Environmental Mitigation Plan is not a solicitation for projects. As such, this plan does not include details on the competitive application.

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<sup>3</sup> <https://www.epa.gov/enforcement/third-partial-and-301-second-partial-and-201-partial-and-amended-consent-decree>

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### III. PHASED FUNDING APPROACH AND ELIGIBLE APPLICANTS

DNREC is proposing a phased-in plan for the State of Delaware's allocation of funding. A phased plan will allow the state to:

- Build transparency and involve the public in reviewing and revising the plan between phases;
- Learn which projects work best, and modify requests for proposals in subsequent phases to focus on the most effective projects;
- Allow the state to identify environmental justice areas; and
- Allow the state to adjust priorities and investments based on the newest and most up-to-date vehicle technology.

The first phase of funding will be the first step in achieving our goals for the program. The phases of funding are:

- **Phase 1: \$3,225,560.99 (2018-2023)** – DNREC proposes to replace old diesel school buses with new cleaner school buses over a five year period.
- **Phase 2: \$361,374.75 (2019-2020)** – DNREC offered a competitive RFP for projects in all categories. Two projects were determined by eligibility criteria set forth in the plan. These projects are described in Phase 2.
- **Phase 3: \$2,234,590 (2020-2021)** – DNREC will allocate 15% of the funds for electric vehicle supply equipment. Projects will consist of the replacement of five (5) government-owned dump trucks and a competitive RFP where applications will be accepted for projects in all categories as well as school bus replacements

with private transportations providers. Projects will be determined by the eligibility criteria set forth in the plan.

- **Phase 4: Up to \$3.8 million (2022-2023)** – Projects will consist of a competitive RFP where applications will be accepted for projects in all categories as well as school bus replacements with private transportations providers. Projects will be determined by the eligibility criteria set forth in the plan.

Delaware's allocation of Trust funds is \$9,676,682.97 (0.33% of the total \$2.9 billion in Trust funds made available to states and Tribes). DNREC has proposed that Trust funds will be requested and made available for mitigation projects. A detailed project timeline can be found in **Table 1**.

**Table 1 - Tentative Timeline of Events**

Event	Time Frame
Court approves the partial settlement	October 25, 2016
Court Approves Trustee	March 15, 2017
Court Approves Trust	October 2, 2017
Delaware files Beneficiary Certification Application	November 27, 2017
Trustee Certifies Delaware as a Beneficiary	January 29, 2018
Public Comment on the draft Mitigation Plan	March 28, 2018
Delaware finalizes preliminary Mitigation Plan	December 2018
Delaware initiates Phase 1 – year 1 projects	Quarter 4 2018
Delaware releases RFP – Phase 2	January 28, 2019
Delaware selects Phase 2 projects	Quarter 3 2019
Delaware finalizes Phase 1 – year 1 projects	Quarter 4 2019
Public Comment opens on Draft Phase 3 Plan	December 2019
Delaware initiates Phase 1 – year 2 projects	Quarter 1 2020
Delaware initiates Phase 2 projects	Quarter 1 2020
Delaware releases an RFP on Phase 3 projects.	Quarter 1 2020
Delaware selects Phase 3 projects	Quarter 3 2020
Delaware finalizes Phase 1 – year 2 projects	Quarter 4 2020
Delaware finalizes Phase 2 projects	Quarter 4 2020*
Delaware initiates Phase 1 – year 3 projects	Quarter 1 2020*
Delaware initiates Phase 3 projects	Quarter 1 2020*
Delaware finalizes Phase 1 – year 3 projects	Quarter 4 2021*
Delaware finalizes Phase 3 projects	Quarter 4 2021*
Delaware releases an RFP on Phase 4 projects	Quarter 1 2022*
Delaware initiates Phase 1 – year 4 projects	Quarter 1 2022*
Delaware selects Phase 3 projects	Quarter 3 2022*
Delaware finalizes Phase 1 – year 4 projects	Quarter 4 2022*

Event	Time Frame
Delaware initiates Phase 4 projects	Quarter 1 2023*
Delaware finalizes Phase 3 projects	Quarter 4 2023*

\*Dates are estimates and are subject to change.

DNREC will maintain and make publically available all documentation submitted in the support of each funding request on the VW Settlement project website<sup>4</sup>.

#### **IV. SUMMARY OF PHASED SPENDING APPROACH**

##### **Phase 1 - School Bus Replacement Program:**

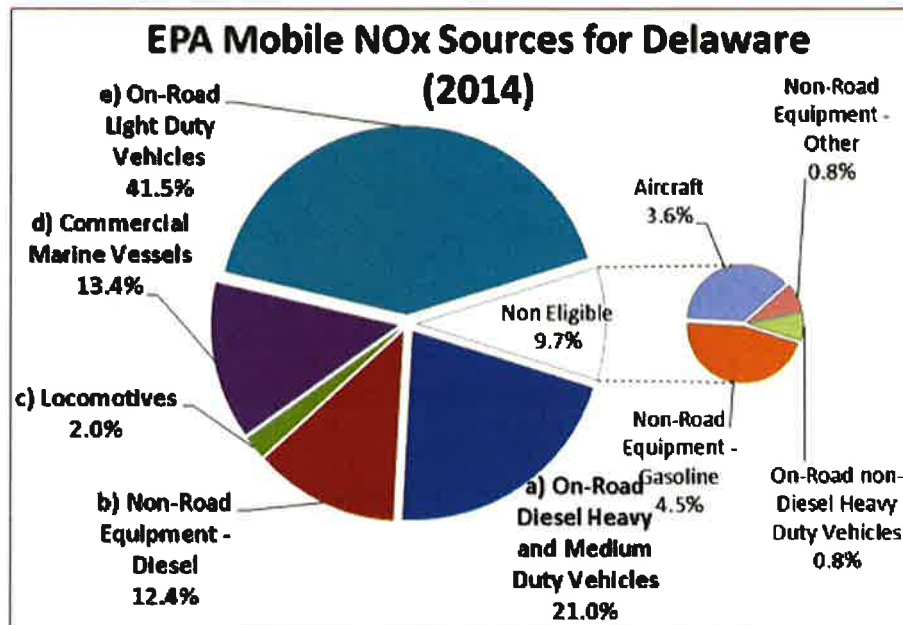
The Department has recommended that Phase 1 funding be used to replace diesel school buses with cleaner school buses. DNREC's 2014 Emissions Inventory has concluded that up to 72% of in-state NO<sub>x</sub> emissions can be attributed to the transportation sector. Delaware's emissions from heavy and medium duty vehicles (which include school buses) are becoming an increasingly larger source of overall mobile source emissions for nitrogen oxides (NO<sub>x</sub>), as shown in Figure 1.

Research shows NO<sub>x</sub> emissions will be reduced by 11 percent just by replacing a diesel school bus with a new propane school bus<sup>5</sup>.

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<sup>4</sup>DNREC Website: <http://www.dnrec.delaware.gov/air/Pages/VWMitigationPlan.aspx>

<sup>5</sup> Propane education and Research Council - <https://www.propanecouncil.org/>



**Figure 1 - Mobile NOx Sources for Delaware (Source 2014 NEI v1)**

Studies have demonstrated that older, more polluting diesel school buses present significant health risks for the students who typically ride the bus. This includes the exacerbation of pre-existing pulmonary disorders such as asthma. Asthma is the most common long-term childhood disease, making newer and cleaner buses an urgent priority. Additionally, children are more susceptible to air pollution because their respiratory systems are still developing and they have faster breathing rates than do adults<sup>6</sup>.

Lastly, replacing school buses with buses that operate on cleaner burning fuel will assist the Department in reducing emissions in Delaware's environmental justice (EJ) areas. Environmental Justice is the act of equity among all races, ethnicities, income, and social classes of people and includes any census tract with a poverty level of 20% or higher and where 30% or more are considered minorities. The Department's mission relative to environmental justice ensures that no particular area receives disproportionate environmental impacts due to air pollution.

<sup>6</sup> American Lung Association – <http://www.ala.org>

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### Phase 1 - Program Requirements:

In Phase 1, the Department proposes and continues to use up to 1/3 of the allocated Trust funds or \$3,225,560.99 to provide funds to the Department of Education for the replacement of school buses with cleaner burning fuel. The Department is proposing a cost share of 30% for government-owned school bus replacements.

To be eligible, each school bus being replaced must be:

- 1) Scrapped and destroyed at the time of replacement;
- 2) Owned and operated in Delaware;
- 3) Equipped with a model year 1992 to 2009 engine;
- 4) Serve a public school district or a charter school in Delaware where at least 40% of the students are disparately impacted as shown in **Table 2 and 3**;
- 5) Each new bus purchased must be of equivalent size as the bus being replaced;
- 6) The bus must be replaced with a current model year or newer; and
- 7) The replaced school bus must be fueled by propane or clean diesel.

**Table 2 - Percentage of Disparately Impacted Students by School District**

County	School District	Disparately Impacted (%)
New Castle	Appoquinimink	13.2
	Brandywine	29.8



County	Christina	<b>42.9</b>
	Colonial	39.8
	New Castle Co. Vo-Tech	27.6
	Red Clay	34.1
	Smyrna	24.9
Kent County	Caesar Rodney	30.5
	Capital	<b>48.9</b>
	Lake Forest	<b>39.4</b>
	Milford	<b>41.2</b>
	Polytech Vo-Tech	17.0
Sussex County	Cape Henlopen	29.0
	Delmar	14.2
	Indian River	36.0
	Laurel	<b>47.4</b>
	Seaford	<b>47.7</b>
	Sussex Technical	16.6
	Woodbridge	<b>41.9</b>

**Table 3 - Percentage of Disparately Impacted Students by Charter School**

<b>County</b>	<b>Charter School</b>	<b>Disparately Impacted (%)</b>
New Castle County	Academia Antonia Alonso	57.3
	Charter School of New Castle	51.4
	Delaware Academy of Public Safety and Security	39.9
	Delaware Design-Lab High School	29.9
	East Side Charter School	79.3
	First State Montessori Academy	11.6
	Freire Charter School	48.9
	Gateway Lab School	42.3
	Great Oaks Charter School	55.8
	Kuumba Academy Charter School	62.2
	Las Americas Aspira Academy	25.4
	MOT Charter School	5.3
	Moyer (Maurice J.) Academy	20.0
	Newark Charter School	8.0
	Odyssey Charter School	14.4
Prestige Academy	73.4	
Kent County	Academy of Dover	67.8
	Campus Community Charter School	40.0
	Early College High School at Delaware State University	33.1
	First State Military Academy	24.9
	Positive Outcomes Charter School	30.2
	Providence Creek Academy Charter School	18.0
Sussex County	Sussex Academy	9.0

**Phase 2 - Competitive RFP Program:**

In phase 2 of the plan, the Department proposed to provide up to 1/3 of the allocated Trust funds or \$3,225,560.99 in 2019 for the replacement of eligible mitigation

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actions<sup>7</sup>. The Department will issue a competitive request for proposals (RFP) for projects that reduce nitrogen oxide (NOx) emissions from the transportation sector.

The following mitigation project types will be eligible for use of the VW Settlement Funds per the Trust Agreement found in Appendix D-2:

- 1.) **Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks)**
- 2.) **Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses)**
- 3.) **Freight Switchers**
- 4.) **Ferries/Tugs**
- 5.) **Ocean Going Vessels (OGV) Shorepower**
- 6.) **Class 4-7 Local Freight Trucks (Medium Trucks)**
- 7.) **Airport Ground Support Equipment**
- 8.) **Forklifts and Port Cargo Handling Equipment**

### **Environmental Benefits:**

The retrofit, repower, or replacement of eligible vehicles and equipment may provide a wide range of emission benefits based on many variables, including the type of vehicle or engine replaced, the initial age of the engine, and the engine power rating.

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<sup>7</sup> The Department anticipates spending \$361,674.75 in Volkswagen Environmental Mitigation Trust Funds for Phase 2. The remaining \$2.8M will rollover to Phase 3 which will provide approximately \$6.0M to spend.

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Each of the 8 project categories outlined in the VW Settlement Environmental Mitigation Plan will result in the following combined environmental benefits:

- Tons of pollution reduced or avoided over the lifetime of the zero emissions vehicle supply equipment, specifically, NO<sub>x</sub>, PM<sub>2.5</sub>, GHGs such as CO<sub>2</sub> and black carbon,
- Net reduction in gallons of diesel fuel and/or other fossil fuels used,
- Improved ambient air quality and human health in communities located in nonattainment areas, areas with historical air quality issues, or in areas that bear a disproportionate share of the air pollution burden, as well as benefits to the local economy, and the welfare of residents in such communities, and
- Reduced public exposure to diesel particulate matter, which the U.S. EPA has classified as a likely human carcinogen.

Additionally, based on current EPA exhaust emission standards for NO<sub>x</sub>:<sup>8</sup>

- Heavy duty highway vehicles may provide up to a 96% reduction in NO<sub>x</sub> emissions per vehicle, based on replacing a model year 1992 engine with a model year 2007 engine,
- Non-road equipment replacements, depending on the type of equipment and engine power rating, may provide between a 20% and 95% reduction in NO<sub>x</sub> emissions per engine,
- In locomotives, replacing the oldest (Tier 0) engine with the newest (Tier 4) engine may provide up to an 89% NO<sub>x</sub> reduction per engine,

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<sup>8</sup> EPA exhaust emission standard data retrieved from: <https://www.epa.gov/emission-standards-reference-guide>.

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- In commercial marine vessels, an upgrade or repower of a ferry or tug engine may provide up to an 80% NOx reduction for each vessel, and
  - Shorepower projects may reduce all NOx exhaust emissions from many ocean-going vessels.

These anticipated ranges of emission benefits were used to inform the plan's funding priorities, categories of eligible mitigation projects, and funding allocation considerations for each category of eligible mitigation projects. It is important to note that the range of emission benefits mentioned above are for individual engines and actual NOx emissions reductions will vary based on the type of projects received for funding consideration and the eligible mitigation projects ultimately funded. However, in order to achieve the goal of the state mitigation plan, it is a priority to fund sizeable projects designed to achieve the greatest emission reduction for the dollar (i.e., capital cost effectiveness in dollars/ton).

The cost shares and requirements involved for each vehicle or equipment repower or replacement will be equivalent to the terms of the Diesel Emission Reduction (DERA)<sup>9</sup> grant. Cost shares identified in **Table 4** are based on the FY2017 State Clean Diesel Program Guide<sup>10</sup>.

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<sup>9</sup> The DERA program is a Congressionally-authorized project that enables the U.S. EPA to offer assistance for actions reducing diesel emissions. Thirty percent of the annual DERA funds are allocated to the DERA Clean Diesel State Grant Program. States and territories that match the base amount dollar per dollar receive an additional amount of EPA DERA funding to add to the grant (50% of the base amount). Trust funds can be used for states or territories non-federal match on a 1:1 basis.

<sup>10</sup> 2017 FY2017 State Clean Diesel Program Guide - <https://www.epa.gov/sites/production/files/2017-02/documents/fy17-state-program-guide-2017-02.pdf>

Table 4 - Cost Shares for Eligible Mitigation Actions

<b>Eligible Mitigation Action</b>	<b>Activity</b>	<b>Vehicle and Equipment Eligibility (Engine Model Year or Tier)</b>	<b>VW Funding</b>	<b>Cost Share Required</b>
Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks) & Class 4-7 Local Freight Trucks (Eligible Medium Trucks)	Engine replacement with new diesel or alternate fueled engine	1992-2009	40%	60%
	Engine replacement with new all-electric engine	1992-2009	60%	40%
	Vehicle replacement with new diesel or alternate fueled vehicle	1992-2009	25% (50% for Drayage)	75% (50% for Drayage)
	Vehicle Replacement with all-electric vehicle	1992-2009	45%	55%
Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses)	Engine replacement with new diesel or alternate fueled engine	2009 and older	40%	60%
	Engine replacement with new all-electric engine	2009 and older	60%	40%
	Vehicle replacement with new diesel or alternate fueled vehicle	2009 and older	25%	75%
	Vehicle Replacement with all-electric vehicle	2009 and older	45%	55%
Freight Switchers	Engine replacement with new diesel or alternate fueled engine or generator sets that are EPA certified	Pre-Tier 4	40%	60%
	Engine replacement with new all-electric engine	Pre-Tier 4	60%	40%
	Locomotive replacement with new diesel or alternate fueled freight switcher that is EPA certified	Pre-Tier 4	25%	75%
	Locomotive replacement with	Pre-Tier 4	45%	55%

<b>Eligible Mitigation Action</b>	<b>Activity</b>	<b>Vehicle and Equipment Eligibility (Engine Model Year or Tier)</b>	<b>VW Funding</b>	<b>Cost Share Required</b>
	new all-electric freight switcher			
Ferries/Tugs	Engine replacement with new Tier 3 or 4 diesel or alternate fueled engine	Pre-Tier 3	40%	60%
	Engine replacement with new all-electric engine	Pre-Tier 3	60%	40%
	Certified Remanufacture System or Verified Engine Upgrade	Pre-Tier 3	40%	60%
Ocean Going Vessels	Costs associated with shore-side system	n/a	25%	75%
Airport Ground Support Equipment	Engine replacement with new all-electric engine	Pre-Tier 3	60%	40%
Forklifts and Port Cargo Handling Equipment	Equipment replacement with new all-electric equipment	8000+ lbs lift capacity	45%	55%

Non-government and government entities are eligible to apply for funding to implement mitigation projects. Project funding will be awarded through a competitive process in accordance with Delaware's procurement laws<sup>11</sup>. Any unspent funds remaining at the end of Phase 2 will be rolled into a subsequent Phase.

### **Diesel Emission Reduction Act (DERA):**

The Department may leverage the projects in all phases in order to received additional Diesel Emission Reduction Act (DERA) grant funding. Any source type applying for grant funding will be subject to the requirements of the DERA State Clean

<sup>11</sup> Delaware Procurement laws can be found at <http://mymarketplace.delaware.gov/>

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Diesel Grant Program, including but not limited to general eligibility, project evaluation criteria, eligible project and administrative expenditures, cost-share, and funding restrictions.

The projects submitted via the RFP will be reviewed by a Department established Project Selection Committee. The committee will select and rank project applications based on a set “Project Scoring Criteria/Matrix” developed by the Department as shown in **Table 5** expressly for this purpose.

**Phase 2, Phase 3, and Phase 4 Program Requirements:**

To be eligible, each vehicle or piece of equipment to be repowered or replaced must be:

- 1) Scrapped and destroyed at the time of replacement;
- 2) Owned and operated in Delaware;
- 3) Equipped with an eligible model year engine or Tier level;
- 4) Serve an environmental justice area;
- 5) Each new vehicle or engine purchased must be of appropriate /equivalent size as the vehicle or engine being replaced; and
- 6) The new vehicle must be replaced with a current model year or newer.



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**Volkswagen RFP Scoring Matrix:**

The Department has developed a project RFP scoring criteria/matrix. Each application submitted will be scored based on the factors outlined in the matrix in **Table 5**. The number of projects that are selected for funding in each phase will depend on the applications received and interest by vehicle and equipment owners.

The following criteria will be used by the grant Review Committee to review and score applications received for the VW Mitigation Funds:

Table 5 - VW Settlement RFP Award Criteria

Project Award Criteria	Points Possible	Points Awarded	Comments
<p><b>Measurable, verifiable reduction in NOx emissions</b></p> <ul style="list-style-type: none"> <li>- The project will produce a net reduction in NOx emissions in the State and result in a measurable, verifiable reduction in NOx per ton of emissions using the Diesel Emission Quantifier.</li> <li>- Projects must meet eligibility requirements of Appendix D-2 of the VW Mitigation Plan</li> </ul>	30		
<p><b>Project Budget</b></p> <ul style="list-style-type: none"> <li>-The proposed budget is thorough, robust, realistic and cost effective.</li> <li>- The applicant must show a detailed budget with all cost shares explained.</li> </ul>	15		
<p><b>Proposed Project Location</b></p> <ul style="list-style-type: none"> <li>- The project is sited near a major highway or transportation corridor, shipping route, or near a shipping logistics center.</li> <li>- This project will address an environmental justice (EJ) area or related location that receives a disparate proportion of environmental impacts.</li> <li>- The project avoids environmentally sensitive areas or areas containing critical habitats.</li> <li>-Priority will be given to projects in non-attainment and air quality maintenance areas.</li> </ul>	15		
<p><b>Project Timeline</b></p> <p>The proposed project must define when the project will commence and will end.</p>	15		

<b>Project Award Criteria</b>	<b>Points Possible</b>	<b>Points Awarded</b>	<b>Comments</b>
<b>Ability to be Replicated throughout the State</b> - The proposed project has the ability to be replicated throughout the state with other fleets or for public access.	10		
<b>Collaboration with other Entities in the State</b> - The project includes collaborative efforts between the applicant and project team (an anchor fleet or fleets, utility/fuel provider, vehicle dealer, or manufacturer).	10		
<b>Economic Development</b> - The project creates and/or retains local jobs for Delawareans. - The project serves as an economic development engine for local Delaware based companies.	5		
<b>Total Points</b>	<b>100</b>		

#### Status Update of Phase 2 Program:

The Department selected two projects for replacement in 2020 under the Request for Proposal NAT19001-VWEMTFP. The Department is partnering with Waste Management, Inc. of Delaware in the replacement of ten (10) solid waste collection units as compressed natural gas (CNG) for the first project. The waste collection units will serve in New Castle and Sussex County, which are both designated as non-attainment areas. This project will use combined Diesel Emission Reduction Act (DERA) grant funds (\$316,019.00) and Volkswagen Mitigation Trust Funds (\$183,981.00).

For the second project, the Department is partnering with The Teens Warehouse, Inc. to replace one diesel school bus with new, electric school bus with associated electric vehicle supply equipment. The electric bus will serve New Castle County. Funds shall cover up to 45% of the cost of an eligible replacement vehicle powered by an engine certified to the 2019 model year or newer standards and the charging infrastructure associated with the new all-electric vehicle. The project will cost \$177,693.75. As previously described, any funds remaining from Phase 2 will rollover

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to Phase 3. The Department estimates that \$2.8M will remain in Phase 2 so Phase 3 will have approximately \$6.0M available.

#### Status Update of Phase 3 Program:

The Department selected two projects for replacement in 2021 under the Request for Proposal NAT20002-VWEMTFP. The Department is partnering with Sutton Bus & Truck Company in the replacement of eight (8) diesel school buses with propane buses. The school buses will serve in New Castle County, which is a designated non-attainment area. This project will use combined Diesel Emission Reduction Act (DERA) grant funds (\$57,143.00) and Volkswagen Mitigation Trust Funds (\$128,857.00).

For the second project, the Department is partnering with Bowman Bus Service to replace one diesel school bus with new, clean diesel school bus that will serve Kent County. The project will cost \$25,750.00. Funds shall cover up to 25% of the cost of an eligible replacement bus powered by an engine certified to the 2019 model year or newer. Any funds remaining from Phase 3 will rollover to Phase 4.

During Phase 3 of this funding, DNREC's Division of Climate, Coastal, and Energy will receive 15% (\$1.45M) of the Trust funds to administer a competitive grant program for the deployment of electric vehicle supply equipment (EVSE). Specifically, these funds will be utilized to incentivize the construction and operation of DC Fast Charging stations in the state to provide residents and travelers with convenient and consistent access to electric vehicle supply equipment. Grant funding will be provided for the material costs of publically available DC Fast Charging Stations installed within the state of Delaware. Eligible entities for grant funding will include Delaware-based businesses, not-for-profit organizations, government entities, and educational institutions. Project proposals will be submitted through competitive Request for Proposal process and will be evaluated based on criteria in the categories of:

- Estimated greenhouse gas reductions

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- Proximity to Alternative Fuel Corridors and proximity to high traffic volume routes
  - Accessibility regarding payment options
  - Thoroughness of the Operations and Maintenance Plan
  - Overall project budget and cost effectiveness

The RFP for Electric vehicle supply equipment will be released in Quarter 4 of 2021. Additionally, the Department will allocate up to \$700,000 to replace five (5) Class 8 government-owned dump trucks with the Division of Fish and Wildlife. These vehicles will be used around the state.

#### Phase 4 - A Hybrid Program:

The Department estimates that \$3.8M remains from all spending for Phase 4. A competitive request for proposals (RFP) will be released in Quarter 1 2022. In the Competitive RFP, the Department will pursue the following projects:

- School bus replacements with the privately-owned school bus contractors. In Delaware, private school bus contractors provide 2/3 of transportation services to Delaware schools. The Department will allocate funds in the replacement of propane or clean diesel school buses. The contractors are eligible for a 25% cost share and school bus replacements must match the criteria established in Phase 1 - Program Requirements and Phase 2 – Competitive RFP Program.
- All other eligible mitigation actions. The remaining Trust funds will be used for the replacement of eligible mitigation actions listed in Phase 2 – Competitive RFP Program.

