

Volkswagen Diesel Emission Settlement

New Hampshire Semi-Annual Report

January 1, 2024 – June 30, 2024

New Hampshire Department of Environmental Services

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*In accordance with Section 5.3 of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries, I hereby attest that the information contained in this report is true and correct and that this submission is made under penalty of perjury.*

Signature:  Date: 7/30/24

Craig A. Wright

## Background

On January 4, 2016, the United States and the State of California filed a complaint against several Volkswagen companies, referred to herein as Volkswagen, alleging violations of the Clean Air Act with regard to approximately 580,000 model years 2009 to 2015 2.0- and 3.0-liter diesel engines. The complaint alleged that the vehicles contained “defeat devices,” in the form of computer software designed to cheat on federal emissions tests, enabling the vehicles to emit levels of oxides of nitrogen (NOx) as high as forty times the federal standard without detection by the vehicle’s On-Board Diagnostic system, a system that numerous states, including New Hampshire, rely upon to detect and require repairs on vehicles exceeding federal emission standards. On October 2, 2017, the Department of Justice and Volkswagen signed a \$15 billion settlement, a portion of which – \$2.9 billion – will be held by the Volkswagen Mitigation Trust and shared among the U.S. states and tribes, based on the number of violating vehicles registered in each. New Hampshire’s share is \$30,914,841.09.

In 2017, Governor Sununu directed the former Office of Strategic Initiatives (OSI) to be New Hampshire’s Lead Agency in relation to the Environmental Mitigation Trust funds. OSI worked closely with New Hampshire Department of Environmental Services (NHDES) to develop New Hampshire’s Beneficiary Mitigation Plan that lays out how New Hampshire plans to spend the portion of the Trust allocated to the State. NHDES was subsequently appointed as Lead Agency by the Governor in August 2021.

New Hampshire’s Beneficiary Mitigation Plan presents the goals, available funding, funding priorities, and anticipated benefits from the state’s use of the Environmental Mitigation Trust funding. The Plan allocates funding as follows:

1. Approximately \$15.5 million (50 percent) of New Hampshire’s allocation will be used to replace **state and municipal vehicles and equipment** under Eligible Mitigation Actions 1, 2, 6, and 10.
2. Approximately \$4.6 million (15 percent) of New Hampshire’s allocation will be used for the acquisition, installation, operation, and maintenance of **electric vehicle supply equipment** (EVSE) as allowed under Eligible Mitigation Action 9.
3. Approximately \$6.2 million (20 percent) of New Hampshire’s allocation will be available to all entities, public and private, through **competitive solicitations for projects** in Eligible Mitigation Actions 1, 2, 6, 7, and 10.
4. No more than \$4.6 million (15 percent) of New Hampshire’s allocation will be utilized for **administrative costs**.

The following sections of this report summarize progress implementing Eligible Mitigation Actions in the manner described above.

### New Hampshire Department of Transportation Vehicle Replacement Project

A two phase project, under Eligible Mitigation Actions 1 and 6, funded the replacement of nine extra-heavy-duty trucks, 24 heavy-duty trucks and five medium-duty trucks and was completed by the New Hampshire Department of Transportation (NHDOT) in partnership with the New Hampshire Department of Environmental Services (NHDES) and the New Hampshire Office of Strategic Initiatives (NHOSI). The Trustee disbursed funds in the amounts of \$6,182,968, \$3,208,347 and \$1,361,666 for Beneficiary Eligible Mitigation Action Certification "NHOSI-19-01." Administrative funds for NHOSI and the Department of Environmental Services (NHDES) in the amounts of \$4,265 and \$17,958, respectively were also disbursed. This project was completed as of June 30, 2022, and a final report on this project was submitted in July 2022.

### NHDES Clean Diesel Grant Program funded by EPA's Diesel Emission Reduction Act (DERA)

DERA grants are awarded annually by EPA to NHDES to fund New Hampshire's Clean Diesel Grant Program. Funds from NH's Beneficiary Mitigation Trust were utilized as non-federal match for the Program to secure a 50 percent federal bonus for the DERA award during the Federal Fiscal Years 2017-2022. New Hampshire did not use funds from NH's Beneficiary Mitigation Trust as match for the Federal Fiscal Year (FFY) 2023-2024 DERA program, however previous matching funds are still being utilized as reported below.

The NH Clean Diesel Grant Program is a competitive sub-grant program which targets replacement of vehicles, engines, and equipment (public or privately owned), as well as installation of idle reduction technologies and certain on-board upgrades. The Program prioritizes projects where the vehicles/equipment operate in areas with Environmental Justice concerns, in areas with sensitive receptor groups such as schools or hospitals, in areas that receive a disproportionate quantity of air pollution from diesel fleets, and/or in areas that are near non-attainment for other pollutants such as particulate matter (note that all of NH is currently considered in attainment).

Funds from the approximately \$15.5 million allocation earmarked for replacement of state and municipally owned vehicles and equipment in New Hampshire's Beneficiary Mitigation Plan, and from the approximately \$6.2 million earmarked for public and private vehicle and equipment replacement, have contributed to the NH Clean Diesel Grant Program under Eligible Mitigation Action 10 in past years.

On December 18, 2020, G&C approved a Memorandum of Agreement between NHOSI and NHDES to utilize NH's Beneficiary Mitigation Trust funds as non-federal match for New Hampshire's FFY 2019 DERA grants. On April 29, 2021, NHOSI submitted Beneficiary Eligible Mitigation Action Certification "NHOSI-21-01" to the Trustee requesting payments of \$316,427 to NHDES for the NH Clean Diesel Grant Program and \$104 to NHOSI for administrative funds. The disbursement of these funds for the FFY 2019 Clean Diesel Grant Program was completed by the Trustee on October 6, 2021 and the final report was submitted in January 2022.

The FFY 2019/2020 NH Clean Diesel Grant Program began on October 1, 2019. The total budget for the program was \$1,615,011, including \$646,004 in NH Beneficiary Mitigation Trust matching funds. During 2021, G&C approved two new projects and approved amendments extending the completion date for five existing projects. Additionally, NHDES prepared and facilitated the FFY 2021 Clean Diesel Grant Program solicitation, which began on November 1, 2021. Eight proposals were received within the specified submission period.

Throughout 2022, NHDES scored and selected projects from the FFY 2021 Clean Diesel Grant Program solicitation and worked with selectees on finalizing grant agreements. Supply chain delays challenged many of these projects, resulting in several project withdrawals; grantee personnel constraints due to COVID-19 have also delayed projects. Funds originally committed to withdrawn projects were rolled into the FFY 2022 solicitation, which NHDES released in Summer 2022. Several projects were selected from Round 1, Round 2, Round 3, and Round 4 of this solicitation and are proceeding.

In early 2023, we learned that one of the 2020 grantees decided to carry out project activities in a location that was not designated by their grant agreement, thus the grant agreement was terminated by mutual agreement. In August 2023, NHDES obtained an extension to the combined FFY 2019 and FFY 2020 DERA grant award to allow for more time to identify new projects for funding. In fall 2023, we learned that an additional 2020 grantee had been unable to execute their grant agreement by the projection completion date, due to supply chain delays and lack of personnel. Due to these factors, this grant agreement was also terminated by mutual agreement.

**Included in this semi-annual report** are copies of the quarterly DERA reports submitted to EPA by NHDES for this reporting period for both the 2019/2020 grant and the 2021/2022 grant. Although both the 2019/2020 NHDES DERA agreement and the 2021/2022 NHDES DERA agreement with EPA had a termination date of September 30, 2024, NHDES submitted requests to EPA to extend both grant awards to September 30, 2025, in order to fund two electrification projects that have been identified

and will require more time to plan and execute. These extensions were granted, and both projects have been approved by the NH G&C and are currently being executed.

In February 2024, NHDES was awarded the FFY 2023/2024 NH Clean Diesel Grant Program. For the first time since FFY2017, NHDES did not provide 100 percent match to the federal funds using NH Beneficiary Mitigation Trust funds to secure a 50 percent federal bonus. The DERA program is limited as to what vehicles/equipment qualify for replacement in-kind, specifically model year 2009 and older. Therefore, it is becoming increasingly difficult to find qualifying DERA projects. NHDES can opt back into matching funds in any future year and will reassess investment of VW funding in this program when the next award becomes available.

#### Other New Hampshire State Agency Vehicle Replacement Projects

On January 22, 2020, G&C approved MOAs between NHOSI and the New Hampshire Department of Corrections (NHDOC), Department of Safety (NHDOS), and New Hampshire Fish & Game (F&G) utilizing approximately \$1,160,000 in funding from NH's Beneficiary Mitigation Trust to partially fund the purchase and replacement of existing diesel vehicles. These projects are funded from the approximately \$15.5 million of the state's allocation for replacement of state and municipal vehicles and equipment under Eligible Mitigation Actions 1 and 6.

On May 7, 2020, G&C approved a fourth MOA for replacement of state diesel vehicles operated by NHDES' Winnepesaukee River Basin Program (WRBP) for \$184,000.

On June 30, 2021, NHOSI submitted Beneficiary Eligible Mitigation Action Certification "NHOSI-21-03" to the Trustee for payments for the following for vehicle replacements:

- \$174,064 to NHDOC
- \$201,059.20 to F&G
- \$1,361,666.40 to NHDOT

Additionally, NHOSI-21-03 included a request for \$4,151.25 for administrative costs to NHOSI.

On October 28, 2022, NHDES submitted Beneficiary Eligible Mitigation Action Certification "NHDES-22-01" to the Trustee for payment of \$236,115 for replacement of two of NHDOS' vehicles as well as \$35,417 to NHDES for administrative costs.

On January 27, 2023, NHDES submitted Beneficiary Eligible Mitigation Action Certification "NHDES-22-02" to the Trustee for payment of \$163,857 for NHDES-WRBP's vehicle replacements and \$4,187 for NHDES' administrative costs.

As of June 30, 2023, all of these projects were complete.

- NHDOS had scrapped and replaced all vehicles.
- NHDES-WRBP had scrapped both of their vehicles and put their replacements into service.
- NHDOC had placed into service both of their new vehicles and scrapped the replaced vehicles.
- F&G had put their new vehicles into service and scrapped the vehicles that had been replaced.

In July 2023, NHDES submitted Beneficiary Eligible Mitigation Action Certification “NHDES-23-02” to the Trustee for payment of \$235,899 for NHDOS’ remaining vehicle replacement. This request was approved, and the payment was processed in January 2024. The NH State Agency Vehicle Replacement Project is now complete.

#### Manchester Transit Authority School Bus Replacement Project

On February 5, 2020, G&C approved an agreement between NHOSI and the Manchester Transit Authority (MTA) to utilize funding from NH’s Beneficiary Mitigation Trust, under Eligible Mitigation Action 2, to partially fund the purchase and replacement of fourteen diesel school buses with propane school buses. On March 16, 2020, NHOSI submitted Beneficiary Eligible Mitigation Action Certification “NHOSI-20-01” to the Trustee, requesting \$750,000 for the MTA school bus replacements plus \$4,816 and \$6,491 for administrative funds for NHOSI and NHDES, respectively. In September 2020, MTA put all fourteen replacement school buses into regular service. This project was completed as of June 30, 2021, and the final report on this project was submitted in July 2022.

#### NHDES Congestion Mitigation & Air Quality (CMAQ) Improvement Program: Electric Vehicle (EV) Charging Station Project

In 2020, NHDES entered into a CMAQ Improvement Program Project Agreement with New Hampshire Department of Transportation (NHDOT) to install Level 2 EV charging stations at three State-owned properties: two in Concord and one in Franconia. Through this project, three dual-nozzle Level 2 charging stations will be installed at State-owned properties at 29 Hazen Drive (Concord), 21 South Fruit Street (Concord) and Cannon Mountain Ski Area (Franconia). VW funding will be used to provide \$47,946 in funds to match CMAQ funding provided to the state by the Federal Highway Administration (FHWA). The total project cost is projected to be \$239,730.

In 2021, NHDES staff attended a Project Scoping meeting with staff from NHDOT. NHDES began coordinating with the New Hampshire FHWA Field Office on the resolution of issues regarding “Buy America” requirements related to this project.

**As of June 30, 2024**, NHDES continues to monitor the federal “Buy America” requirements. If these issues are not resolved, we are prepared to shift the funds towards other EV charging projects.

#### Direct Current Fast Charging Infrastructure Request for Proposals/Request for Information

In November 2019, NHDES, serving as a representative of NHOSI, released an RFP for the installation and operation of electric vehicle supply equipment (EVSE), including both direct current fast charging (DCFC) and Level 2 chargers. The purpose of this RFP was to select qualified applicants to provide a strategic network of EVSE and associated operations, maintenance, and management services along specified corridors in New Hampshire. NHDES and NHOSI were funding this solicitation, consistent with the New Hampshire Beneficiary Mitigation Plan, through the beneficiary Mitigation Trust. Because NHDES received no responses that met the minimum qualifications of the RFP, in February 2020 NHDES released a subsequent Request for Information in an effort to receive feedback on the RFP and additional input on the RFP requirements.

On June 1, 2021, NHOSI submitted Beneficiary Eligible Mitigation Action Certification “NHOSI-21-02” to the Trustee for reimbursement of administrative costs incurred by NHOSI and NHDES during the course of this project. The payments requested in NHOSI-21-02 include funds for NHOSI and NHDES in the amounts of \$3,250 and \$57,308.66, respectively. The disbursement of these funds was completed by the Trustee on October 6, 2021.

In 2021, NHDES launched its own VW Mitigation Trust webpage to replace the VW webpage of NHOSI. The webpage provides information related to the RFP in addition to other Trust-related information and documentation. On September 17, 2021, NHDES released a second RFP for the New Hampshire VW Environmental Mitigation Trust Direct Current Fast Charging Infrastructure project. NHDES personnel also conducted an informational webinar and responded to questions related to the RFP. Proposals were due on February 25, 2022.

NHDES received thirty application packets containing a total of 53 proposed EVSE deployment options. NHDES determined that 43 of these proposed options—representing 35 sites across 25 New Hampshire towns and cities—met the minimum qualifications of the RFP and were thus advanced to the

scoring phase. These proposals have been scored and evaluated and NHDES has begun grant agreement negotiation with the highest scoring applicants.

**As of June 30, 2024**, the NH Governor and Executive Council (G&C) has approved six (6) grant agreements under this program. The approved sites are in Errol, Lancaster, Peterborough, Keene, Colebrook, and Claremont, New Hampshire. The sites in Keene and Colebrook were completed and the EVSE is available to the public. In March, NHDES worked with the Keene site host and project developer to develop and host a ribbon cutting press event. The other four approved sites are currently implementing their projects.

**In the second quarter**, NHDES submitted two Beneficiary Eligible Mitigation Action Certifications to the trustee for payment. "NHDES-24-01" for \$210,342.93 was submitted in May for the Colebrook project and "NHDES-24-02" for \$233,888 was submitted in June for the Keene project. Both of these requests are currently under review. Grant Agreements for the sites in Dover and Epping, New Hampshire were signed and will be presented to G&C for consideration at an upcoming meeting.

### Granite State Clean Fleets

In June 2023, NHDES launched Granite State Clean Fleets (GSCF), a competitive solicitation for local governments to replace diesel vehicles/equipment with new, cleaner diesel or electric versions and/or install marine shore power under Eligible Mitigation Actions 1-8. Projects engaging or benefits Environmental Justice communities were prioritized. Projects proposing electrification or renewable energy sources were eligible for bonus points. NHDES completed various outreach activities through the project solicitation phase of the program. The program is expected to expend up to \$10,000,000.

**As of June 30, 2024**, NHDES received thirty-two applications, containing forty-four (44) vehicle replacement proposals and one (1) marine shore power project. Of these, forty-three (43) were eligible project proposals, representing twenty-six (26) local governments across New Hampshire. Eligible proposals were scored and sixteen (16) were selected to move forward. Of these, thirteen (13) projects have been approved by G&C and are currently in progress. One (1) project was not approved by G&C. Grant Agreements for the remaining two (2) projects will be presented to G&C for consideration at the July meeting.