

## MEMORANDUM

**TO:** Susanne Young, Secretary, Agency of Administration and Chair of the Clean Water Board  
**FROM:** Kari Dolan, Manager, Clean Water Initiative Program  
**DATE:** June 1, 2018  
**RE:** Clean Water Fund Expenditure Contingency Plan  
**CC:** Brad Ferland, Deputy Secretary, Agency of Administration, Julie Moore, Secretary, Agency of Natural Resources, Anson Tebbetts, Secretary, Agency of Agriculture, Food and Markets, Joe Flynn, Secretary, Agency of Transportation, Michael Schirling, Secretary, Agency of Commerce and Community Development, Emily Boedecker, Commissioner, Department of Environmental Conservation (DEC), Rebecca Ellis, Deputy Commissioner, DEC, Joanna Pallito, Administration and Innovation Division Director, DEC, Kate Slocum, Deputy Chief Financial Officer, Agency of Administration

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**Summary:** Herein is the Clean Water Fund Expenditure Contingency Plan (“Contingency Plan” or “the Plan”) which sets aside a portion of the Fiscal Year 2018 Clean Water Fund annual budget to function as a reserve in the fund, in the event that the revenues fall short of projections. This Contingency Plan replaces the Interim Contingency Plan, put in place in 2016. This Contingency Plan is necessary to avoid a risk of spending more funds than are available in any state fiscal year. The Plan will apply to State Fiscal Year 2018 allocations and remain in effect until such time that the Clean Water Board (the “Board”) modifies this plan as the Final Clean Water Fund Expenditure Contingency Plan.

**Clean Water Fund Expenditure Contingency Plan:** The Contingency Plan involves maintaining a minimum balance of \$500,000 in the fund as a reserve. These funds will be held as a minimum balance to maintain a positive cash balance in the Clean Water Fund, in the event that revenues under-perform. This reserve will be initially funded with the existing reserve from the FY2018 allocations. When the Board adopts a spending plan from the Clean Water Fund as part of the state’s budget process for FY2020 it will no longer include a ten percent reserve as one of the allocations. Any annual adjustments to the appropriations will need to ensure that the minimum balance is consistently maintained at a \$500,000 minimum balance.

**Application:** The Board, when adopting an allocation recommendation or adjustment to current Clean Water Fund allocations, beginning in State Fiscal Year 2020, will first ensure that revenues have performed at least as expected during the previous fiscal year and include any adjustment that may be needed to maintain a \$500,000 minimum cash balance in the fund in accordance with this plan. This approach ensures that if the Clean Water Fund under-performs, the minimum balance will be restored prior to allocation of funds for projects.

The contingency funds listed in the FY2019 Clean Water Fund Allocations, which were related to the Interim Contingency Plan of 2016 and in the amount of \$500,000, were not part of the Board’s FY2019 budget

process. These funds will be added to and distributed with the FY2020 allocations using the Board's standard budget-making process.

Should the Clean Water Fund over-perform in a fiscal year, generating funds at higher than forecasted levels, the additional Clean Water Funds shall also be disbursed as part of the Board's subsequent fiscal year Clean Water Fund budgeting process.

**Background:** The Act 64, also known as the Vermont Clean Water Act, was signed into law on June 16, 2015. Act 64 establishes the Clean Water Fund and uses as its primary revenue source a surcharge to the property transfer tax. The law also established a Clean Water Board to administer the Fund.<sup>1</sup>

The purpose of the Clean Water Fund is to provide additional state funds above current allocation levels to complement, enhance and leverage existing resources for the restoration and protection of Vermont's rivers, streams, lakes, ponds and wetlands. The Clean Water Fund provides financial support for actions that will reduce pollution washing into Vermont's waterways. To maximize its effectiveness, the Fund is structured to strengthen and complement existing state assistance programs, such as grant and loan pass-through programs, wherever feasible.

As stipulated in Act 64, the Clean Water Board meets periodically to develop a proposal for investing revenues from the Clean Water Fund in programs that will make a significant contribution towards improving the water quality of Vermont's surface waters. After a public notice and comment period, Clean Water Board prepares a final Clean Water Fund budget, to be incorporated into the Governor's proposed budget for the General Assembly to approve.

The State of Vermont is committed to expending only the funds that are available within the Clean Water Fund. This Clean Water Fund Expenditure Contingency Plan assures a minimum fund balance of \$500,000. These funds are to be used as a reserve, in the event that revenues do not perform as expected. This Contingency Plan provides the following benefits:

- Eliminates the risk of over-spending more than the funds available in the Clean Water Fund;
- Keeps the process streamlined;
- Allows for more effective and efficient administration between the Department of Finance & Management, the Tax Department, the Legislature and our Agency Programs; and
- Removes the risk and related program impacts of spending above available amounts on any one agency.

**Authorized by:**



7/24/18

**Susanne Young, Secretary  
Agency of Administration  
Chair of the Clean Water Board**

**Date**

<sup>1</sup> Act 168 of 2018 (S.260) changed the name of the Board to Clean Water Board.