



Legislative Fiscal Bureau

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January 14, 2010

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Governor's Section 13.10 Request for the Use of Federal Economic Stimulus Funding for Leaking Underground Storage Tank Cleanup -- Agenda Item I

REQUEST

The Governor submitted a request dated January 6, 2010, to the Joint Committee on Finance for approval of the expenditure of up to \$1,000,000 in 2009-10 for the Department of Natural Resources (DNR) to provide for cleanup of contaminated leaking underground storage tank sites at the Chrysler Engine Plant site in Kenosha. The \$1,000,000 would be allocated from the \$6,381,000 in federal economic stimulus funds approved by the Joint Committee on Finance at the Committee's August 4, 2009, meeting. The expenditure would be made under DNR's federal appropriation s. 20.370 (2)(my) for the leaking underground storage tank site (LUST) program.

BACKGROUND

On July 20, 2009, the U.S. Environmental Protection Agency (EPA) announced an award of \$6,381,000 to DNR from funds provided under the federal American Recovery and Reinvestment Act of 2009 (ARRA) to assess and clean up contamination at leaking underground storage tank sites. On August 4, 2009, the Joint Committee on Finance approved DNR expenditure authority of \$6,381,000 for assessment and cleanup of the contaminated petroleum sites submitted with the DNR application for ARRA funding to EPA in April, 2009. The Committee approval also specified that if DNR or the Department of Commerce propose to spend any of the ARRA funding for sites other than the sites included in the April, 2009, application to EPA, the Governor would first submit a request to the Committee for approval of the expenditures under the requirements of 2009 Act 2.

EPA requires DNR to obligate at least 35% of the funds for contracts or subgrants, and expend at least 15% of the grant funds, within nine months of receiving the grant award, which would be in April, 2010. States are required to give priority, when expending the ARRA LUST funds, to assessment and cleanup of leaking underground tank sites that: (a) pose the greatest threat to human health and the environment; (b) are shovel-ready (sites that are ready for the work to begin); (c) are orphaned or abandoned, with no responsible party able to pay for the cleanup; and (d) have a high economic redevelopment priority. Funding can be used for assessment activities to determine the existence and extent of contamination, cleanup and oversight of cleanup. Funding can not be used for activities such as removal of a tank (unless the tank removal is a necessary part of the cleanup), leak prevention, redevelopment (such as construction of a new building), or replacement or repair of a leaking tank. If it is determined a viable responsible party exists for any site that benefits from ARRA LUST grant funds, DNR would follow EPA procedures to recover cleanup costs and use the funds for cleanup at other eligible sites.

ANALYSIS

In August, 2009, DNR entered into contracts or intergovernmental agreements with several municipalities for use of \$5,444,126 in ARRA LUST grant funds at several sites that were included in the DNR application to EPA in April, 2009. These grant awards are shown in Table 1. The remaining balance of ARRA LUST funds available for award is \$936,874. DNR officials anticipate that a small portion of the awarded funds will not be needed by the grant recipients and will be returned to DNR for reallocation to other sites.

TABLE 1

**DNR ARRA Awards for Leaking Underground Storage Tank Sites
August, 2009**

| <u>Municipality</u> | <u>County</u> | <u>Site Name or Description</u> | <u>Grant</u> |
|---------------------|---------------|--|------------------|
| Beaver Dam | Dodge | Downtown areawide development (several sites) | \$117,780 |
| Marinette County | Marinette | Postorino Painting | 105,057 |
| Mauston | Juneau | Kastner property | 200,000 |
| Milwaukee, City | Milwaukee | 12 Tax Delinquent or Foreclosed Petroleum- Contaminated Brownfields | 1,048,052 |
| Milwaukee, City | Milwaukee | Tower Automotive (several sites) | 1,108,392 |
| Milwaukee, City | Milwaukee | Esser Paint | 864,845 |
| Stetsonville | Taylor | Two properties | <u>2,000,000</u> |
| Total | | | \$5,444,126 |

During the fall of 2009, DNR identified the Chrysler Engine Plant site in Kenosha as a higher priority for potential ARRA LUST funding than sites included in the April, 2009, application to EPA. The site is over 100 acres in size and includes several areas of contamination from

underground tanks that stored petroleum or non-petroleum products such as solvents. When DNR submitted the application to EPA, it did not put the Kenosha site on the included list of potential sites because the Chrysler Corporation was considered a viable responsible party for any contamination at the site. Since then, the Chrysler Corporation has gone into bankruptcy, the plant is planned for closure in 2010, and it is unknown what resources the bankrupt company may have available to pay for cleanup of contamination.

DNR, the City of Kenosha, and the City's consultant have identified approximately a dozen areas of underground tank contamination on the Chrysler plant site. While the Governor's request to the Committee references funds being used for sites where the contamination is from petroleum, DNR has since clarified that ARRA LUST funding can also be used to clean up contamination from products other than petroleum, such as solvents. If the Committee approves the \$1,000,000 allocation, DNR would enter into an intergovernmental agreement with Kenosha as soon as possible. The Department anticipates the ARRA LUST funds would be used for site investigation and cleanup work during the spring through fall of 2010. DNR and the City hope that any cleanup of contamination started or completed before the plant closes would hasten the date at which the plant could be redeveloped to provide jobs in other manufacturing businesses.

The request is to use "up to \$1,000,000" of the authorized ARRA LUST funds for the Chrysler Kenosha site. DNR officials indicate the requested amount exceeds the currently unawarded amount of \$936,900 because funds not needed by other grant recipients could be reallocated for use at the Kenosha site.

Committee approval of the requested \$1,000,000 for the Kenosha site is expected to provide for allocation of 100% of the state's ARRA LUST funds. It is unlikely any funds would be available for other sites included in DNR's April, 2009, application to EPA. These sites are shown in Table 2. If the Committee does not approve the allocation of funds for the Kenosha site, DNR could award ARRA LUST funds for any of the projects listed in Table 2 under the August 4, 2009, action, without returning to the Committee for further approval. However, DNR has indicated it has determined the Kenosha site has a higher priority and economic redevelopment potential than the sites included in Table 2.

TABLE 2

**Additional Potential Leaking Underground Storage Tank Sites
Submitted with DNR Application for ARRA Funding to EPA, April, 2009 --
Not Included in August, 2009 DNR Awards**

| <u>Municipality</u> | <u>County</u> | <u>Site Name or Description</u> | <u>Estimated Cleanup Cost</u> |
|---------------------|---------------|--|-----------------------------------|
| Antigo | Langlade | Antigo Cooperative Oil | \$150,000 |
| Deerfield, Town | Dane | Wollin property | 150,000 |
| Elderon | Marathon | Eppler's Bar | 125,000 |
| Granton | Clark | Kuhl Implement | 130,000 |
| Milwaukee, City | Milwaukee | 41 Tax Delinquent or Foreclosed Petroleum- Contaminated Brownfields | 1,381,900 |
| Milwaukee, City | Milwaukee | Pabst Brewery (several sites) | 500,000 |
| Oak Creek | Milwaukee | Wabash, Hynite and Peter Cooper properties | 600,000 |
| Oxford | Marquette | Winner Circle Auto | 200,000 |
| Pittsville | Wood | Bill's Mini Mart | 137,000 |
| Statewide | Statewide | 20 Sites identified by DNR with estimated cleanup costs between \$5,000 and \$75,000 per site | 600,000 |
| Statewide | Statewide | 82 Sites identified by Commerce with estimated cleanup costs between \$2,500 and \$100,000 per site | <u>3,264,500</u> |
| Total | | | \$7,238,400 |

ALTERNATIVES

1. Approve the allocation of DNR expenditure authority of up to \$1,000,000 in federal stimulus funds for the leaking underground storage tank program for cleanup of contaminated underground tank sites at the Chrysler engine plant site in Kenosha.
2. Deny the request.

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