



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

August 4, 2009

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 XVIII

REQUEST

The Governor submitted a request dated July 22, 2009, to the Joint Committee on Finance for approval of the allocation and expenditure of \$6,381,000 in 2009-10 in federal economic stimulus funds for the Department of Natural Resources (DNR) to provide for cleanup of contamination at leaking underground storage tank (LUST) sites where the contamination is from petroleum.

BACKGROUND

The federal American Recovery and Reinvestment Act of 2009 (ARRA) provided \$197 million nationwide to assess and clean up contamination at leaking underground petroleum storage tank sites. On July 20, 2009, the U.S. Environmental Protection Agency (EPA) announced an award of \$6,381,000 to DNR under the ARRA program. DNR and EPA are in the process of finalizing the terms and conditions of the grant agreement. 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 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.

While DNR is the designated state agency grant recipient, DNR and the Department of Commerce (Commerce) are discussing entering into a memorandum of understanding under which Commerce would use some of the ARRA funding for cleanup at Commerce-administered petroleum sites. (DNR administers the cleanup of high-priority petroleum sites, and Commerce administers the cleanup of medium- and low-priority sites.)

DNR submitted a list of potential priority sites to EPA in April, 2009, when the Department submitted its ARRA funding application. These sites were identified by DNR and Commerce as potentially meeting the priority criteria described above, and are listed in the following table. The estimated cleanup costs for the identified sites exceed \$13 million. Approximately \$6.4 million in projects can be supported with federal stimulus funds. Since April, the agencies have been reviewing sites in greater detail to determine which sites may be added to, or subtracted from, the original list. The Departments review the environmental priority of sites, readiness of projects to proceed, and discovery of a responsible party able to undertake the cleanup. Thus, the sites in the table do not represent an application list or funding list, but rather, provide general information about potential site locations and cost estimates.

**Potential Leaking Underground Storage Tank Sites
Submitted with DNR Application for ARRA Funding to EPA, April, 2009
(Sites May be Added to or Deleted from List)**

<u>Municipality</u>	<u>County</u>	<u>Site Name or Description</u>	<u>Estimated Cleanup Cost</u>
Antigo	Langlade	Antigo Cooperative Oil	\$150,000
Beaver Dam	Dodge	Downtown areawide development (several sites)	250,000
Deerfield, Town	Dane	Wollin property	150,000
Elderon	Marathon	Eppler's Bar	125,000
Granton	Clark	Kuhl Implement	130,000
Marinette County	Marinette	Postorino Painting	200,000
Mauston	Juneau	Kastner property	200,000
Milwaukee, City	Milwaukee	53 Tax Delinquent or Foreclosed Petroleum- Contaminated Brownfields	2,430,000
Milwaukee, City	Milwaukee	Tower Automotive (several sites)	2,000,000
Milwaukee, City	Milwaukee	Pabst Brewery (several sites)	500,000
Milwaukee, City	Milwaukee	Esser Paint	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
Stetsonville	Taylor	Two properties	2,000,000
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			\$13,436,500

ANALYSIS

DNR has met with several municipalities that own sites on the list or other sites that are being identified as potentially meeting the criteria for receipt of ARRA funds. Several of these sites were taken over by the municipality through tax delinquency or foreclosure proceedings. DNR plans to sign contracts or intergovernmental agreements with municipalities which would specify a scope of work, grant amount, and timeline for completion of work at the site. DNR hopes to begin signing these agreements during August. Use of intergovernmental agreements would allow municipalities to use existing contracts with contractors or consultants when possible, rather than to let new bids. Municipalities might need to advertise and let bids for cleanup if they do not have existing contracts available for use on the project. DNR anticipates work would begin at sites in September and October.

The ARRA funding must be used specifically for leaking underground storage tank sites that meet criteria related to environmental priority, economic redevelopment plans, and readiness to proceed, Committee approval of the ARRA funding at this time would allow DNR and/or Commerce to enter into agreements with municipalities as soon as it selects projects. Alternatively, if the Committee wishes to review DNR's final site selections and funding amounts, the Committee could deny the request at this time. The Governor could resubmit the request to the Committee when that information is available. However, resubmittal of the request may make it more difficult to start some cleanup projects during the fall of 2009.

ALTERNATIVES

1. Approve DNR expenditure authority of \$6,381,000 in 2009-10 of federal stimulus funds for the state leaking underground storage tank program for assessment and cleanup of contaminated petroleum tank sites.
2. Deny the request.

Prepared by: Kendra Bonderud