



Legislative Fiscal Bureau

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August 10, 2012

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

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

REQUEST

The Governor submitted a request dated August 1, 2012, to the Joint Committee on Finance for approval of the reallocation and expenditure of an additional \$170,000 for the Department of Natural Resources (DNR) to provide for the cleanup of contaminated leaking underground storage tank sites at the Chrysler engine plant site in Kenosha. The \$170,000 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 allocation would be made in addition to the \$1,000,000 approved by the Committee for the Kenosha site on January 14, 2010. The expenditure would be made under DNR's federal appropriation s. 20.370 (2)(my) for the leaking underground storage tank (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 to EPA for ARRA funding in April, 2009. The Committee approval specified that if DNR would later 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 need to submit a request to the Committee for approval of the expenditures under the requirements of 2009 Act 2.

On January 14, 2010, the Joint Committee on Finance approved the Governor's request to award up to \$1,000,000 in LUST ARRA funding for cleanup of contaminated leaking underground storage tank sites (petroleum and non-petroleum) at the former Chrysler engine plant site in Kenosha.

ANALYSIS

In August, 2009, DNR entered into contracts or intergovernmental agreements with several municipalities for use of ARRA LUST grant funds at several sites that were included in the DNR application to EPA in April, 2009. The Kenosha site had not been included in DNR's application to EPA because, at that time, the Chrysler Corporation was considered a viable responsible party for any contamination at that site. Since that time, the Chrysler Corporation went through bankruptcy. DNR indicated it had determined the Kenosha site had a higher environmental priority and economic redevelopment potential than sites included in the April, 2009, application to EPA that were not awarded ARRA funds in August, 2009.

After the January, 2010, Joint Committee on Finance approval of use of up to \$1,000,000 of the ARRA LUST funds for the Chrysler Kenosha site, DNR entered into an intergovernmental agreement with Kenosha to implement that approval. The agreement between the state and Kenosha was for \$975,000 rather than the \$1,000,000 approved by the Committee, because, \$975,000 was the amount expected to be available and unneeded by other projects. DNR anticipated that if funds were not needed by other projects the Kenosha agreement could be amended to provide up to the \$1,000,000 previously approved by the Committee.

Since January, 2010, several ARRA LUST projects were completed for less than the originally allocated amount, or are anticipated to cost less than the previously awarded amount. The table shows expenditure and allocation of ARRA LUST funding as of June, 2012. The amounts shown include the completed Mauston and Beaver Dam projects, and the anticipated level of expenditure for the Marinette project, all of which are less than the previously awarded amounts. The amount shown for Milwaukee is one "not to exceed" amount equaling the sum of three separate projects, established so Milwaukee would have flexibility to move funds between projects if necessary. The table does not include \$70,000 that DNR had hoped to allocate to a project in Mellen, but cannot do so unless a pending foreclosure action is completed in the near future.

Municipalities are required to spend awarded funds by December 31, 2012. DNR is required to review and reimburse invoices, and close out the grant agreements by March 31, 2013. DNR will be required to return any unspent funds to EPA.

The former Chrysler engine plant site in Kenosha is a site larger than 100 acres that operated as an automotive manufacturing facility for almost 100 years. The site contains perhaps 100 or more tank sites that were used to store petroleum products, chlorinated solvents, and other hazardous substances. There are several documented releases of hazardous substances to soil and groundwater. The currently allocated ARRA funding is being used to define the location and extent of contamination from the petroleum tank sites and clean up contamination at those sites.

Work being performed this year also includes active cleanup of groundwater contamination, removal of tanks, and removal of contaminated soil. Cost estimates for cleanup of contamination from tanks containing petroleum and solvents vary. DNR officials indicate funds already spent at the site, presently committed, or expected to be available total up to roughly \$17.6 million and derive from federal (approximately 72%), City of Kenosha (20%) and State (8%) sources. The state funds include \$1 million from the former Department of Commerce as a brownfields grant and \$500,000 from DNR state-funded response moneys for cleanup of sites where a responsible party is not able or willing to pay for cleanup. The source of state funds is the segregated environmental management account of the environmental fund, which is primarily funded from state solid waste tipping fees. In addition to further remediation work, future work at the Kenosha site may include demolition of unusable buildings and other activities to make the site ready for potential redevelopment as an industrial use.

TABLE

DNR ARRA Awards for Leaking Underground Storage Tank Sites

<u>Municipality</u>	<u>County</u>	<u>Site Name or Description</u>	<u>Amount</u>
Completed Projects			
Stetsonville	Taylor	Two Properties	\$2,000,000
Mauston	Juneau	Kastner Property	158,233
Beaver Dam	Dodge	Weyco Shoe Factory	<u>32,132</u>
Subtotal			\$2,190,365
Approved Projects - In Progress			
Milwaukee, City	Milwaukee	Tower Automotive, Esser Paint, and Several Tax Delinquent or Foreclosed Petroleum-Contaminated Brownfields	\$3,021,289
Kenosha, City	Kenosha	Kenosha Chrysler Engine Plant	975,000
Marinette County	Marinette	Postorino Painting	<u>30,017</u>
Subtotal			\$4,026,306
Total spent and allocated to date			\$6,216,671
Total maximum ARRA grant			\$6,381,000
Amount remaining for award			\$164,329

DOA officials indicate the calculation of \$170,000 as the requested amount represents a rounding up of the \$164,329 in currently remaining funds. It would also allow for some minor adjustments as projects near completion and actual costs become clearer. Under the request, total Chrysler Kenosha project costs could total up to \$1,170,000. DNR officials indicate the funds would be used for additional assessment of the extent of petroleum contamination at the site, or ongoing cleanup of groundwater and soil contamination from tanks at the site. If the Committee does not approve the request, DNR could decide to allocate \$25,000 of the \$164,329 to the Kenosha site and remain within the prior Committee approval of up to \$1,000,000 for the site. If

DNR would do that, the Department could allocate \$139,329 to Milwaukee or other sites (such as \$70,000 for the potential Mellen foreclosure site) included in the April, 2009, DNR application to EPA.

If the Committee approves the request (Alternative 1), and the Mellen foreclosure action is not quickly resolved, the amount anticipated to be spent at the Kenosha site would likely increase from \$975,000 to approximately \$1,140,000. Since the Committee previously approved allocation of \$1,000,000, approval of the full request would allow expenditure of up to \$1,170,000 at the Kenosha site if actual costs at other sites are less than currently anticipated. However, if the Mellen foreclosure action is completed, \$70,000 of the \$170,000 might be spent for the Mellen site instead of Kenosha, and the amount spent at the Kenosha site would likely increase from \$975,000 to up to \$1,075,000. Since it is likely the intended amount of expenditure for the Kenosha site is approximately \$1,140,000, the Committee could choose to allocate an additional \$140,000 instead of the requested \$170,000 (Alternative 2). This would more accurately reflect the amount anticipated to be spent at the Kenosha site, but would not provide as much flexibility as the full request would if less is spent at Milwaukee, Marinette, and the potential Mellen site than previously planned.

If the Committee does not approve the request (Alternative 3), the amount spent at the Kenosha site would either remain at \$975,000 or increase to \$1,000,000; up to \$70,000 might be spent for the Mellen site, and the amount anticipated to be spent for Milwaukee sites could increase by the remainder (between approximately \$70,000 to \$170,000).

Administration and DNR officials indicate the exact allocation of the \$164,329 in currently available funds has not been decided, either under the scenario of Committee approval or Committee denial of the funding allocation request.

ALTERNATIVES

1. Approve the allocation of DNR expenditure authority of up to an additional \$170,000 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. (This would provide a total allocation of up to \$1,170,000 for the Kenosha facility.)
2. Approve the allocation of DNR expenditure authority of up to an additional \$140,000 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. (This would provide a total allocation of up to \$1,140,000 for the Kenosha facility.)
3. Deny the request. (The Kenosha allocation would remain at \$1 million.)

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