

**328th MEETING OF THE
STATE ENVIRONMENTAL IMPROVEMENT
AND ENERGY RESOURCES AUTHORITY
EIERA Office
425 Madison Street, Second Floor
Jefferson City, Missouri
January 20, 2017
10:00 a.m.**

1. Call to Order
2. Approval of Minutes

Approval of Minutes from the 327th Meeting of the Authority held December 7, 2016, in Jefferson City, Missouri
3. Brownfields Revolving Loan Fund
 - A. Program Update
 - B. Subgrant and Loan Award Percentages
 - C. Consideration and Approval of the Funding Recommendation for the Village of Agency Project and Authorization for the Director or Her Designee to Enter Into an Agreement on Behalf of the Authority
 - D. Consideration and Approval of the Funding Recommendation for the Boonslick Community Development Corporation Project and Authorization for the Director or Her Designee to Enter Into an Agreement on Behalf of the Authority
 - E. Other
4. Rulemaking Update – Executive Order 17-03
5. The Nature Conservancy Project Introduction
6. Other Business
 - A. Opportunity for Public Comment (Limit of Four Minutes per Individual)
 - B. Next Meeting Date
 - C. Other
7. Closed Meeting Pursuant to Section 610.021(1), (3) and (11) RSMo. (as needed)
8. Adjournment of Closed Meeting and Return to Open Meeting
9. Adjournment of Open Meeting

The Authority may vote to close a portion of the meeting in conjunction with the discussion of litigation matters (including possible legal actions, causes of action, any confidential or privileged communications with its attorneys and the negotiation of items of a contract), real estate matters, personnel matters (including the hiring, firing, disciplining or promoting

of personnel), or specification for competitive bidding pursuant to Section 610.021 (1), (3) or (11) RSMo.

Members to be Present: Andy Dalton, Chair
 LaRee DeFreece, Secretary
 Deron Cherry, Vice-Chair, Treasurer
 Steve Mahfood, Member

Staff to be Present: Karen Massey, Director
 Joe Boland, Deputy Director
 Kristin Allan Tipton, Development Director
 Connie Patterson, Project Specialist
 Mary Vaughan, Administration and Project Manager
 Genny Eichelberger, Office Support Assistant

Legal Counsel to be Present: David Brown
 Lewis Rice LLC

State Environmental Improvement and Energy Resources Authority
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Agenda Item #3B
MISSOURI BROWNFIELDS REVOLVING LOAN FUND
SUBGRANT AND LOAN AWARD PERCENTAGES

Issue:

The cooperative agreement between the EPA and the EIERA that governs the Missouri Brownfields Revolving Loan Fund requires that sixty-percent of cleanup funds be awarded as loans.

Action Needed:

Authorization for the director or her designee to request a waiver from EPA for the sixty-percent loan requirement in awards made through the Missouri Brownfields Revolving Loan Fund.

Staff recommendation:

Staff recommends that the Board direct staff to request a waiver from EPA for the sixty-percent loan requirement in awards made through the program.

Staff Contact:

Kristin Tipton, Development Director

Background:

The cooperative agreement between the EPA and the EIERA that governs the Missouri Brownfields Revolving Loan Fund requires that sixty-percent of cleanup funds be awarded as loans.

To date, the program has awarded \$1,457,639 as loans and \$819,174 as subgrants. At this time, with just over \$1 million available to award, approximately sixty-five percent of the cleanup funds awarded through the program have been awarded as subgrants. In order to meet the sixty percent loan requirement, the program would need to award a loan of approximately \$500,000 with the funds now available.

Currently, staff are working with several small communities that will be requesting subgrants and do not have any loan prospects for the near future. With the goal of providing assistance for small or rural communities that do not have access to many resources, this is a logical result of our outreach.

Staff are aware that other brownfield RLFs have requested and received waivers for the subgrant/loan percentage requirement. Because we feel that our program has the most impact where we enable cleanups that would not happen but for the program, staff

recommends that the EIERA request that EPA waive the requirement to award any of the balance of our available funds as loans. If this waiver were granted, staff would still seek opportunities to award funds as loans.

KT:ge

State Environmental Improvement and Energy Resources Authority
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Agenda Item #3C
MISSOURI BROWNFIELDS REVOLVING LOAN FUND
CONSIDERATION OF THE VILLAGE OF AGENCY PROJECT

Issue:

The Village of Agency, a Missouri political subdivision, has submitted a petroleum application to the MBRLF requesting a \$45,000 subgrant to remove or close three underground storage tanks on the former Woody's Grocery property in the community.

Action Needed:

Consideration of the funding recommendation for the Village of Agency project and authorization for the director or her designee to enter into an agreement on behalf of the Authority.

Staff recommendation:

Staff recommends that the Board approve a subgrant of up to \$100,000 for this project.

Staff Contact:

Kristin Tipton, Development Director

Background:

The Village of Agency submitted a subgrant application to the program requesting funds to remove or close three underground storage tanks on the former Woody's Grocery property in the community. Agency, with a population of 675, is located in northwest Missouri, near St. Joseph.

The property, now owned by the Village, is a vacant site that contains a canopy with fueling pumps and a concrete pad on a 2.5 acre property. The property was formerly used as a filling station and includes three underground storage tanks. Environmental assessments included soil borings and it is not anticipated that a wide plume of contaminated soil will be encountered during the remediation.

After the property is cleaned, the Village plans to build a structure to house Village Hall with a garage for equipment and space for civic events. The Village anticipates the cost of construction will be approximately \$100,000.

Staff reviewed the application and found the applicant and site to meet all eligibility criteria for the program. Site and applicant eligibility have been confirmed by EPA.

The MBRLF Review Team, consisting of staff from MoDNR's Brownfield Voluntary Cleanup Program, the Department of Economic Development's Business and Community Services Program and the Authority, reviewed the application and unanimously recommends that the Board approve a grant of up to \$100,000 for this project.

This amount is significantly higher than the applicant's original request because the applicant did not take into consideration additional costs beyond the tank closure such as BVCP oversight fees, cost of public participation and sign, and the fact that the cleanup contractor will have to comply with Davis Bacon and will have additional costs associated with complying with and completing the BVCP approved Remedial Action Plan. Also, while soil borings in the surrounding area did not indicate levels of contamination beyond Missouri thresholds, it is likely that some soil in the tank pits will need to be removed. Regardless of the award amount, only eligible costs, up to the award amount, would be reimbursed.

KT:ge

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Agenda Item #3D

MISSOURI BROWNFIELDS REVOLVING LOAN FUND
CONSIDERATION OF THE BOONSLICK COMMUNITY DEVELOPMENT CORPORATION PROJECT

Issue:

The Boonslick Community Development Corporation, a Missouri non-profit corporation has submitted a hazardous substance application to the MBRLF, requesting a \$100,000 subgrant to complete remediation of a building on the former Kemper Military School.

Action Needed:

Consideration of the funding recommendation for the Boonslick Community Development Corporation project and authorization for the director or her designee to enter into an agreement on behalf of the Authority.

Staff recommendation:

Staff recommends that the Board approve a subgrant of up to \$100,000 for this project.

Staff Contact:

Kristin Tipton, Development Director

Background:

The Boonslick Community Development Corporation submitted a subgrant application to the program requesting fund to remediate asbestos-containing materials in the "K Barracks" building located on the former Kemper Military School campus in Boonville.

In January of 2015 the EIERA awarded the Boonslick Community Development Corporation \$100,000 to remediate lead-based paint and asbestos in the former administration building on the campus. This project was successfully completed and the area will soon be converted to green space, which will significantly improve the aesthetics of the campus. The Missouri Brownfields Revolving Loan Fund does not have a policy regarding repeat applicants as does the Missouri Market Development Program, and Boonslick Community Development Corporation is eligible to apply to the program a second time.

K Barracks is a vacant building, originally part of the seven building, forty-six acre Kemper Military School campus. The school occupied the property from 1844 until 2001, and, in 2002, the City of Boonville acquired the property and has been working at redeveloping it. The Boonslick Heartland YMCA now occupies the former campus field house and State Fair Community College is leasing two buildings for uses as a satellite campus.

K Barracks has little reuse or redevelopment potential due to its size, condition, and layout. Additionally, since the building is the "newest" building, it is not in keeping with the historic character of the rest of campus.

The Boonslick Community Development Corporation intends to demolish the K Barracks building following the remediation that would be funded by this request, and convert the area to green space and possibly parking in the future. Lack of parking is significant issue when contemplating continued growth and revitalization for the campus. Regardless of the site's final use, green space or parking will enhance the campus's redevelopment potential.

Staff reviewed the application and found the applicant and site to meet all eligibility criteria for the program. Site and applicant eligibility have been confirmed by EPA.

The MBRLF Review Team, consisting of staff from MoDNR's Brownfield Voluntary Cleanup Program, the Department of Economic Development's Business and Community Services Program and the Authority, reviewed the application and unanimously recommends that the Board approve a subgrant of up to \$100,000 for this project.

KT:ge

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Agenda Item #4
EXECUTIVE ORDER 17-03 RELATING TO RULEMAKING

Issue:

Governor Greitens has issued an Executive Order suspending proposed rules and requiring a review of all state regulations that includes public hearings and opportunities for comment.

Action Needed:

Authorization for the Director or her designee to hold public hearings under the Executive Order.

Staff Recommendation:

Staff recommends that the Board authorize the Director or her designee to hold necessary public hearings.

Staff Contact:

Karen Massey

Background:

One of the Governor's first actions was to sign Executive Order 17-03, a copy of which is attached, relating to state regulations. The Order requires state agencies to suspend current rulemaking actions, obtain Governor's Office approval of proposed regulations prior to release and to review existing rules.

Authority Staff has been working with the Division of Energy to develop Property Assessed Clean Energy (PACE) regulations and present the draft language to stakeholders in a series of public meetings. These regulations have not yet been formally proposed which is accomplished by an initial filing with the Secretary of State. Based on discussions with MDNR we believe that these preliminary stakeholder meetings will be allowed to proceed; however, we will confirm this information and proceed accordingly.

The review of existing rules is to be completed and a report submitted to the Governor's Office by May 31, 2018. The review is to include a 60 day public comment period and at least two public hearings. Six criteria must be affirmed in the report. Those criteria include:

1. That the regulation is essential to the health, safety, or welfare of Missouri residents;
2. the costs do not outweigh the benefits;
3. a process exists to measure effectiveness;
4. that less restrictive alternatives were considered and found to be less desirable;

5. the regulation is based upon sound scientific, technical, economic and other relevant information; and
6. the rule does not unduly and adversely affect Missouri citizens or customers of the State, or the competitive environment in Missouri.

The review requirements are somewhat similar to Chapter 536.175 of the Revised Statutes of Missouri which requires that state agencies review their rules every five years. The statute sets forth a review schedule so that not all agencies are reviewing their rules during the same year. MDNR rules (which include those of the Authority) are currently under statutory review and the report on the Authority rules is due to MDNR by May 1, 2017.

Authority staff has been in discussions with MDNR's Office of General Counsel which, given the similarity of the Executive Order and Statutory review requirements, hopes to provide the two reports simultaneously. To meet the MDNR May 1 report deadline, the comment period required by the Executive Order should commence in February and the two hearings held by early April. Staff will then provide the reports to the Board for approval in a meeting in late April.

The Executive Order does not specify whether the public hearings must be held by the Board or may be held by staff. While the Authority's General Counsel believes that either is acceptable, he suggests that should the Authority wish to have staff perform this function that it be formally delegated to the Director or her designee. Given the limited amount of time available to hold the public hearings, staff recommends that the Board delegate this function. Board members are encouraged to attend the hearings and may participate and ask questions in an official capacity even if the power to hold the hearing is delegated.

Staff and General Counsel will be available at the meeting to answer any questions.

KM:ge

Attachment

RECEIVED & FILED

EXECUTIVE ORDER
17-03

JAN 10 2017

SECRETARY OF STATE
COMMISSIONS DIVISION

WHEREAS, Missouri's state government has proposed and codified an excessive amount of regulations; and

WHEREAS, the Missouri Register, a publication that includes proposed and final regulations, has published more than 40,000 pages since 2000; and

WHEREAS, Missourians and Missouri businesses deserve efficient, effective, and necessary regulations; and

WHEREAS, regulations should not reduce jobs, stifle entrepreneurship, limit innovation, or impose costs far in excess of their benefits; and

WHEREAS, regulations that are ineffective, unnecessary, or unduly burdensome must be repealed; and

WHEREAS, removing needless and burdensome regulations will make Missouri more attractive to businesses and encourage job growth.

NOW THEREFORE, I, ERIC R. GREITENS, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby order:

1. Every State Agency shall immediately suspend all rulemaking.
 - a. This suspension shall remain in effect until February 28, 2017.
 - b. Any proposed regulation that affects health, safety, or welfare, or is otherwise time sensitive or required by law, should be submitted to the Office of the Governor prior to February 28, 2017.
2. No State Agency shall release proposed regulations for notice and comment, amend existing regulations, or adopt new regulations at any time until approved by the Office of the Governor.
3. Every State Agency shall undertake a review of every regulation under its jurisdiction within the Code of State Regulations.
 - a. As part of its review, every State Agency shall (i) accept written public comments for at least a 60-day period; (ii) hold at least two public hearings to allow citizens and businesses to identify regulations that are ineffective, unnecessary, or unduly burdensome; (iii) solicit and incorporate comments and advice from private citizens, stakeholders, regulated entities, and other interested parties; and (iv) complete the review by May 31, 2018.
 - b. Every State Agency shall designate an individual to oversee the review.
 - c. For each existing regulation, and any future proposed regulation, every State Agency shall affirm in a report submitted to the Office of the Governor by May 31, 2018:
 - i. The regulation is essential to the health, safety, or welfare of Missouri residents;
 - ii. The costs of the regulation do not outweigh their benefits, based on a cost-benefit analysis;
 - iii. A process and schedule exist to measure the effectiveness of the regulation;

- iv. Less restrictive alternatives have been considered and found less desirable than the regulation;
 - v. The regulation is based on sound, reasonably available scientific, technical, economic, and other relevant information; and
 - vi. The regulation does not unduly and adversely affect Missouri citizens or customers of the State, or the competitive environment in Missouri.
- d. By June 30, 2018, every State Agency shall take any action necessary to repeal or to cease rulemaking for any regulation that does not meet any criteria in Section 3(c) of this Order.
4. This Order does not modify any State Agency's obligations under Section 536.175, RSMo. Any State Agency that has already completed the review required by Section 536.175, RSMo. may include any applicable results of that review when responding to this Order. Any State Agency that has not already completed the review required by Section 536.175, RSMo. shall do so in the manner and on the schedule required by statute.
5. "State Agency" shall have the definition provided in Section 536.010(8), RSMo.
6. This Order shall supersede any previous executive order that is inconsistent with the terms contained herein.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 10th day of January, 2017.



Eric R. Greitens
Governor

John R. Ashcroft
Secretary of State

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Agenda Item #5
INTRODUCTION TO THE NATURE CONSERVANCY WATER FUND PROJECT

Issue:

Authority staff has been approached by the Missouri Chapter of The Nature Conservancy to work on a Financial Feasibility Analysis for a Meramec River Water Fund.

Action Needed:

None during the open portion of the meeting.

Staff recommendation:

NA

Staff Contact:

Karen Massey

Background:

During December, staff was approached by The Nature Conservancy (TNC) about conducting a Financial Feasibility Analysis on a Meramec River Water Fund.

TNC is a non-profit organization headquartered in Virginia with chapters in each state and around the world. Founded in 1951, many of TNC's values mirror those of the Authority. The following statement, used in their promotional materials, news releases and web site captures their philosophy:

"The Nature Conservancy is a global conservation organization dedicated to conserving the lands and waters on which all life depends. Guided by science, we create innovative, on-the-ground solutions to our world's toughest challenges so that nature and people can thrive together. We are tackling climate change, conserving lands, waters and oceans at unprecedented scale, and helping make cities more sustainable. Working in more than 65 countries, we use a collaborative approach that engages local communities, governments, the private sector, and other partners."

TNC is interested in establishing a fund to be used for a variety of activities that will protect, conserve and restore the waters of the basin. The Meramec River Basin can be seen in the figure below (which was taken from "The Meramec River Basin Almanac" prepared by the East-West Gateway Council of Governments in 2007.) The basin includes multiple watersheds

with the Meramec River itself beginning in southeast Dent County and flowing approximately 220 miles into the Mississippi River in Jefferson County, south of St. Louis. It includes some of the more remote portions of the state as well as some of the more heavily developed areas. Increased land use (grazing, logging, development, etc.) in the basin has contributed to increased sedimentation and pollution from non-point and point sources.

TNC would like to contract with the Authority to prepare a Financial Feasibility Analysis for the Fund. The work would entail identifying potential funding sources, describing the method for establishing the funding source, the potential revenue which could be generated and a list of factors that could impact the viability of the source. The analysis will focus primarily on new sources of funding rather than the reallocation of existing sources. The work would build off of funding sources developed or utilized by other such funds as well as looking at options specific to Missouri and the basin. Staff is working with TNC staff to develop a scope of work, a timeline for deliverables as well as a payment structure for the work performed. Preliminarily, milestones include meeting with TNC to develop an outline of the final product structure, which would occur within two weeks of the date the agreement is signed, followed by a preliminary list of funding sources within approximately a month thereafter, a draft detailed analysis of potential funding sources by mid-June and a final product by mid-July.

Dr. Steve Herrington, the State Director of Freshwater Conservation will be at the meeting to introduce you to TNC and the Meramec River Water Fund Financial Feasibility Study Project in more detail.

KM:ge

