

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE:

State Revolving Fund (SRF) Loan Program: ) Order No.: 101021/FDEP  
Management of the FY 2010 Water Pollution Control SRF )  
Priority List to Reflect the Reallocation of the American )  
Recovery and Reinvestment Act of 2009 (ARRA) Funds )

RECORD OF FINAL AGENCY ACTION

On October 21, 2009 the Department of Environmental Protection (the Department) held a public hearing in Room 611 of the Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, Florida. Bob Holmden, P.E., Chief, of the Bureau of Water Facilities Funding, served as Hearing Officer. Tim Banks, P.E., Program Administrator, of the Bureau of Water Facilities Funding, presented staff recommendations on issues involving management of the FY 2010 Water Pollution Control SRF Priority List under Chapter 62-503, Florida Administrative Code (F.A.C.).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Notice of the public hearing and its purpose was published in the Florida Administrative Weekly, Volume 35, Number 40, on October 9, 2009. The Notice was certified as correct.
2. The Water Pollution Control SRF Priority List schedules projects to be financed with loans from the State Revolving Fund. It is developed annually and adopted by the Department under the provisions of the Rule, Chapter 62-503, F.A.C. The Rule also provides for certain list management activities including authorization of additional funds to projects already on the list, and adding new projects to the list.

3. Mr. Banks submitted the document entitled “EXHIBIT A: FOR THE 10/21/2009 PUBLIC HEARING REGARDING REALLOCATION OF ARRA FUNDS” (attached hereto as *Exhibit A*) to be entered into the record of the hearing.

4. Reading from this Exhibit, and the Table of ARRA projects associated with it, Mr. Banks presented the Department’s recommendations for management of the FY 2010 Water Pollution Control SRF Priority List by:

- a) Identifying those ARRA projects which were authorized at previous hearings, and which have been awarded and bid, and reflecting adjustment to authorized loan amounts where necessary to reflect as-bid costs, as shown as Dunnellon through Hollywood in the Table attached to Exhibit A;
- b) Identifying those ARRA projects which were adopted as “stand-by” projects at a previous hearing and are now eligible for elevation to fundable status for use of ARRA funds available for reallocation, as shown as Hernando County through Frostproof in the Table attached to Exhibit A, and distinguishing between principal forgiveness amounts and total loan amounts;
- c) Identifying North Bay Village project 80306 which was listed on the Small Community Wastewater Facilities Grants priority list at a hearing held by the Department on October 14, 2009 as being eligible to receive reallocation of ARRA funds in the form of a principal forgiveness loan;
- d) Noting that this is the final ARRA list of projects, and as these projects being added are bid and contracts have been awarded, any reallocations which might become necessary will be made within this list of projects in a manner which

obligates all principal forgiveness and non-principal forgiveness amounts as required by the Act, without further hearing; and

e) Noting that all new projects being added to the list at this hearing are required to submit complete loan applications not later than December 1, 2009, and to submit the executed loan agreement and to certify that all contracts have been awarded not later than January 15, 2010, and further noting that projects failing to meet these document submittal deadline dates will be removed from this ARRA list of projects and the funds allocated to them will be recaptured and reallocated without a hearing.

There being no further comment, Mr. Holmden accepted these recommendations for management of the FY 2010 Water Pollution Control SRF priority list and directed staff to prepare the written Record of Final Agency Action, including the priority list as amended.

#### FINAL AGENCY ACTION

The recommendations presented in the Findings of Fact and Conclusions of Law are adopted. The FY 2010 Water Pollution Control SRF priority list (shown as Attachment 1) is amended.

A person whose substantial interests are affected by the Department's proposed decision may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Petitions by the applicant or any of the parties listed below must be filed within twenty-one days of receipt of this written notice. Petitions filed by any persons other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within twenty-one

days of publication of the notice or within twenty-one days of receipt of the written notice, whichever occurs first.

Under section 120.60(3) of the Florida Statutes, however, any person who has asked the Department for notice of final agency action may file a petition within twenty-one days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department case identification number and the county in which the subject matter or activity is located;

(b) A statement of how and when each petitioner received notice of the action;

(c) A statement of how each petitioner's substantial interests are affected by the Department action;

(d) A statement of the material facts disputed by the petitioner, if any;

(e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;

(f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301, FAC.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under section 120.573 of the Florida Statutes is not available for this proceeding.

This action is final and effective on the date filed with the Bureau of Water Facilities Funding unless a petition is filed in accordance with the above. Upon the timely filing of a petition this action will not be effective until further action of the Department.

Any party to the order has the right to seek judicial review of this agency action under section 120.68 of the Florida Statutes, by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the

appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the notice is filed with the Clerk of the Department.

DONE AND RECORDED on this \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
in Tallahassee, Florida.

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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