

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE:

State Revolving Fund (SRF) Grant Program:	)	Order No.: 111012/FDEP
Management of the Small Community Grants Priority	)	
Lists	)	

RECORD OF FINAL AGENCY ACTION

On October 12, 2011, 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. Administrator, of the Bureau of Water Facilities Funding, presented staff recommendations on issues involving management of the Small Community Grants Priority Lists under Chapter 62-505, 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 37, Number 32, on August 12, 2011. The Notice was certified as correct.
2. The Small Community Grants Priority Lists schedule projects to be funded by grants-in-aid to qualifying small communities. The lists are adopted annually under the provisions of the Rule, Chapter 62-505, F.A.C. The Rule also provides for certain list management activities, including removal of projects which have failed to meet document submittal deadlines, and adjustment of authorized grant amounts to projects already on a list.
3. Mr. Banks submitted the *Small Community Grants Priority List Issues and Recommendations*, attached hereto as *Exhibit A*, to be entered into the record of the hearing, along with

the Disadvantaged Small Community Grant Priority list, as amended, attached hereto as Attachment 1, and the Small Community Wastewater Facilities Grants Priority List, as amended, attached hereto as Attachment 2.

Reading from *Exhibit A*, Mr. Banks summarized the Department's recommendations for management of the Small Community Grants priority lists by:

- a) Revising the authorized grant amounts on the Financially Disadvantaged Small Communities Grants priority list for Dunnellon 511070 and Dade City 67004 as discussed in Issue 1 of *Exhibit A*; and
- b) Replacing Quincy 641080 on the Small Community Wastewater Facilities Grants (SCWFG) priority list with a revised Quincy 641080; revising the authorized grant amount for Mulberry 770051; and reformatting the SCWFG priority list to reflect both net present value and future value of grants that have companion loans, as discussed in Issue 2 of *Exhibit A*; and
- c) Adding nine new projects to the Small Communities Wastewater Facilities Grants priority list (two construction and seven preconstruction) as discussed in Issue 3 of *Exhibit A*; and
- d) Mr. Banks ended his recommendations with a cautionary statement to project sponsors with preconstruction grants on the priority list to the effect that having a preconstruction grant is no guarantee of receiving a construction grant at any time in the future, noting that when a preconstruction grant project is ready to move into construction, the Sponsor must file a construction grant Request for Inclusion and compete at a hearing with other construction grant applicants, based on priority score, for use of available grant allocation assessment funds.

There being no further comment, Mr. Holmden accepted these recommendations for management of the Financially Disadvantaged Small Community Grants priority list and the Small Community Wastewater Facilities Grants priority list, and directed staff to prepare the written Record of Final Agency Action, including the priority lists as amended.

#### FINAL AGENCY ACTION

The recommendations presented in the Findings of Fact and Conclusions of Law are adopted. The Small Community Grants priority lists are amended (shown as Attachments 1 and 2).

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 \_\_\_\_\_, 2011,  
in Tallahassee, Florida.

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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