

Fiscal Year 2009-10 Capital Construction Request

Public Health and Environment

Cleanup Projects, American Recovery and Reinvestment Act of 2009

PROGRAM PLAN STATUS

2010-103

Approved Program Plan? Date Approved:

The project is in conformance with the U.S. Environmental Protection Agency Superfund site Record of Decision.

PRIORITY NUMBERS

Prioritized By Priority
 Dept/Inst 3 of 3

PRIOR APPROPRIATION AND REQUEST INFORMATION

Fund Source	Prior Approp.	FY 2009-10	FY 2010-11	Future Requests	Total Cost
CF	\$0	\$2,050,000	\$0	\$0	\$2,050,000
FF	\$0	\$20,500,000	\$0	\$0	\$20,500,000
Total	\$0	\$22,550,000	\$0	\$0	\$22,550,000

ITEMIZED COST INFORMATION

Cost Item	Prior Approp.	FY 2009-10	FY 2010-11	Future Requests	Total Cost
Land Acquisition	\$0	\$0	\$0	\$0	\$0
Professional Services	\$0	\$0	\$0	\$0	\$0
Construction	\$0	\$0	\$0	\$0	\$0
Equipment	\$0	\$0	\$0	\$0	\$0
Miscellaneous	\$0	\$22,550,000	\$0	\$0	\$22,550,000
Contingency	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$22,550,000	\$0	\$0	\$22,550,000

PROJECT DESCRIPTION / SCOPE OF WORK

The Department of Public Health and Environment (DPHE) is requesting a combination of cash funds and federal funds spending authority to finance projects that restore or replace natural resources that have been damaged as a result of releases of hazardous substances into the environment. The department is requesting spending authority in the event that federal stimulus dollars from the American Recovery and Reinvestment Act of 2009 (ARRA) are made available for Superfund sites in the state. According to DPHE, the state recently received information from the U.S. Environmental Protection Agency (EPA) that about \$20.5 million in federal Superfund dollars may be allocated to Colorado for contaminated site cleanup remedial activities.

The department is requesting an appropriation that is not site specific in order to ensure funding for any Superfund site that the EPA designates in the state. The department has identified two sites as potential projects for funds authorized under ARRA, including Clear Creek (\$3.5 million) and Summitville (\$17 million). Both sites have been identified as national priority cleanup sites, says DPHE. At the Clear Creek site, the project continues ongoing remediation by decreasing the loading of metals to the north fork of Clear Creek, including the capping of waste piles and the construction of a passive acid mine drainage treatment system. At the Summitville site, the project builds a new water treatment plant in order to comply with EPA guidelines to provide increased water treatment efficiency and capacity to meet the applicable stream standards in the Alamosa River.

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PROJECT JUSTIFICATION

See Project Description / Scope of Work

PROGRAM INFORMATION

Pursuant to Section 25-16-103, C.R.S., DPHE is authorized to participate in the federal implementation of the Comprehensive Environmental Response Compensation, and Liability Act of 1980. This act provides that when there is no responsible party to fund cleanup costs at a superfund site, the EPA and the state share cleanup costs 90 percent from federal funds and 10 percent from state funds. State law further provides that cooperative agreements entered into with the federal government for cleanup costs at superfund sites may provide assurances that the state will assume all future operating and maintenance costs related to the removal and remediation of hazardous waste.

LEED CERTIFICATION INFORMATION

The department will work with the Office of the State Architect to determine how to comply with the provisions of Senate Bill 07-051 regarding LEED certification and whether the project is required to seek certification.

PROJECT STATUS

This is a new project. Although work at both sites is a continuation of ongoing cleanup activities, the department says ARRA funds will be awarded and tracked separately from other federal funds.

SOURCE OF CASH FUNDS

Cash funds. The source of cash funds is the Hazardous Substance Response Fund. The fund earns revenue primarily from landfill volume fees and interest earned on the fund balance. The fund balance is projected to be about \$23.9 million as of July 1, 2009. The department says this projection takes into account a transfer of \$17.8 million cash funds to the General Fund pursuant to Senate Bill 09-208 for budget balancing.

Federal funds. The source of federal funds is the American Recovery and Reinvestment Act of 2009. DPHE says federal funds will be awarded based on applications submitted by the state, but no application has yet been submitted because the EPA has not provide an application format to the state. The department anticipates that awards for Superfund site cleanups will be made to states in April 2009.

STAFF QUESTIONS AND ISSUES

1. Will the Summitville project replace an existing water treatment plant? If so, please explain why it is necessary to replace the existing facility.

Yes, the Summitville project will replace an existing water treatment plant. The current plant is very old and inefficient. In addition, the legally binding Consent Decree requires a new plant be built.

2. Senate Bill 09-208 has been amended to change the cash funds transfer amount from the Hazardous Substance Response Fund. Will this have an impact on the availability of cash funds for this project?

No, the increased cash funds transfer from the Hazardous Substance Response Fund will not impact the availability funds for this project. The department has included this project in the projections of fund solvency. The availability of the ARRA funds is accelerating the timetable of project completion, not adding additional projects.

3. If the project is subject to the six-month encumbrance rule, does the department want to request a waiver to the 6-month rule?

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Yes, the department would like to request a waiver to the 6 month rule if it is deemed necessary; however, the department believes that this project falls under the category of the superfund program that is in statute extending the encumbrance period to 18 months.

C.R.S. 24-75-102 (b) (I) Appropriations for the superfund, brownfields, and natural resource damage programs administered by the department of public health and environment pursuant to article 15 of title 25, C.R.S., shall be encumbered within eighteen months after the beginning of the fiscal year for which they were appropriated.

IMPACT ON OPERATING BUDGET

	1st Year	2nd Year	3rd Year	Total
Personnel Services	The first ten years of operating and maintenance costs will be shared by the state and EPA, 10 percent from state funds and 90 percent from federal funds. The department does not anticipate an increase in its current operating budget. After 10 years, operating and maintenance expenses will be paid from the Hazardous Substance Response Cash Fund.			
Maintenance				
Utilities				
Supplies/Equipment				
Other				

PROJECT SCHEDULE

	Start Date	Completion Date
Clear Creek site	Summer 2009	Fall 2011
Summitville site	Summer 2009	Summer 2012

The department explains that one of the provisions of ARRA is to ensure that project construction commences as soon as possible after federal funds are awarded. The department plans to begin work immediately upon receipt of federal dollars.

