MEMO: Agenda Item #3b

DATE: September 16, 2025

SUBJECT: Revised Work Plan for 2025-306 Innovative Solution to Renewable Energy from Food Waste

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Summary

The work plan for the "Innovative Solution to Renewable Energy from Food Waste" project that was recommended by LCCMR and funded by the legislature in 2025 requires approval before the project can begin. The original proposal, for ENRTF to provide reimbursements to offset the processing fees for anaerobic digestion of organic waste into renewable energy and biochar to reduce the cost impact to residents, has been determined to be not feasible. The workplan being presented to LCCMR for consideration therefore has been restructured so ENRTF would instead pay for costs to construct the digester that will be owned and operated by a private company. Additionally, the workplan contains a request to reinvest a portion of the potential future income earned by the project from the future sale of renewable natural gas (RNG) and biochar if commodity prices increase. LCCMR work plan approval is needed before the financing closing and start of construction in October. Financing and construction need to occur at this time to keep intact the funding package that enables the lower tipping fees, including by ensuring the digester is operational before federal grant funds expire. These federal grants will bring $10,000,000 to the project to help meet sustainability and renewable energy goals. The funding recipient has stated that without the ENRTF funds, the project will not move forward.

Background

The Ramsey/Washington County Recycling and Energy Board (R&E) received an appropriation from the ENRTF in 2025 totaling $5,167,000 to provide reimbursements to offset the processing fees for the public to divert organic materials from landfills and produce renewable natural gas through anaerobic digestion and sequestration of carbon into biochar at a new digester facility to be constructed by DCHZI, (Dem-Con HZI Bioenergy, LLC) during the grant period.

Since ENRTF funds can only be used to reimburse actual costs incurred for projects during the grant period, the appropriation language was written with an understanding ENRTF funds would be used to reimburse a portion of the costs incurred during the four-year grant for processing organic material into renewable energy and biochar, therefore offsetting the costs passed along to residents.

Working with R&E to develop the work plan, staff learned that R&E was anticipating ENRTF to pay during the four- year grant period to reduce the tip fee *contracted to occur* over the course of 20 years, including the anticipated one and a half years of digester operation within the grant period.

The 20-year contract agreement between R&E and DCHZI sets a maximum tipping fee that DCHZI will charge R&E for processing organics, provided R&E delivers a certain amount of organic tonnage as well as a specified amount of grant funding within certain time periods. Under this contract, the $5.167 million in ENRTF grant funds, along with other grant funding, secures a significantly reduced tipping fee for the life of the contract.

Since the entire grant is needed for the project to move forward, staff worked with the DNR grants unit, R&E, and DCHZI to determine if there was a way to disburse the full amount of ENRTF funds by paying for processing within the grant period without grant funds being used to pay more than actual processing costs incurred. With the information available, it was determined this was not possible, especially given the other grant funds being used for the same purpose. However, it could be possible within the timeframe and the terms of the contract between R&E and DCHZI for ENRTF funds to be used to pay construction costs instead of processing fees.

This structure potentially conflicts with the 2025 RFP to which the project applied, which stated that "capital projects (buildings and building infrastructure) would not be considered under [Category E. Air Quality, Climate Change, and Renewable Energy.]" A case would also need to be made that construction fits within the appropriation language for the project.

Additionally, revenue is expected to be generated from the project. Statute requires income to be returned to the ENRTF proportionately unless the appropriation language provides an exemption to allow for reinvestment of the income according to a reinvestment plan approved by LCCMR. The appropriation language for this project provides the exemption and the project partners are seeking the exemption to reinvest a portion of the income from the future sale of RNG and Biochar, should commodity prices increase, for the maintenance and operation of the anaerobic digester facility and to support the organics collection program at R&E.

A revised work plan to use ENRTF funds for construction as well as request income reinvestment from the future sale of RNG and Biochar is being presented to LCCMR for consideration of approval at its 9/16/25 meeting. Certain issues related to the work plan are discussed in more detail below.

Urgency

Grant agreements for ENRTF funding and at least three other public grants need to be provided by October to secure bank financing, start construction on time, maintain the pricing set in the agreement between R&E and DCHZI, and meet the other deliverables provided in these grants. The other three public grant agreements have been executed. LCCMR workplan approval is needed before the DNR Grants Unit can issue a grant agreement.

Does Construction Fit within the Current Appropriation Language?

The appropriation language was written for ENRTF funds to be used to offset processing fees to the public and not explicitly for construction. While not consistent with how LCCMR typically would write appropriation language for a construction project, a case can potentially be made that paying for construction also helps offset processing costs to residents.

> M.L. 2025, First Special Session, Chp. 1, Art. 2, Sec. 2, Subd. 07f appropriation language:
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> $5,167,000 the first year is from the trust fund to the commissioner of natural resources for an agreement with the Ramsey/Washington Recycling and Energy Board to provide reimbursements to offset the processing fees for the public to divert organic materials from landfills and produce renewable natural gas through anaerobic digestion and sequestration of carbon into biochar. Net income generated as part of this appropriation may be reinvested in the project if a plan for reinvestment is approved in the work plan as provided under Minnesota Statutes, section 116P.10. This appropriation is available until June 30, 2029, by which time the project must be completed and final products delivered.

The processing offset case could be made through existence of the contract agreement between R&E and DCHZI that specifies that every $1,000,000 grant funds received decreases the tipping fee by $1.50 per ton (the agreement also specifies other conditions, including delivery of certain tons of organic material delivered by R&E over the course of 20 years).

Neither LCCMR nor the state is party to this agreement so has no authority to enforce those terms or ensure the terms are not amended. However, the workplan before the commission today includes a provision that final reimbursement payments to the grantee would not be made until the digester is operational and fee offsets *during the grant period* have been demonstrated. In this way, LCCMR could ensure the intent of the appropriation language is met.

Construction Requirements

The RFP to which R&E responded stated “Funding for capital projects (e.g., buildings or building infrastructure) will not be considered in [Category E. Air Quality, Climate Change, and Renewable Energy].” This is a priority preference of the LCCMR and does not affect the legality of the project.

Legislative-Citizen Commission on Minnesota Resources

If considered as a capital construction project, certain legal requirements would apply. These requirements and their status is provided below, as obtained through R&E's submission of the capital construction Questionnaire, Budget Addendum, and additional documentation:

Questionnaire and additional documents:

- Pre-design: waived by Department of Administration
- B3 consultation before proposal submission: In progress
- SHPO consultation required before constructure costs incurred: In progress
- Permits secured before construction costs incurred: Completed.

Budget addendum:

- At least 25% non-ENRTF match: Identified; documentation and verification of these funds will be needed before costs can be incurred.
- Full Funding needed for construction is legally committed: documentation and verification will be needed before construction costs can be incurred.

Additionally, the project team is aware that per 116P.15, the intended use of the constructed digester may not be altered or conveyed for 25 years from the date the project is completed without prior review and approval of the LCCMR. Accordingly, annual reporting to LCCMR will be required and a notice of funding restriction must be recorded with the county property records stating:

> "This interest in real property must be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the improvement of the property. The interest in real property, or any portion of the interest in real property, must not be altered from its intended use or be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Legislative-Citizen Commission on Minnesota Resources or its successor."

Revenue

The project anticipates revenue from the sale of renewable natural gas (RNG), biochar, and from tipping fees paid by R&E and grant funds. Statute 116P.10 requires net income to be returned to the ENRTF proportionately unless the appropriation language provides an option to allow for reinvestment of the income according to a reinvestment plan approved by LCCMR.

> 116P.10 ROYALTIES, COPYRIGHTS, PATENTS, AND SALE OF PRODUCTS AND ASSETS
> (c) If a project supported by the fund results in net income from the sale of products or assets developed or acquired by an appropriation from the fund, the appropriation must be repaid to the fund in an amount equal to the percentage of the project's total funding provided by the fund. The commission may include in its legislative bill a recommendation to relinquish the income if a plan is approved for reinvestment of the income in the project or when the amount of the original grant or loan, plus interest, has been repaid to the fund.

The appropriation language for this project provides the option and the project partners are seeking approval to reinvest a portion of the revenue from the future sale of RNG and biochar, should commodity prices increase, back into maintaining the facility rather than return it to the ENRTF. Revenues at current commodity prices are built into the financing agreement structure to lower costs to residents.

R&E selected DCHZI as a service provider through a competitive bidding process. As such, fees paid to DCHZI through their contract with R&E can include net income/profit and it is assumed the amount of that profit has been tested by the market through the competitive bid and determined by R&E to be reasonable.

The agreement between R&E and DCHZI includes a revenue share from RNG and biochar if commodity prices for RNG and biochar increase when the initial contracts expire in five and ten years respectively. If this occurs, R&E would receive 80% of the additional revenues from the incremental increase in commodity value and DCHZI would receive 20% of the additional revenues from the incremental increase in value. ENRTF is contributing 5% of the cost of the $100m construction project, so would be due 5% of the additional revenues if there was not an exemption.

The work plan before the commission today includes the following requests:

- For R&E to reinvest the 5% ENRTF portion of R&E's 80% share in the operations of its organics program to reduce waste and generate renewable energy in a cost-effective manner for Minnesota taxpayers.
- For DCHZI to reinvest the 5% ENRTF portion of DCHZI's 20% share into the ongoing operations and maintenance of the anaerobic digester.

Staff are not aware of any precedent for LCCMR to allow a private entity to retain net income for products generated from a project funded by ENRTF. The project recipient states that the revenue sharing was part of the initial bid and used to create the cost structure of the project. If LCCMR does not approve reinvestment of revenue by DCHZI, DCHZI will charge the difference to R&E.

Other risks

The stated benefits of the project include diverting from landfills and processing 75,000 tons of organic waste per year, producing enough pipeline-quality RNG to fuel 2,500 Minnesota homes while reducing greenhouse gas emissions by approximately 30,000 tons of carbon dioxide equivalents per year, and providing this at a competitive cost to residents. Following funding from ENRTF, potential risks for the project-- including grant funds not being realized for various reasons-- may result in outcomes not being as large and residents needing to pay more for processing than anticipated.

Attachments

- Revised work plan for 2025-306 to use ENRTF funds for construction and to reinvest project generated revenue

Action

If acceptable to the commission, the following motion could be considered:

MOTION: move from the spreadsheet titled "Environment and Natural Resources Trust Fund Final Work Plan Review and Approvals – M.L. 2025 (FY2026)-September 18, 2025" to approve lines ## under Category B. Non-Consent Agenda -- subject to the notes and contingencies provided on the spreadsheet and the following additional conditions (if any):