

Legislative-Citizen Commission on Minnesota Resources

MEMO: Agenda Item #6
DATE: July 11, 2023
SUBJECT: Legislative exemption and extension for the Developing Markets for Continuous Living Cover (CLC) Crops – Legislative Addition (ID Number: 2022-305)

Summary

During the 2022 legislative session the Minnesota Department of Agriculture (MDA) was appropriated \$500,000 from the Environment and Natural Resources Trust Fund as a *legislative addition* “for **grants** to organizations in Minnesota **to develop enterprises, supply chains, and markets** for continuous living cover crops and cropping systems in the early stage of commercial development, including but not limited to regenerative poultry silvopasture systems, Kernza perennial grain, winter camelina, and elderberry.”

After gathering input from stakeholders, the MDA released a competitive Request for Proposal (RFP), received 25 proposals, and with an evaluation panel selected the top nine (9) proposals to receive funding. These projects, once funded, will accelerate and scale up the demand for continuous living cover (CLC) crops, providing new market opportunities for Minnesota organizations and farmers. Expanded production of CLC crops and cropping systems will provide environmental benefits such as clean water, healthy soil, pollinator forage and habitat, and climate resilient agriculture.

There are many stages to the development of new supply chains and markets, and a variety of business components. While not all may be directly linked to a financial profit, the end goal is for an organization to develop and enhance their business model and to expand commercial production. This is often linked to growth and maintaining profitability over time. However, the time to reach a net profit in these early stages of development can take years and a large percentage of the earnings are reinvested in the business.

Legislative exemption

LCCMR staff and MDA staff have reviewed the Environment and Natural Resources Trust Fund (ENRTF) Royalties, Copyrights, Patents, and Sale of Products and Assets statute ([MN Statute 116P.10](#)) and would like to pursue an exemption to allow organizations to pursue market and supply chain development. We believe that the funds received for these projects (up to \$50,000/award) are a small percentage of the investments needed to gain a net profit. In addition, the time to document in-kind contributions during the time of the grant, in the future, and any past investments will be challenging for these small businesses and an inefficient use of time for agency staff.

The appropriation language also states that these funds are to be used as grants to organizations. If grant recipients are required to repay the LCCMR based on net profit generated, the awarded money works more like a small business loan than a grant. We do not believe this was the intention of the legislation.

Example 1: One non-profit intends to purchase equipment that multiple growers will use to harvest and de-husk hazelnuts to support scaling of hazelnut production.

- Could be 15-20 producers (year 1) and 20-35 producers (year 2) using the equipment.
- Requiring each small producer to document expenses and earnings and compiling it for the full project is onerous.
- Takes 2-3 years before a hazelnut tree produces nuts for harvest, so there will be a lag time (beyond terms of the grant) before net profitability is achieved.

Example 2: A farm would like to purchase materials to build a post-harvest Elderberry Continuous Flow Processing (ECFP) system. This system will give elderberry farmers a financially viable, environmentally sustainable way to comply with government standards and food safety guidelines in processing elderberries.

- Funds will be for materials and the organization will test, build, and evaluate the system. If successful, this would be a prototype and, in the future, may be used by others to generate revenue. That would occur outside of the terms of this grants, however, with current language in Chapter 116P, it appears that any future net income may need to be repaid.

Example 3: An organization is building a dedicated CLC processing plant to produce Kernza crackers for retail sales and a wide variety of CLC products for an established customer base. This grant will cover a gap in team capacity to operationalize the plant and develop standard operating procedures to begin production and scale up. This organization is expanding and wants to stay competitive in the marketplace.

- Scaling-up a business in the early stages of commercial development includes a variety of activities. It would be extremely difficult to know how one staff person, over two years, relates to future net profitability of the entire organization.

Action #1 requested:

Commissioner _____ moves to recommend to the 2024 Legislature a technical correction to exempt project 2022-305 from the net income requirements in 116P.10 (c).

Legislative extension

The MDA is very excited about the grant proposals received for this program. They have waited to award grant dollars until we received clarification about how Chapter 116P may impact the organizations. Given the challenges these requirements present, in addition to the fact that any legislative exemption would not likely be possible until May 2024, they would like to also request an extension for spending from June 30, 2024, until June 30, 2025. This would ensure grantees still have two full years to complete their projects.

Action #2 requested:

Commissioner _____ moves to recommend to the 2024 Legislature an extension to the appropriation from June 30, 2024, to June 30, 2025, for project 2022-305.