

# **BAY RESTORATION FUND ADVISORY COMMITTEE**

Maryland Department of the Environment

Terra Conference Room

1800 Washington Blvd.

Baltimore, Maryland 21230

December 3, 2009

1:00 p.m. to 4:00 p.m.

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## **Meeting Minutes Summary**

### **Welcome/Introduction**

- The meeting was chaired by Dr. Robert Summers, Deputy Secretary, Maryland Department of the Environment, and Advisory Committee Chairman.
- Dr. Summers welcomed the committee members and other attendees.

### **Review of Minutes**

- Previous meeting minutes from the October 28, 2009 meeting were handed out to the committee members for their review and comments. Also, an electronic copy of the meeting minutes was e-mailed to the committee members prior to the meeting.
- Ms. Aiosa suggested two changes to the meeting minutes. Under item IV regarding the BRF Budget Update and Projected Deficit, the next to last bullet should be rewritten to reflect that all the options were going to remain on the table for further discussion, and under item VI regarding Cover Crop Activities, bullet one, the last sentence should be revised to add “in time for cover crop planting” after the word “harvested”. No other changes were suggested. Mr. Saffouri stated the items will be revised and the minutes resent to allow the members a chance to review the changes.
- The approved minutes and handouts from the meeting will be posted on MDE’s website.

### **Discussion**

#### **I. Update on ENR Implementation and Upcoming Events**

- Mr. Saffouri provided an update on the status of the 67 plants targeted for ENR upgrade. To date there are 11 facilities in operation; 13 under construction, 26 in design, 10 in planning, and 7 in pre-planning, for a total of 67 facilities.
- Facilities located in Mount Airy and Pocomoke City are now under construction. Notice to Proceed for the construction of the Ballenger Creek - McKinney facility was issued for December 14, 2009. Construction contracts have been awarded to Patapsco and Poolesville. These projects are expected to proceed to construction within a month.

- Facilities located in Crisfield, Elkton, and Federalsburg are expected to complete construction by the end of December 2009.
- A groundbreaking ceremony for the Ballenger Creek – McKinney WWTP will be held on December 15, 2009. It will be attended by the Secretary’s office.
- The following facilities are ready to schedule an event, if needed.
  1. Indian Head - Dedication
  2. Brunswick - Dedication
  3. St. Michael’s - Dedication
  4. Hagerstown - Ready for Groundbreaking
  5. Delmar - Ready for Groundbreaking
  6. Cumberland - Ready for Groundbreaking
  7. Bowie - Ready for Groundbreaking
- A new MDE web page has been designed that will display Bay Stat information for all ENR projects. It can be accessed by going to the MDE web page that will link you to the new Bay Stat page. The new page will display Bay Stat information that includes a schedule, progress status, and outstanding issues if any, related to each project.

## **II. BRF Fee Collection and Budget**

- Mr. Khuman presented the revenue data for fiscal years 2005-2009 and fiscal year 2010 through the end of October. The Wastewater Treatment Plant revenues for fiscal years 2005-2010 are as follows: \$7.0 million, \$57.7 million, \$69.1 million, \$54.7 million, \$53.3 million, and \$18.9 million, respectively. The large variance in FY 2007 is due to an added extra quarter as a result of a change in the accounting system.
- The septic revenues for fiscal years 2005-2009 and 2010 through October are \$260 thousand, \$7.9 million, \$13.5 million, \$14.1 million, \$15.8 million, and \$8.1 million, respectively. Sixty percent (60 %) of the money goes to MDE and 40% to the Department of Agriculture. The item to note is that there is a one year formula change for fiscal year 2010, where MDE will only be getting 22.4% and the Department of Agriculture will get 77.6 % to reflect a \$5 million transfer from the septic side to the agricultural side. The total amount transferred may be slightly higher than \$5 million because septic revenues have been higher than estimated. This may be due to more septic systems than estimated or as reported in some cases double billing by the County and WSSC. Homeowners are being told to notify the County if they think they are being double billed.
- The total fund distribution to date is as follows: approximately \$260 million to MDE Line 1 (Wastewater Fund), \$32.8 million to MDE Line 2 (Septic Fund), and \$26.9 million to MDA Line 2 (Cover Crop Fund).

### **III. BRF Annual Legislative Update Report (January 2010)**

- Mr. Saffouri stated that the Report will be presented section by section, and each agency will cover its portion of the Report.
- A comment was made that the first bulleted item under challenges regarding projected BRF deficit should be corrected to identify all five (5) options previously discussed to address the funding shortfall, should clearly state that all the options will be considered and are open for discussion. The Report should specifically identify legislation that the committee wants to move forward now and include a time frame when the committee will have additional recommendations for the Secretary. A recommendation was made to increase the frequency of committee meetings in order to have recommendations by the summer of 2010. Mr. Saffouri will revise this section and send it to the committee in about a week for a quick review and turnaround.
- The first part of the Report describes the agencies and the programs involved with the Bay Restoration Fund are for the most part unchanged. Mr. Saffouri presented the Department of the Environment section. The only change reflects the reorganization of the Engineering and Capital Projects Program (old Water Quality Infrastructure Program) that now reports to the Office of Budget and Infrastructure Financing rather than the Water Management Administration.
- Mr. Astle provided updates of the Department of Agriculture section and discussed the proposed changes to the cover crop program. In 2006 and 2009 a survey was taken of the farmers participating in the program. The changes are some of the ideas incorporated into the program to add a little flexibility. Specifically, the two (2) different areas of cover crops, commodity crops and traditional cover crops have been broken out.
- Mr. Leocha and Ms. Butler presented the Department of Planning section. There are no major changes. In reference to the MDP Methodology section, Ms. Butler will provide a revised map of Easton to be added to the report, because that was the only case where there was some significant change.
- Mr. Khuman presented the Bay Restoration Fund status. These are actual data from the State Comptroller's Office and the agencies' accountants. It provides a snapshot of the revenue sources, revenue uses, and where the monies have been allocated. As of September 30, 2009, the Wastewater Fund revenue total from all sources was \$311.5 million and the total allocated (all uses) was \$177.3 million, including \$157.8 million for ENR projects and \$11.2 million for sewer projects. Similarly, as of September 30, the MDE Septic Fund (On-Site disposal system upgrades) revenue totals were \$33.1 million (sources) and \$30.1 million (allocated), including \$16.1 million to the Counties and \$11.6 million for MDE direct grants to individual single septic system owners. On page 12, Direct Septic Grants will be changed to read MDE Direct Septic Grants. The MDA Septic Fund (Cover Crops) totals as of September 30 were \$20.6 million (sources) and \$19.7 million (allocated), including \$19.2 million awarded for projects.

- Mr. Saffouri stated that option (E) which proposes to discontinue annual operation and maintenance grants, under the Potential Funding Gap and Recommended Action section will be rewritten to clarify that this option is still open for discussion. Also, the first sentence of option (B) which is to reduce the eligible percentage of ENR grant funding will be revised to clarify that the current ENR grant is “up to” 100% of state approved eligible costs.
- Mr. Saffouri presented the Operation and Maintenance Grant section. In October 2009, the Maryland Board of Public Works approved Operation and Maintenance (O&M) Grants for Seven (7) facilities: Brunswick, Celanese, Chestertown, Easton, Hurlock, Kent Island, Talbot Region II, for a total of \$212,520. In Fiscal Year 2011 it is expected that the number of facilities will double to 14 with the addition of: Federalsburg, Boonsboro, Elkton, Crisfield, Indian Head, Mattawoman, and Swan Point, and a corresponding funding increase to about \$515,900. We can expect further increases every year.
- A reference to the maps in attachment 2 to the Report will be added in MDP Methodology section. Also, a reference will be added in this section to the definition of Priority Funding Area (PFA) given in the Department of Planning section of the Report.
- Mr. Prager presented the Onsite Sewage Disposal System (OSDS) Upgrade Program section. The first part of the section is a description of the Program with little change from last year. During 2009, the Best Available Technology (BAT) Workgroup approved one new proprietary nitrogen reducing OSDS technology, bringing the total number of technologies eligible for BRF funding to thirteen.
- As of October 31, 2009, 1,887 septic systems have been upgraded compared to 418 systems the same time last year. In April, May, and June 2008, MDE received a total of 120 applications for OSDS upgrades. For the same period in 2009, MDE received 1,261 applications. The increase in demand leads MDE to prioritize the use of the BRF funds. First priority is given to failing systems in the critical areas with other septic systems being put on a waiting list until the next fiscal year. As of October, 2009, about 2800 applications had been waitlisted. It was agreed to edit this section to make it a resource by clarifying; the need and transition to prioritize the funds, the process from preliminary approval to execution of funding, and the impact on projects caught between them.
- Mr. Prager presented the Targeting section. This section lists the BRF funding priorities established by State law and presents the targeting prioritization as interpreted by MDE:
  1. Failing systems or holding tanks in the critical area
  2. Failing systems outside the critical area
  3. New or replacement systems in the critical area
  4. New or replacement systems outside the critical area

Priority 1 is taking up the biggest share of the funding, and what is left over will be used to fund priority 2 systems. The funds available for the remaining priorities 3 and 4 will be greatly

reduced, even with implementation of the proposed income based funding.

- This is the first time the Advisory Committee has been introduced to the concept of income based funding. It was decided therefore, to rewrite this section to clarify the financial reasons for adopting the criteria and provide additional information to include the proposed outreach process and timeline for rollout to the counties and individual homeowners with failing septic systems. In addition, a concluding statement will be added stating the proposals status as it relates to the Committee.
- Through October 2009, MDE closed out grants to six counties whose grant term has expired. This made \$586,000 available for reprogramming. Five counties with funds that have not been awarded have been notified to only fund failing systems in the critical area. The outreach section is a recap of past outreach initiatives.
- The attached Bay restoration Fund ENR FY 2011 Budget (June 2009 Draft) table may be made revised to make it easier to read. A new paragraph will be added to the Executive Summary to include a discussion of the relationship between the TDML schedule and the ENR strategy including timing of the rollout.
- Mr. Astle presented the updated Cover Crop Activities Section. As a result of the findings and recommendations of a survey conducted for the Department of Agriculture, the Program was revised to encourage participation. Changes incorporated into the 2010 Program include offering a partial payment in the fall, instituting an acreage cap, and offering a blended cover crop program
- The names of the Committee members will be listed in the Annual Status Report. A revised draft will be distributed to the Committee members by Wednesday December 9th and after review must be returned by the following week.

### **Next Meeting**

The next meeting will take place in January. Committee members will be informed via e-mail of the meeting date.

### **Materials Distributed at the Meeting:**

- Meeting Agenda
- Previous Meeting Minutes (October 28, 2009)
- Wastewater Treatment Plants ENR Upgrade Status (December 3, 2009)
- Program-to-Date BRF Fee Collection Report (through November 30, 2009)
- 2009 Tax Year Year-to-Date BRF Fee Collection Report (through November 30, 2009)
- 2009 Tax Year Third Quarter BRF Fee Collection Report (through November 30, 2009)
- BRF Fee Distribution Report through November 30, 2009
- Bay Restoration Fund Advisory Committee Annual Status Report January 2010

- Updated Maryland Department of Agriculture Section of Annual status Report

### **Attendance**

#### **Advisory Committee Members or Designees Attending:**

Robert Summers, Maryland Department of the Environment  
James L. Hearn, Washington Suburban Sanitary Commission  
Norman Astle, Maryland Department of Agriculture  
Jenn Aiosa, Chesapeake Bay Foundation  
Beverly Stinson, AECOM Water Consultants  
Greg Murray, Washington County  
Angela Butler, Maryland Department of Planning  
John Leocha, Maryland Department of Planning  
William Ball, Johns Hopkins University  
Don Bradley, Maryland Municipal League

#### **Others in Attendance:**

Lesley Cook, Maryland Department of Legislative Services  
Brent McCloskey, Maryland Department of Natural Resources  
Julie Pippel, Washington County  
Steve Kullen, Calvert County Government

#### **Maryland Dept. of the Environment (MDE) Attendees:**

Jag Khuman	Elaine Dietz
Walid Saffouri	Lisa Nissley
Andrew Sawyers	Shanaka Abeywickrama
Rajiv Chawla	Janice Outen
Jay Prager	Joseph Bratchie
Michael Kanowitz	