

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Thursday, October 10 · 1:00 – 3:00pm

Google Meet joining info

Video call link: <https://meet.google.com/odd-tivn-mtz>

Or dial: (US) +1 317-939-1674 PIN: 524 360 022#

And Remain Muted Unless Speaking

Meeting Agenda

- Introduction – Chris Murphy, Committee Chairman
- Approve previous meeting minutes – Chris Murphy, Committee Chairman
- Update on WIP-III and 2025 Goals – Gregorio Sandi, MDE
- Update on Major and Minor WWTPs ENR Implementation – Walid Saffouri, MDE
- Update on the Annual Report - Walid Saffouri, MDE
- Update on Cover Crops Activities – Jason Keppler, MDA
- Update on Onsite Sewage Disposal Systems (OSDS) – Jeffrey Fretwell, MDE
- Update on BRF Fee Collection and Budget – Jeffrey Fretwell, MDE
- Next meetings and other administrative issues to be discussed with the committee – Chris Murphy, Committee Chairman
- 2024 Next Pre-Scheduled Meetings: December 12th
- ADJOURNMENT

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Virtual Meeting

July 11, 2024

Meeting Minutes

Welcome/Introduction

- The meeting was opened by Mr. Murphy, the Chairman of the Bay Restoration Fund Advisory Committee.
- Mr. Murphy welcomed the committee members and other attendees. He shared some sad news about Doug Myers, who was the CBF committee member, passing away last week suddenly. He also added that Mr. Myers had a great passion for the Bay. He was a big contributor to this committee and will be missed.

Review of Meeting Minutes

- Previous meeting minutes, from the April 11, 2024 meeting, were shared with the committee members for their review and comments. An electronic copy of the meeting minutes was also e-mailed to the committee members prior to the meeting.
- Mr. Murphy asked if anyone had any questions, comments, or a motion to approve. The minutes were approved, and they will be posted on the web.

Discussion

I. Update on Major and Minor WWTPs ENR Implementation:

- Mr. Saffouri provide an update on major and minor WWTPs ENR implementation. There has been no status change for the major treatment plants since Westminster completed the construction before the last meeting. Princess Anne is still working on the pilot study before the planning start. For the minor plants, Lewistown has completed the construction, and all the other projects that are under construction are progressing without any major difficulties or problems.
- Mr. Murphy asked whether we know how many other minor systems are out there. Mr. Saffouri responded that there were about 200 minor plants, but most likely not all of them are eligible. For a minor plant to be eligible, its upgrade must be cost-effective. Any plant below 100,000 gallons per day is very unlikely to be cost-effective to upgrade. So that leaves us with 60 to 70 facilities that could be eligible out of the 200.

- Mr. Murphy asked whether the 35 facilities that are currently upgraded or being upgraded are part to the 60 to 70 counts, and we have about 35 remaining that can proceed with the upgrade. Mr. Saffouri confirmed that this was correct.
- Mr. Sowinski asked about the current definition of cost-effective. Mr. Saffouri responded that we use the cost of septic systems upgrade to determine the cost-effectiveness, which is currently \$150 per pound of nitrogen reduced. It used to be \$100 per pound, but it was adjusted to \$150 due to the costs increase in septic systems upgrade. That's only considering the capital cost. The evaluation doesn't include the O&M cost. We are hoping that improvements in the wastewater technology could reduce that costs of the upgrade and allow smaller facilities to be cost-effective so they can be upgraded.
- Mr. Murphy asked whether the \$150 per pound is calculated based on the total project costs or based on MDE grant amount. Mr. Saffouri responded that the \$150 is calculated based on the ENR eligible cost. The non-ENR items are not included in the calculations.
- Mr. Murphy asked that if a project cost is \$160 per pound, which is not cost effective, would the state be willing to fund the project at \$150 per pound if the grant recipient is willing to cover the rest of the cost. Mr. Saffouri responded that would depend on what phase the project is in. If we have just finished the engineering report, we would just cut our losses (\$50,000 to \$100,000 for the engineering report) and say that this project cannot be funded because it is not cost-effective. If after the design is completed, we discovered that the cost is more than \$150 per pound, in this case, we offer the grant recipient that the state can proceed with the project with funding limited to \$150 per pound. If the owner is willing to cover the remaining cost of the project, then the project can proceed. It would be difficult to drop a project after the we invested all the time and money to complete the design.
- Mr. Abbott raised the issue that some major facilities such as Easton are coming up on 18 years of constant operation. We will need to upgrade major equipment over the next three to five years. The upgrade is estimated at about \$5 million so the facility can continue to achieve ENR level of treatment. Mr. Saffouri responded that MDE has been internally discussing this issue that the first ENR facilities were completed in 2006. Those facilities are approaching 20 years of operation and may need refinement in order to continue to meet ENR level of treatment.
- Mr. Murphy asked whether a legislative change would be required to fund these upgrades. Mr. Saffouri responded that we don't need a legislative change because we are continuing to fund the ENR upgrade at these facilities.

II. Update on Cover Crops Activities:

- Mr. Keppler provided an update on the cover crops program. It has been a good year for cover crops. Roughly 425,000 acres have been spring certified so far. We have about 50 more claims for about another 22,000 acres that we need to make and that will be it for this year. So, hopefully

we may have a total of 445,000 acres, which equates to roughly \$29 million. The program is split funded between both the BRF funds and the Chesapeake Atlantic Coastal Base Trust Fund, which is managed by DNR. In addition to concluding this year's certifications, enrollment is open now for the new program this fall plantings. We have another week to go with this enrollment, and it appears that we will be having another strong year for cover crop.

III. Update on Onsite Sewage Disposal Systems (OSDS):

- Mr. Fretwell provided an update on OSDS upgrades and connections to public sewer. As of June 30, 2024, we have 508 septic upgrades, and 44 sewer connections funded thus far in fiscal year '24. This is very close to where we were last year at the same time as we had 507 upgrades and 90 sewer connections. The biggest difference is that Queen Anne's County's Southern Kent Island project, which doesn't have any sewer connections this year due to the project schedule. Other than that, the numbers are basically identical to last year's. These are not the final numbers for the fiscal year because there is a lag from when we get invoiced by the counties and the actual completed work. So, at the next meeting we'll have the final numbers for fiscal year '24. As an example of this lag, Worcester County has advised us that they will be invoicing MDE for 20 septic upgrades that are not included in this report.
- Mr. Murphy asked whether the upgraded OSDS are inspected in the long-term basis to ensure proper operation and maintenance. Mr. Fretwell responded that the grant itself includes the first two years of O&M, but there is a requirement to have the system serviced annually forever. The issue ends up being the enforcement of that if people aren't doing the proper system maintenance. There is a database that has all the maintenance records of these systems. All the servicers have access for entering the information. For the low-income homeowners, there is an option to get some of the O&M paid beyond the first two years. However, this option has been used on a very limited basis.
- Mr. Murphy asked whether this database could tell us how often the systems are getting serviced. Mr. Fretwell answered yes, we can ask MDE Onsite Division to provide some information on this at the next meeting.
- Mr. Sowinski asked whether South Kent Island (SKI) is winding down, and whether the funding cap for septic system connection could be causing other similar projects not to proceed and fill the gap. Also, he asked whether there was any flexibility to fund the more expensive sewer technologies above the cap. Mr. Fretwell responded that the Southern Kent Island is not completed, it is just moving on with the next phase and could be experiencing a little bit of a delay. We do have some other larger septic connection projects. For example: Talbot County is continuing to pursue two very large projects to connect numerous communities. In addition, we have some smaller projects with 40 to 60 homes that are also happening. The \$25,000 cap on the connection is tied to the BAT costs themselves to ensure the cost-effectiveness in using the BRF. The state revolving fund, low interest loans with potential for loan forgiveness, can be used to cover the funding gap.

- Mr. Murphy asked whether we could mention these projects in the annual report as success stories. Mr. Fretwell responded that we could work on that.

IV. Update on BRF Fee Collection and Budget:

- Mr. Fretwell provided an update on the BRF Fee Collection based on the distribution received through May of 2024. We have not yet received the quarterly report that we typically get from the Comptroller's Office. For the Wastewater Fund (Line 1), we received approximately \$26 million in April and \$3 million in May for a total of \$29 million for the third quarter, and \$81 million FY24 total to date. For Septic Fund (Line 2), the FY24 revenues were about \$26 million, which is exactly where we were last year at this time.
- Mr. Fretwell advised that MDE and DBM (Ms. Allen) had another call with the Comptroller's office on May 16th to express a desire for improvement to the quarterly reporting and it's timing. The Comptroller's office is working on updating their reporting system and they are hoping to have it in time for the next meeting.
- Mr. Hoffman asked whether the Comptroller's office is subject to legislative audits. Mr. Gray responded that the Comptroller's office addressed the earlier issue and got up to speed with the revenues. It appears that at this point we have only a system upgrade and reporting problem. There is no core problem where they're not getting the money that they should be getting, which their internal audit groups would be pointing out.
- Mr. Kline asked whether the \$81 million was the estimated total closeout amount for FY24. Mr. Fretwell responded no, the \$81 million is what we have received so far through the third quarter. It is not the end of the year revenues. There's one more one quarter revenue to come.

V. Clean Water Commerce Act:

- Mr. Murphy asked about the reason for the Clean Water Commerce Act re-solicitation. Mr. Fretwell responded that MDE ran FY24 Clean Water Commerce solicitation in December and January. However, during the session, a bill was passed allowing non-uniform payment schedules instead of having only equal annual payments throughout the lifespan of a project. This would allow projects that are not completed and involve construction to have larger payments earlier in the process to recover the construction cost upon construction completion. In the earlier solicitation, we received applications with different assumptions. Some of them assumed non-uniform payment schedule was allowed and others assumed that only uniform payment was acceptable. So, the purpose of the re-solicitation is to be fair, and to allow applicants to reevaluate their proposals based on the new legislation. Also, the use of the non-uniform payment schedule may potentially adjust the price downward. MDE has not made any announcement regarding the winners of the new solicitation.

- Mr. Hoffman asked about the status of the projects selected from the previous solicitation, which led to this legislation. Mr. Fretwell responded that those projects from FY23 solicitation are allowed to use the new payment schedule authority that we have.
- Mr. Murphy asked for confirmation that this authority was for projects from FY23 and newer. Mr. Fretwell confirmed that this authority will continue for the future fiscal years, 2024 and beyond.
- Mr. Hoffman asked about the timeline for the current solicitation. Mr. Fretwell responded that the goal was to announce the winners by the end of September.

VI. Mr. Murphy reminded the Committee members that the next meeting will be held on October 10th.

Materials Distributed at the Meeting

- Meeting Agenda
- Previous Meeting Minutes
- Wastewater Treatment Plants ENR Upgrade Status
- BRF Septic Program Funded Installations
- Distribution of Bay Restoration Fee

Attendance

Advisory Committee Members or Designees Attending:

Chris Murphy, Anne Arundel County DPW, Committee Chairman
Laura Allen, Maryland Department of Budget and Management
Jeffrey Fretwell, Maryland Department of the Environment
Walid Saffouri, Maryland Department of the Environment
Ellen Mussman, Maryland Department of Planning
Doug Abbott, Easton Utilities
Gussie Maguire, Chesapeake Bay Foundation
Bob Buglass, Washington Suburban Sanitary District
Jason Keppler, Maryland Department of Agriculture
Mark Hoffman, Chesapeake Bay Commission
Sarah Lane, Department of Natural Resources
Tim Male, Environmental Policy Innovation Center

Others in Attendance:

Joe Sowinski, HDR
Peter Bozick, George, Miles & Buhr
Mary Sheppard, Office of the Attorney General
Andrew Gray, Department of Legislative Services
Paola Argueta, B&L
Matthew Klein, Department of Legislative Services
Kathleen Kennedy, Department of Legislative Services
Rebecca Reske, Office of the Attorney General

Maryland Department of the Environment (MDE) Attendees:

Kathy Stecker	Mehdi Majedi
Rajiv Chawla	Garon Lizana

Wastewater Treatment Plants ENR Upgrade Status

(October 10, 2024)

Major WWTPs

Previous Meeting

66 facilities are in operation
0 facility is under construction
1 facility is in planning
67 total

Current

66 facilities are in operation
0 facility is under construction
1 facility is in planning
67 total

Status Changes Since Previous Meeting:

- No status change.

Minor WWTPs

Previous Meeting

16 facilities are in operation
3 facilities are under construction
8 facilities are in design
8 facilities are in planning
35 total

Current

16 facilities are in operation
3 facilities are under construction
8 facilities are in design
8 facilities are in planning
35 total

Status Changes Since Previous Meeting:

- No status change.

Percentage completion for facilities under construction for ENR Upgrade:

Facility	Previous Meeting Percentage Complete	Current Percentage Complete
Twin Cities	84%	88%
Smith Island	54%	63%
Elk Neck State Park	31%	54%

BRF Septic Program
 Funded Installations FY24 to Date
 July 1, 2024- Sep. 25, 2024

County	Total approvals from Fiscal Year 25 Grant From 7/1/24-09/25/24	
	# Septic Systems funded FY 25	# Sewer Connections funded FY 25
Allegany (CVI)	0	0
Anne Arundel	2	0
Baltimore	1	0
Calvert	3	2
Caroline	4	0
Carroll (CVI)	0	0
Cecil	0	0
Charles	1	0
Dorchester	12	2
Frederick (CVI)	0	0
Garrett	0	0
Harford	0	0
Howard (CVI)	0	0
Kent	0	0
Montgomery (CVI)	0	0
Prince George's	0	0
Queen Anne's	0	0
Somerset	0	0
St. Mary's	1	0
Talbot	0	0
Washington (CVI)	0	0
Wicomoco	0	0
Worcester	0	0
Totals	24	4

County	Total approvals from Fiscal Year 24 Grant From 7/1/23-09/25/24	
	# Septic Systems funded FY24- 25	# Sewer Connections funded FY24- 25
Allegany (CVI)	1	3
Anne Arundel	148	13
Baltimore	22	9
Calvert	70	0
Caroline	22	1
Carroll (CVI)	9	0
Cecil	30	12
Charles	24	0
Dorchester	28	12
Frederick (CVI)	15	0
Garrett	5	0
Harford	23	5
Howard (CVI)	3	6
Kent	15	0
Montgomery (CVI)	8	4
Prince George's	3	5
Queen Anne's	51	64
Somerset	27	1
St. Mary's	73	5
Talbot	54	1
Washington (CVI)	5	0
Wicomoco	18	1
Worcester	23	0
Totals	677	142

BAT O&M Compliance Rates								
County	Total BAT Installations in County	# of BATs without service in 1.5 yrs	% Compliance 10/1/22	% Compliance 4/1/2023	% Compliance 10/2/2023	% Compliance 4/1/2024	% Compliance 10/2/2024	Δ Compliance from April 2024 to October 2024
Allegany	45	15	80%	73%	69%	69%	67%	-2%
Anne Arundel	3640	527	82%	86%	91%	89%	86%	-3%
Baltimore	639	1	99%	99%	99%	99%	100%*	1%
Calvert	1786	118	85%	92%	95%	95%	93%	-2%
Caroline	484	60	81%	85%	88%	90%	88%	-2%
Carroll	615	64	85%	91%	91%	93%	90%	-3%
Cecil	916	74	91%	87%	83%	88%	92%	4%
Charles	526	79	87%	85%	88%	85%	85%	0%
Dorchester	813	242	77%	72%	74%	72%	70%	-2%
Frederick	712	55	95%	94%	93%	93%	92%	-1%
Garrett	153	33	83%	86%	71%	78%	78%	0%
Harford	724	39	96%	96%	96%	94%	95%	1%
Howard	628	65	89%	89%	89%	88%	90%	2%
Kent	591	91	87%	82%	82%	80%	85%	5%
Montgomery	446	147	82%	79%	76%	74%	67%	-7%
Prince George's	117	28	79%	77%	80%	70%	76%	6%
Queen Anne's	1186	117	94%	92%	92%	93%	90%	-3%
Saint Mary's	1427	486	67%	70%	70%	67%	66%	-1%
Somerset	978	396	55%	52%	48%	46%	60%	14%
Talbot	1068	51	89%	92%	92%	94%	95%	1%
Washington	485	49	93%	90%	90%	88%	90%	2%
Wicomico	789	179	77%	75%	78%	77%	77%	0%
Worcester	479	120	78%	75%	76%	74%	75%	1%
Totals	19247	3036					Average 82%	

* Baltimore County has the authority to fine homeowners for noncompliance through County Code.

**Comptroller of Maryland
Distribution of Bay Restoration Fee
Fiscal Year 2024**

MD Dept of Environment			
<u>Line 1:</u>			
4/05 - 6/05:			
Total Fiscal Year 2005	\$ 7,022,667.18	Total Fiscal Year 2006	\$ 57,686,674.75
Total Fiscal Year 2007	\$ 69,141,379.76	Total Fiscal Year 2008	\$ 54,695,910.00
Total Fiscal Year 2009	\$ 53,339,463.89	Total Fiscal Year 2010	\$ 54,398,088.37
Total Fiscal Year 2011	\$ 55,461,809.59	Total Fiscal Year 2012	\$ 55,971,051.91
Total Fiscal Year 2013	\$ 102,145,356.32	Total Fiscal Year 2014	\$ 110,688,785.91
Total Fiscal Year 2015	\$ 109,796,411.58	Total Fiscal Year 2016	\$ 124,301,135.01
Total Fiscal Year 2017	\$ 115,989,051.47	Total Fiscal Year 2018	\$ 115,308,016.48
Total Fiscal Year 2019	\$ 107,545,498.54	Total Fiscal Year 2020	\$ 121,185,706.78
Total Fiscal Year 2021	\$ 98,087,149.34	Total Fiscal Year 2022	\$ 119,371,455.88
Total Fiscal Year 2023	\$ 114,847,299.86	Total Fiscal Year 2024	\$ 103,736,978.66
August 2023	\$ -		
September			
October	28,301,218.28		
November	2,270,332.34		
December			
January 2024	19,863,676.50		
February	1,407,535.64		
March			
April	26,108,224.25		
May	3,129,452.84		
FM13	19,005,255.04		
FM13	841,101.52		
	2,810,182.25		
Total FY 2024	\$ 103,736,978.66		
Program Grand Total	\$ 1,750,719,891.28		

<u>Line 2:</u>	<u>MD Dept of Environment</u>	<u>MD Dept of Agriculture</u>	<u>Total Line 2</u>
4/05 - 6/05			
Total Fiscal Year 2005 60% MDE 40% MDA	\$ 156,580.00	\$ 104,386.66	\$ 260,966.66
Total Fiscal Year 2006 60% MDE 40% MDA	\$ 4,782,770.15	\$ 3,188,513.44	\$ 7,971,283.59
Total Fiscal Year 2007 60% MDE 40% MDA	\$ 8,094,089.27	\$ 5,396,059.51	\$ 13,490,148.78
Total Fiscal Year 2008 60% MDE 40% MDA	\$ 8,489,069.61	\$ 5,659,379.72	\$ 14,148,449.33
Total Fiscal Year 2009 60% MDE 40% MDA	\$ 9,484,117.74	\$ 6,322,745.15	\$ 15,806,862.89
Total Fiscal Year 2010 22.4% MDE 11.0% MDA	\$ 3,118,419.66	\$ 10,803,096.68	\$ 13,921,516.34
Total Fiscal Year 2011 60% MDE 40% MDA	\$ 8,173,632.20	\$ 5,449,088.14	\$ 13,622,720.34
Total Fiscal Year 2012 60% MDE 40% MDA	\$ 8,271,087.10	\$ 5,514,058.08	\$ 13,785,145.18
Total Fiscal Year 2013 60% MDE 40% MDA	\$ 15,992,799.08	\$ 10,661,866.06	\$ 26,654,665.14
Total Fiscal Year 2014 60% MDE 40% MDA	\$ 16,801,348.71	\$ 11,200,899.10	\$ 28,002,247.81
Total Fiscal Year 2015 60% MDE 40% MDA	\$ 17,456,798.39	\$ 11,637,865.59	\$ 29,094,663.98
Total Fiscal Year 2016 60% MDE 40% MDA	\$ 17,311,866.76	\$ 11,541,244.49	\$ 28,853,111.25
Total Fiscal Year 2017 60% MDE 40% MDA	\$ 17,113,840.66	\$ 11,409,227.10	\$ 28,523,067.76
Total Fiscal Year 2018 60% MDE 40% MDA	\$ 17,811,270.90	\$ 11,874,180.60	\$ 29,685,451.50
Total Fiscal Year 2019 60% MDE 40% MDA	\$ 16,883,720.52	\$ 11,255,813.67	\$ 28,139,534.19
Total Fiscal Year 2020 60% MDE 40% MDA	\$ 17,397,453.75	\$ 11,598,302.51	\$ 28,995,756.26
Total Fiscal Year 2021 60% MDE 40% MDA	\$ 16,989,802.10	\$ 11,326,534.72	\$ 28,316,336.82
Total Fiscal Year 2022	\$ 18,553,175.61	\$ 12,368,783.78	\$ 30,921,959.39
Total Fiscal Year 2023 60% MDE 40% MDA	\$ 16,949,975.95	\$ 11,299,984.02	\$ 28,249,959.97
Total Fiscal Year 2024 60% MDE 40% MDA	\$ 18,341,974.14	\$ 12,227,982.76	\$ 30,569,956.90

<u>Fiscal Year 2024</u>	<u>60%</u>	<u>40%</u>	<u>Total</u>
August 2023	\$ -	\$ -	\$ -
September	-	-	-
October	9,990,762.83	6,660,508.55	\$ 16,651,271.38
November	977,564.95	651,709.97	\$ 1,629,274.92
December			
January 2024	2,825,723.02	1,883,815.34	\$ 4,709,538.36
February	294,602.76	196,401.84	491,004.60
March			
April	2,394,856.63	1,596,571.09	3,991,427.72
May	584,015.25	389,343.50	973,358.75
FM13	959,769.94	639,846.63	1,599,616.57
FM13	11,926.82	7,951.21	19,878.03
FM13	302,751.94	201,834.63	504,586.57
Total FY 2023	\$ 18,341,974.14	\$ 12,227,982.76	\$ 30,569,956.90

Program Grand Total	\$	241,223,816.35	\$	169,540,027.76	\$	439,013,804.08
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