

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Thursday, July 11 · 1:00 – 3:00pm

Google Meet joining info

Video call link: <https://meet.google.com/nkk-pehq-jcu>

Or dial: (US) +1 385-404-1109 PIN: 448 953 741#

And Remain Muted Unless Speaking

Meeting Agenda

- Introduction – Chris Murphy, Committee Chairman
- Approve previous meeting minutes – Chris Murphy, Committee Chairman
- Update on Major and Minor WWTPs ENR Implementation – 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: October 10th
December 12th
- ADJOURNMENT

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Virtual Meeting

April 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.

Review of Meeting Minutes

- Previous meeting minutes, from the December 14, 2023 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. Maryland Nutrient Success Story:

- Ms. Stecker provided an update on the Nutrient Success Stories project. Ms. Stecker reminded the committee that EPA contracted with NEIWPC, the New England Interstate Water Pollution Control Commission, to feature nutrient success stories from around the country. In addition to the BRF, there was one story selected in Montana and one in New Hampshire. The prize for being selected is communication products about each success story. It's been about a year since the project started, and it's almost done. Ms. Stecker presented what has been completed so far for the BRF and available on the web, including an infographic, a one-page fact sheet, a podcast, and a video from MDA on cover crops.
- Mr. Myers advised that this October we are having the National Restore America's Estuaries Coastal Summit in D.C., and it would be a really great place to showcase this success story. All the presentation slots have already been filled, but there's still room in the exhibit hall. Mr. Myers will share the conference information with Ms. Stecker.

- Mr. Murphy asked whether the success story will be on EPA website. Ms. Stecker responded that the plan is to make it available on the BRF website.

II. Update on Major and Minor WWTPs ENR Implementation:

- Mr. Saffouri provided an update on major and minor WWTPs. On the major side, Westminster has completed the ENR upgrade, even though contractually they're still under construction because they are completing the punch list and other items. They have been meeting the ENR level of treatment for a couple of months. Princess Anne, the only remaining major WWTP, is still in the planning phase.
- On the minor WWTPs side, Chesapeake City and Victor Cullen have completed the ENR upgrade. Other facilities that are under construction, continue to progress without any major issues.
- Mr. Murphy asked whether state facilities such as the Elk Neck State Park go into the same application process as everybody else. Mr. Saffouri responded yes that they go through the same process, and they can be funded only if they are determined to be cost effective.
- Mr. Bozick presented some photos showing the construction progress of Smith Island WWTP ENR project as of April 3rd. Construction is progressing well, and the facility may start accepting flows around August of this year.
- Mr. Sowinski asked whether the plant was elevated to handle the sea level rise. Mr. Bozick responded yes that the facility was elevated and designed in accordance to Coast Smart Guidelines. The plant is being constructed on a timber deck at eight feet elevation, and the floor inside the buildings were elevated an extra foot.
- Ms. Dorsey asked whether the facility is resistant to wind shear from hurricanes or tropical storms. Mr. Bozick responded that the project's structural engineers took into account the hurricane wind loadings, and they used the international building code and other similar codes in designing the buildings.

III. Advisory Committee Annual Report:

- Mr. Saffouri advised the committee that the final annual report has been submitted to the General Assembly and posted on the MDE website. Also, the full report is included with the handouts in case anyone needs a copy.

IV. Update on Cover Crop Activities:

- Mr. Keppler could not attend the meeting. Mr. Saffouri shared a summary of cover crop activities that was sent earlier by Mr. Keppler. MDA has already exceeded the 400,000 acres mark only with the fall certifications, which were over 447,000 acres. In addition, so far, the spring

certifications are over 25,000 acres. In terms of money, MDA made payments for the fall certification for the amount close to \$7 million. For the spring certifications, so far, they made close to \$400,000 in payments. The committee members can email Mr. Keppler any questions they may have.

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

- Mr. Fretwell provided an update on on-site sewage disposal systems. From July 1, 2023 to March 31, 2024, we have been invoiced so far for 375 BATs and 31 sewer connections. These numbers are very similar to last year's numbers at the same period, which were 369 BAT septic upgrades and 64 sewer connections. Also, there can be some lag in terms of the reporting, but overall, the numbers seem to be right where they should be.
- Mr. Murphy asked about what CVI stands for. Mr. Fretwell responded that it is Canaan Valley Institute, which is a non-profit that runs the grant management programs for some of the counties.
- Mr. Murphy asked about how the grant was allocated to the counties for BAT upgrades and sewer connections. Mr. Fretwell responded that there's a formula based on the total number of septic systems and the number of septic systems in the critical areas. Then each county gets a certain amount of the funding based on their requests for BAT upgrades and sewer connections up to the cap set by the formula. A total of \$15 million are available annually for this use statewide.
- Mr. Murphy asked on whether MDE is going to make changes to the BRF based on the CSER report. Mr. Fretwell responded that some of the recommendations in the CSER report are consistent with the Clean Water Commerce Program. The CSER report specifically called out the Clean Water Commerce Program as a model program to implement the recommendations of CSER. We may need some further tweaking over time as a result of the CSER report, but we also have our statutory mandates for what we have to fund and in what order. So, if we're going to make any changes, they must remain within the legislatively set priority order.
- Mr. Murphy asked about the Clean Water Commerce Act solicitation process. Mr. Fretwell responded that the most recent round started on December 1st and closed at the end of January. We're still evaluating those applications, and we'll have announcements maybe late next month.

VI. Update on BRF Fee Collection and Budget:

- Mr. Fretwell provided an update on the BRF fee collection and budget. The BRF distribution for the wastewater account for the first two quarters was about \$51.8 million, which is about \$8 million below where we typically would be at this point of the year. MDE requested to have a meeting with the Comptroller's office because the report itself is not the most helpful in trying to figure out where the shortfall might be. The revenue collections by counties don't align with the distributions. There can be some lag time in reporting, and it may not be a bad revenue situation.

- Ms. Allen asked whether there is a pattern in timing that we could see in terms of which quarter is usually the big quarter or which month is usually the big month. Ms. Lewis pointed out that the numbers are very consistent and within a range from quarter to quarter. So, typically the first quarter, since the fee was doubled in 2012, is usually about \$34 or \$35 million. This year it was \$30.5 million. The second quarter is typically somewhere between \$25 and \$30 million, and it's \$21 this year. So, there is a pattern to it. Ms. Allen and Mr. Fretwell agreed. Also, Mr. Fretwell reminded the committee that when this happened in the past, there wasn't any revenue shortfalls. It's been more a timing and remittance issue from local governments. So, we will be asking the Comptroller's office to make this to be a priority for them and getting them to put some resources into the work that they need to do to identify where the shortfalls are. Mr. Fretwell stated that he should have an update by the next meeting.
- Mr. Fretwell added that the septic revenue is about \$23.48 million, which is exactly where it typically would be at this point of the year. So, there's no issues with the revenue on the septic side.

VII. Update on Legislative Session:

- Mr. Fretwell provided an update and summary of the legislative bills that passed and may have an impact on BRF. House Bill 1512 allowed the temporary authorization to fund failing septic systems to hook up to wastewater treatment plants that were under construction of ENR upgrade and had signed the funding agreements, to continue and become permanent authorization. The original authorization was going to sunset June 30, 2024.
- Senate Bill 135 established a workgroup to study funding for a new Westernport Wastewater Treatment Plant. The service area, which includes the Towns of Westernport and Luke, is currently served by the Upper Potomac River Commission Wastewater Treatment Plant in Westernport. The WWTP was mostly industrial when it served the Luke Paper Mill. However, when the paper mill closed, the WWTP flow became mostly residential wastewater because it only serves the towns. The workgroup will be looking at funding options for the facility to be converted to a municipal WWTP with ENR capabilities.
- Senate Bill 677 was a Comptroller's Office bill to update the electronic filing requirements for certain fees and taxes, including the BRF fee. So, beginning December 31, 2026, everyone must remit their BRF fees to the Comptroller's Office electronically. Currently, some of the BRF returns are not remitted electronically.
- Senate Bill 969 was called the Whole Watershed Act and specifically meant to address recommendations in the CSER report in terms of targeting of funding and focusing on shallow water habitat and specific watersheds, including co-benefits and pay for success. This bill would establish a new program, the Whole Watershed Restoration Partnership within the Department of Natural Resources to accelerate the restoration of the Chesapeake and Atlantic Coastal Bays. The partnership will provide grants and technical assistance to eligible projects. The fund will come

from several existing state funds, including the 2010 Trust Fund, the Waterway Improvement Fund, the Bay Restoration Fund-the Wastewater Account, the Clean Water Commerce Account, and the Maryland Agricultural Water Quality Cost Share Program (MACS program). Generally, money transferred into this program has to be used for uses consistent with the programs the money is being transferred from. So, BRF funding transferred into this program would have to be used for BRF eligible projects.

- Mr. Murphy asked about how this bill will impact the BRF fund and how it may make certain projects more eligible than others. Mr. Myers responded that the five watersheds that would be selected by the state committee would have both regulatory and funding support. They wanted to have the ability to gather money from several different state funds, including BRF, for the portions of the projects that would be best funded by that source. So, it will be a mix and match of funds that go to implement the projects in the five watersheds. Whether or not the BRF is appropriate to use for any of the projects will depend on what those projects are. For example, if the watershed needs a wastewater upgrade, targeted implementation of cover crops, or septic connection to sewer, they will tap into different funds based on the eligible uses of the funds.
- Senate Bill 1144 is regarding the Clean Water Commerce Account payment schedules. Prior to this legislation, payment schedules were very specific and connected to the delivered reductions at the bid prices. This bill would allow for a nonlinear, nonuniform payment schedule if the applicant requested it and MDE agreed to it. This would allow MDE to have potentially larger payments earlier in a project's life cycle after completion of construction. There are additional provisions that all projects must have a minimum final payment large enough to incentivize the project to continue for the length of the contract. Also, for grants greater than \$500,000 with nonuniform payment structures, we can include additional financial protections such as a letter of credit, an insurance instrument, or a performance bond.
- Senate Bill 1174 was to establish the Baltimore Regional Water Authority Governance Workgroup. There was a Baltimore Regional Water Authority task force last year that had a very short life and met a few times. It issued a report but did not really get into all the details they wanted to get into in terms of looking at a regional government structure for Baltimore water and sewer related utility work. So, the new workgroup, established by this legislation will be working for several years, and it will issue the final recommendations by June 2027. Also, \$500,000 were appropriated in FY26 to hire an independent consultant to look at various issues related to the potential establishment of a regional water authority government structure.

VIII. Other Discussions:

- Ms. Lewis announced that she will be retiring in a few months, and so this was her last meeting. She has contacted MML to assign her replacement to the committee. Mr. Lewis thanked the committee members and asked them keep up the good work. Mr. Murphy congratulated Ms. Lewis on her retirement.

- Mr. Ball asked about the environmental impact of the Key Bridge tragedy and whether baseline sampling is being taken before they start dredging for the new bridge. He expressed a specific concern about chromium because there might be opportunities for Chrome III to be released and oxidized to Chrome VI. Ms. Dorsey responded that baseline sampling was conducted above and below the bridge area and sampling will continue. Based on MDE's Water and Science Administration, the baseline sample couldn't identify any materials in the waterway. Any dredging for the new bridge would be done under a permit, which will take in consideration the potential impact and time of year restrictions. The removal at this point does not include large scale dredging, but we continue to monitor and to take samples. We're working with UMCES to do modeling and to ask these same questions.
 - Mr. Abbott asked whether the additional O&M grant will be provided this year to facilities that performed better than ENR. Mr. Saffouri responded yes, the whole allowable amount (\$11 million) was approved, and we will be going through the same process where we pay the base grant first and then whatever is remaining will be spread based on the additional pound reduction.
- IX. Mr. Murphy reminded the Committee members that the next meeting will be held on July 11th.

Materials Distributed at the Meeting

- Meeting Agenda
- Previous Meeting Minutes
- Wastewater Treatment Plants ENR Upgrade Status
- BRF Annual Report (Final)
- BRF Septic Program Funded Installations
- Distribution of Bay Restoration Fee
- House Bill 1512
- Senate Bill 135
- Senate Bill 677
- Senate Bill 969
- Senate Bill 1144
- Senate Bill 1174

Attendance

Advisory Committee Members or Designees Attending:

Chris Murphy, Anne Arundel County DPW, Committee Chairman
Suzanne Dorsey, Deputy Secretary of Maryland Department of the Environment
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
Doug Myers, Chesapeake Bay Foundation
Bob Buglass, Washington Suburban Sanitary District
Cheryl Lewis, Town of Oxford
William Ball, Johns Hopkins University
J. Teigen Hall, Nemphos Braue
Heather Moritz, St. Mary's County Health Department

Others in Attendance:

Joe Sowinski, HDR
Peter Bozick, George, Miles & Buhr
Mary Sheppard, Office of the Attorney General
Gussie McGuire, Chesapeake Bay Foundation
Andrew Gray, Department of Legislative Services
Kelly Duffy, RK&K
Paola Argueta, B&L
Matthew Klein, Department of Legislative Services
Maia Tatinclaux, RK&K
Rebecca Reske, Office of the Attorney General

Maryland Department of the Environment (MDE) Attendees:

Kathy Stecker	Sunita Boyle
Paul Emmart	Mehdi Majedi
Susan Iaconangelo	Rajiv Chawla
Naomi Howell	

Wastewater Treatment Plants ENR Upgrade Status

(July 11, 2024)

Major WWTPs

Previous Meeting

65 facilities are in operation
1 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

15 facilities are in operation
4 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:

- Lewistown has completed the ENR upgrade.

Percentage completion for facilities under construction for ENR Upgrade:

Facility	Previous Meeting Percentage Complete	Current Percentage Complete
Twin Cities	78%	84%
Smith Island	43%	54%
Elk Neck State Park	17%	31%

BRF Septic Program
Funded Installations FY24 to Date
July 1, 2023- June 30, 2024

County	Total approvals from Fiscal Year 24 Grant From 7/1/23-6/30/2024	
	# Septic Systems funded FY 24	# Sewer Connections funded FY 24
Allegany (CVI)	0	3
Anne Arundel	126	11
Baltimore	22	8
Calvert	69	0
Caroline	15	0
Carroll (CVI)	7	0
Cecil	19	9
Charles	23	0
Dorchester	24	0
Frederick (CVI)	6	0
Garrett	5	0
Harford	18	2
Howard (CVI)	2	5
Kent	11	0
Montgomery (CVI)	6	2
Prince George's	0	0
Queen Anne's	38	0
Somerset	14	1
St. Mary's	46	2
Talbot	34	0
Washington (CVI)	5	0
Wicomoco	18	1
Worcester	0	0
Totals	508	44

Comptroller of Maryland
Distribution of Bay Restoration Fee
Fiscal Year 2024

	<u>MD Dept of Environment</u>			
<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	\$ 81,080,439.85

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
June		
FM13		
Total FY 2024	\$	81,080,439.85

Program Grand Total \$ 1,728,063,352.47

<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	\$	156,580.00	\$	104,386.66	\$	260,966.66
60% MDE 40% MDA						
Total Fiscal Year 2006	\$	4,782,770.15	\$	3,188,513.44	\$	7,971,283.59
60% MDE 40% MDA						
Total Fiscal Year 2007	\$	8,094,089.27	\$	5,396,059.51	\$	13,490,148.78
60% MDE 40% MDA						
Total Fiscal Year 2008	\$	8,489,069.61	\$	5,659,379.72	\$	14,148,449.33
60% MDE 40% MDA						
Total Fiscal Year 2009	\$	9,484,117.74	\$	6,322,745.15	\$	15,806,862.89
60% MDE 40% MDA						
Total Fiscal Year 2010	\$	3,118,419.66	\$	10,803,096.68	\$	13,921,516.34
22.4% MDE 77.6% MDA						
Total Fiscal Year 2011	\$	8,173,632.20	\$	5,449,088.14	\$	13,622,720.34
60% MDE 40% MDA						
Total Fiscal Year 2012	\$	8,271,087.10	\$	5,514,058.08	\$	13,785,145.18
60% MDE 40% MDA						
Total Fiscal Year 2013	\$	15,992,799.08	\$	10,661,866.06	\$	26,654,665.14
60% MDE 40% MDA						
Total Fiscal Year 2014	\$	16,801,348.71	\$	11,200,899.10	\$	28,002,247.81
60% MDE 40% MDA						
Total Fiscal Year 2015	\$	17,456,798.39	\$	11,637,865.59	\$	29,094,663.98
60% MDE 40% MDA						
Total Fiscal Year 2016	\$	17,311,866.76	\$	11,541,244.49	\$	28,853,111.25
60% MDE 40% MDA						

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 60% MDE 40% MDA	\$ 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	\$ 15,875,976.69	\$ 10,583,984.45	\$ 26,459,961.14
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Fiscal Year 2024	60%	40%	Total
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	1,436,913.98	957,942.65	2,394,856.63
May	350,409.15	233,606.10	584,015.25
June			
FM13			
Total FY 2023	\$ 15,875,976.69	\$ 10,583,984.45	\$ 26,459,961.14

Program Grand Total	\$ 238,757,818.90	\$ 167,896,029.45	\$ 406,653,848.35
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