

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Aqua and Aeris Conference Rooms

1800 Washington Blvd.

Baltimore, Maryland 21230

February 6, 2014

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

Meeting Minutes

Welcome/Introduction

- The meeting was chaired by Jag Khuman, Maryland Department of the Environment, on behalf of Mr. Greg Murray, Chairman for the Bay Restoration Fund Advisory Committee, who could not attend due to a last minute family emergency.
- Mr. Khuman welcomed the committee members and other attendees.

Review of Minutes

- Previous meeting minutes from the December 5, 2013 meeting were handed out to the committee members for their review and comment. An electronic copy of the meeting minutes was also sent by email to the committee members prior to the meeting.
- There were no comments on the meeting minutes. The comment period will be kept open for one week. After that time, 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 referenced the Wastewater Treatment Plants ENR Upgrade Status handout and noted the facility status comparison between the previous meeting and the meeting today. To date, there are 34 facilities in operation, 20 under construction, 9 in design, 3 in planning, and 1 (Hampstead) in pre-planning, for a total of 67 facilities. Only one facility (Dorsey Run) moved to operation. Dorsey Run is owned and operated by the Maryland Environmental Service (MES). MES conducted an engineering study to evaluate the facility's treatment capability, and through operational improvements they were able to achieve an ENR level of treatment. As a result, it is now considered ENR operational.
- Mr. Saffouri called attention to the percentage complete for each plant that is under construction and noted that three plants, Snow Hill, Cambridge, and Aberdeen are still at 99% because they are still working on punch list items, but should be completed soon. For example, Snow Hill is scheduled for its final inspection this month. The remaining plants have all increased their percentages slightly.

- The following facilities are ready to schedule an event, if needed (Committee members will be informed via email, if an event is scheduled):
 1. Back River – Ready for Groundbreaking
 2. Northeast River – Ready for Groundbreaking
 3. Joppatown – Ready for Dedication
 4. Snow Hill - Dedication ceremony being scheduled by the Town
- Mr. Khuman informed the Committee that only 13 facilities remain to go to construction. Except for the Conocoheague plant in Washington County, they are all small facilities. All the other large facilities are either completed or under construction. Meeting the 2017 deadline for majors is looking better than ever.

II. Update on Cover Crop Activities.

- Mr. Astle provided the update on the cover crop activities. Based on the spring (final) certifications for FY 2013, 415,000 acres were actually planted and paid during that year. MDA has issued the fall (initial) certifications for FY 2014 with 423,000 acres actually planted. Spring certifications may be slightly different from the fall because if a farmer, who plants his/her cover crop, is not in compliance with the nutrient management program, s/he is not paid.
- This year (FY 2014) is the second highest fall certification, so the program is doing well. The fall number of acres planted came in very slow, primarily due to the weather. Somehow though the farmers got the cover crop planted.

III. Update on Onsite Sewage disposal System (OSDS)

- Mr. Khuman presented the update on the on-site sewage disposal systems (OSDS). There is little to report. The FY 2014 grants are in motion. MDE is going to be taking new applications from local governments for FY 2015 in mid-March to April.
- Mr. Prager presented an update on the OSDS database that MDE is developing. At the last meeting, a question was raised regarding the completion date. MDE's Information Technology staff is hesitant to provide a schedule, but they were hoping to have a system built by the July-August timeframe and go operational in September.
- Mr. Bouxsein asked whether the systems that are coming up on their five-year anniversary are being identified before the database is developed. The answer is yes and no. MDE is getting caught up with entering the old information in the database, then having the service providers entering the new information. MDE, however, has not started taking action or extracting reports to send out letters to those homeowners that have gone without the required operations.

IV. Update on BRF Fee Collection and Budget

- Mr. Khuman presented the fee distribution data from the program's inception through the end of January 2014 shown on the last two pages of the handout from the Comptroller's office. The total fund distribution to date is as follows: approximately \$572.4 million to MDE Line 1 (Wastewater Fund), \$80 million to MDE Line 2 (Septic Fund), and \$62 million to MDA Line 2 (Cover Crop Fund).
- Review of these pages shows that in a quarter-to-quarter comparison with the last fiscal year, the total this year, \$35.1 million for the first quarter plus \$27.5 million in January, is about \$5 million more than last year's total at this time. It appears that revenue is higher this year, and if the same trend continues in the third and fourth quarters, collection could be closer to the target (\$105-107 million) this year, compared to the \$102 million collected last year.
- Similarly, the target will probably be met for the septic fees, Line 2. Most of the septic fees are collected with property taxes. Therefore, the installments are big in October and December. Based on the collection to date, the total collected amount will likely be close to the \$26-\$27 million target for the complete septic fee program.

V. BRF January 2014 Annual Report

- Mr. Saffouri presented the update on the January 2014 Bay Restoration Fund Advisory Committee Annual Status Report (Report) to the Governor and Maryland Legislature. The Report is final and was mailed to the Governor and the appropriate legislative committees. Also, today or tomorrow, it will be posted on the Bay Restoration Fund website.

VI. BRF O&M Grant Awards

- Mr. Saffouri presented the update on the O&M Grants. The O&M grants were awarded in January 2014. The amount most facilities received was greater than what they previously received because of two changes due to the BRF regulations. The first is an increase in the dollar amount from \$18,000 to \$30,000 per million gallons per day (MGD) coupled with an increase in the minimum amount paid. Now the minimum amount is \$30,000. Previously, if the plant design capacity was 0.5 MGD, the plant received half of \$18,000, now they will receive the minimum \$30,000. The second change is the maximum amount paid was increased from \$216,000 to \$300,000.
- Most facilities did not expect the increase and got good news. A few facilities, however, received bad news because they thought that they would be receiving some O&M funds and got none. For achieving an average annual performance Total Nitrogen (TN) level between 3.0 and 4.0 milligrams per liter (mg/L), the facility was supposed to get a partial payment. Based on a legal review, however, we were informed that a facility must meet a TN of 3.0 mg/L or less to receive any O&M grant funds. If they meet 3.0 mg/l or less the facility will get the full amount. If they do not meet 3.0 mg/l, if they are 3.1 mg/L or more, they are not going to get any O&M funds. This affected about four or five facilities that did not meet the ENR criteria (TN of 3.0 mg/L) and got zero O&M grant funds.

- These grant amounts were established based on the assumption that all 67 major facilities plus all the minors were upgraded. This will take up about \$9.8 million annually of the BRF fund. The statute states that no more than 10 percent of the collected wastewater fee can be used for this purpose, which is approximately \$100 million per year.
- Mr. Boussein inquired if there is a sense as to the proportion of a facilities total O&M costs that the grant will cover. The response was no, it does not even come close to covering the actual O&M costs and that is why the grant was not based on those costs.

VII. Update on the Septic Bill and any other Legislative Issue

- Mr. Khuman provided the update on the Septic Bill and other legislative issues. House Bill 11, Bay Restoration Fund-Authorized Uses has gone through its first House Committee hearing and there was a lot of support. The Maryland Association of Counties (MACo) wanted a couple of amendments. One proposed amendment stated that if a septic community is being hooked up to an ENR plant, a septic community should also be allowed to hook up to a BNR plant. That is, either a BNR or an ENR plant should be able to accept the flow from a septic community. Another amendment concerned the PFA exception issue. The bill says if the PFA exception is being considered for a project, the project's public health area of concern must be identified in the county water and sewer plan. The local governments were asking if this requirement could be done post-event within a reasonable timeframe. That discussion is being fine-tuned as to what it means. There is a general consensus and all parties agree that this is a good bill. Mr. Leocha stated that there were some amendments in opposition. Mr. Khuman concurred that there was a group from Kent Island concerned that the bill might have sewer service on Route 8 community, but in general, there is more support than opposition.
- Mr. Hearn asked what is going to happen with the water and sewer issue. MACo proposed an amendment to the Bill regarding amending the Water and Sewer Plan and the connection of the septic system to the ENR facility. The issue is being negotiated and has not been resolved.
- House Bill 12, Bay Restoration Fund-Authorized Uses-Local Entities. Many people were surprised that there was no question on the Bill. The Bill is essentially asking to allow 10 percent of the BRF septic funds allocated to MDE to be used to assist the environmental health divisions in the Counties with some money to cover the mandates imposed by MDE. It was thought that there would be some discussion and the environmental health officers came to support the Bill, but there was no opposition. Ms. Barthel said she thought that the Bill was passed by the committee last week.
- Senate Bill 609, Environment-Bay Restoration Fee-Mobile Home Park. This Bill concerns mobile home parks on septic systems. The Bill states that the mobile home parks BRF fee be reduced to \$2.50 per month, or \$30 per year instead of the current \$5.00 per month, or \$60 per year. Everyone else is paying \$5.00 per month, and it is not reasonable to reduce the fee for a special group when all others are paying a different rate. The second item in the Bill is that the County should be able to bill a mobile home park based on the calculated number of EDUs. The problem

with the second item is that the County is not providing the water service to the mobile home parks and does not know the water usage, which is needed to calculate the number of EDUs. The law defines EDU as one EDU equals 250 gallons a day.

- Senate Bill 725, the Chesapeake Bay Nutrient Management Poultry Fair Share Act. The Bill states that MDE can keep all of the septic money. Currently, this fund is shared by MDE at 60% for septic system upgrades, and MDA at 40% for cover crops. The Bill is proposing to offset MDA lost funds by a new fee targeting the poultry industry at \$0.05 per chicken. Ms. Barthel stated that the Bill has not been scheduled for a hearing yet.
- Mr. Hearn said that MDE has one other departmental bill, Senate Bill 101, Environment-Drinking Water Revolving Loan Fund. Ms. Barthel said it concerns the Water Supply Revolving Loan Fund. It is purely a technical correction bill to make sure that the state law mirrors Federal law. Therefore, the statute was changed so that every time the federal government changes their law, the state statute does not have to be changed.

VIII. Update on BRF Proposed Regulations

Mr. Khuman provided an update on the BRF Proposed Regulations. At the last meeting, it was stated that comments were received from the MAMWA, the Washington County Division of Environmental Management, and the Chesapeake Bay Foundation. Some comments taken into consideration and were incorporated. The regulations then went to AELR where something went wrong and they got published and adopted as originally proposed. That was an error. That mistake has been fixed. All the parties that did send comments were sent a red line version showing what the final regulations should be. MDE is hoping that within the next few weeks, the corrections will be made and the regulations will be republished.

Next Meeting

The next meeting will take place on Thursday, April 24, 2014.

Materials Distributed at the Meeting

- Meeting Agenda
- Previous Meeting Minutes (December 5, 2013)
- Wastewater Treatment Plants ENR Upgrade Status (February 6, 2014)
- Bay Restoration Fund Advisory Committee Annual Status Report, January 2014
- Program-to-Date BRF Fee Collection Report (through January 31, 2014)
- BRF Fee Collection Reports (through January 31, 2014)
- BRF Fee Distribution Report (through January 31, 2014)

Attendance

Advisory Committee Members or Designees Attending:

James L. Hearn, Washington Suburban Sanitary Commission
Norman Astle, Maryland Department of Agriculture
John Leocha, Maryland Department of Planning
Angela Butler, Maryland Department of Planning
Fiona Burns, Department of Budget and Management
Peter Bouxsein, Chesapeake Bay Foundation
Walid Saffouri, Maryland Department of the Environment
Candace Donoho, Maryland Municipal League
Julie Pippel, Washington County

Others in Attendance:

Mary Vitale, Hazen and Sawyer

Maryland Dept. of the Environment (MDE) Attendees:

Jag Khuman	Michael Kanowitz
Rajiv Chawla	Elaine Dietz
Jay Prager	Kim Knussman
Heather Barthel	Cheryl Reilly