

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Aqua and Terra Conference Rooms

1800 Washington Blvd.

Baltimore, Maryland 21230

September 4, 2014

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

Meeting Minutes

Welcome/Introduction

- The meeting was opened by Mr. Walid Saffouri, Maryland Department of the Environment, on behalf of Mr. Greg Murray, Chairman for the Bay Restoration Fund Advisory Committee and Administrator for Washington County, who was held up due to traffic and arrived soon after the start.
- Mr. Saffouri welcomed the committee members and other attendees.

Review of Minutes

- Previous meeting minutes from the April 4, 2014 meeting were handed out to the committee members for their review and comment. An electronic copy of the meeting minutes was also e-mailed to the committee members prior to the meeting.
- There were no comments on the meeting minutes. The comment period will be kept open for about a week. After that time, the approved minutes and handouts from the meeting will be posted on MDE's website.

Discussion

I. Update on Major WWTPs ENR Implementation and Upcoming Events

- Mr. Saffouri referenced the Wastewater Treatment Plants ENR Upgrade Status handout. To date there are 35 facilities in operation, 20 under construction, 10 in design, and two in planning for a total of 67 facilities. One facility, Snow Hill, moved to operation from construction, one facility, Fruitland, started construction, and two facilities, Mayo and Conococheague, started design. The two facilities in the planning phase are Hampstead and Princess Anne.
- Mr. Saffouri called attention to the percentage complete for each plant that is under construction and noted that several plants are stuck at 99% because they are still working on the usual punch list items, performance tests, and such before they are closed out. The remaining plants have all increased their percentage slightly.

- The good news is that there are only 12 plants remaining that are not in construction, and the other good news is that the big three plants Patapsco, Back River, and Blue Plains are all in construction. The 12 plants account for less than five percent of the total loading. Therefore, once the other plants are complete, 95% of the loading we were supposed to obtain will be achieved, even if the 12 remaining plants did not happen.

II. Update on Minor WWTPs ENR Upgrades

- Mr. Saffouri referenced the Minor WWTPs table on the handout and noted that at the last meeting an update on the status of the Minor plants was requested. To date, there are two plants in planning, three in design, three are under construction, and two have been completed using another fund source. Boonsboro used BNR funds and Worton used USDA and State Revolving Loan funds.
- Mr. Bouxsein questioned how some of the Minor plants are getting selected. He asked whether Rising Sun had rebid their contract. Mr. Saffouri stated that the original contractor finished 85% of the project and walked off the job. The town and contractor are in litigation, but in the meantime, another contractor was hired. Construction was re-started August 5th and they have one year to complete the project. BRF funds (approximately \$3 million) will almost fully fund this last contract, with the prior construction being considered as the local share.
- Mr. Bouxsein asked how Oxford got on the list. Mr. Saffouri responded that all the projects got on the list based on readiness to proceed. To date, MDE has been working with whoever had come and asked for funding. Currently, there seems to be very few takers of the money. Mr. Bouxsein said that in December, Oxford had a low readiness-to-proceed score. Mr. Khuman stated that when talking “readiness to proceed”, it’s among the three (3) different phases; planning, design, and construction. The Town has now started to have someone look at what needs to be done at the plant to achieve ENR level, and MDE will provide a small amount of funds.
- There are a lot of minor plants at the top of the list, that do not want the money, and the ENR upgrade of the minor plants is still done on a voluntary basis. In general, some minor plants are currently becoming interested in our funding due to their interest in expansion, to address a compliance issue, or both.
- Mr. Bouxsein asked if he is correct that there will be money on the table at the end of fiscal year (FY) 2017. Mr. Khuman stated that the projection is that starting in FY 2018, \$55 million per year will be available for minors, septics, and stormwater in that order in accordance with the Statute. The plan is to allocate those funds to projects that are “ready to proceed”, i.e. projects that are ready to go to construction during the fiscal year. There are a couple of ways to decide which projects receive funds, including the current application and ranking process for each category; minors, septics, and stormwater. This is a discussion that as a group the Committee needs to have in terms of a priority system.

III. Update on Cover Crops

- Ms. Marose provided the update on the cover crop activities. There was a great sign-up for cover crops this year, 1,849 farmers with over 641,000 acres, which is the highest number in recent history. Currently, the Maryland Department of Agriculture (MDA) is checking cross-compliance on all those acres to ensure that they meet nutrient management requirements, are not on MACS probation, and not in cross-compliance with the MDA preservation land.
- Following the compliance cross-check, the planting will be done in the next couple of months, and MDA will get the certification on the planting. The MDA will check the numbers and match all of that with the property account IDs. In the spring, the farmers will ask for their payments. At that point, MDA will have the final numbers. Then in the fall, MDA will be checking what species they planted, the planting date, and the method used to plant the crop. Mr. Murray inquired about the total dollar value. It was responded that it is close to \$20 million; \$11 million would be from the Bay Restoration Fund, and the balance from the 2010 Trust Fund.
- Ms. Marose referenced the Cover Crop program handout. The front charts show how much the program has grown from 2007 to 2014. It shows the applications for cover crop acres and for applicants. The table on the back presents, by County, the number of applications received and the amount of acres requested.

IV. Update on Onsite Sewage Disposal System (OSDS)

- Mr. Khuman presented an update on the implementation of House Bill (HB) 12 and HB 11. HB 12 has allowed some monies to be provided to the local health departments for overseeing the new regulations. MDE is going to be sending out grant agreements to the local health departments to select what task they plan to do. This should occur over the next two months. There is a matrix of tasks, and the amount of money for the group of tasks must stay within the maximum of \$1.5 million (the statute states no more than 10 percent can be used for administrative allowances to the counties). It is anticipated that in terms of a signed agreement for fiscal year 2015, everything should be completed by the end of this calendar year. By the next meeting, MDE should be able to have a summary listing of the Counties, what they have agreed to do, and the amount of money that will be allocated to each.
- Mr. Boussein stated that he would like to get a sense of how many additional new County staff would be funded with the money. Mr. Khuman responded that it may not be known whether the County will staff up immediately. There is no requirement in the law that the County hires additional staff. They may staff up, but we may not see it this first go-around.
- Mr. Khuman presented an update on HB 11. This bill allowed for sewer extensions outside the Priority Funding Area (PFA) with an exception by the Smart Growth Committee. The bill required that MDE write regulations for a public notification and hearing process for projects that are funded outside the PFA. The draft regulations have been seen internally for preliminary comments by the Maryland Department of Planning and the Chesapeake Bay Foundation. The regulations primarily focus on the public notification portion of the process of seeking a PFA exception. The

regulations will probably be published in the Maryland Register next month. Mr. Khuman stated he will email a copy of the regulations to the Committee members.

- Mr. Flatley presented an update on the Bay Restoration Funds database. In about two weeks, MDE will start working from the Microsoft Access database, and the online version, working out kinks, bugs, etc. Overall, we are satisfied with the system, and expect it to be up and running by the end of the year. Our group has one more employee, and MDE is working with EPA through the Horsely Witten Group on a data sharing scheme. For the subject BATs, MDE is working with other states. If the manufacturer performs a field or initial verification, the information will be furnished to the other states who will determine if the information is usable to them. At present, this is in a draft form.
- Mr. Bouxsein stated he would like to know the number of BAT systems and the number of sewer hookups by county, and periodically get a status update. In regard to the number of septic, that data is available. It is being reported for MDSTAT purposes and can be reported at the Committee meeting. HB 11 requires an annual reporting of the number of sewers connected outside the PFA, and the impact it had on the rest of the program. MDE will have an annual summary of where the money went, the amount that went to BATs, sewer extensions within the PFA, and sewer extensions outside the PFA. The report will probably be submitted to the Advisory Committee about every October, as the fiscal year ends. In the mean time, MDE does have specific data and a copy can be provided, if requested.
- Mr. Bouxsein asked whether MDE has the data for the BAT systems that have reached the five-year limit for receiving Operation & Management grant funds. MDE is working on it, but is not all the way there yet. All the counties, vendors, and manufacturers lists are being reviewed, and the data is being checked for accuracy before being input into the online system.

V. Update on BRF Fee Collection and Budget

- Mr. Khuman presented the fee distribution data from the fee program's inception through the end of March 2014 given on the fourth page (the fifth page is missing) of the handout from the Comptroller's office. The total fund distribution to date is as follows: approximately \$620.5 million to MDE Line 1 (Wastewater Fund). The MDE Line 2 (Septic Fund) and MDA Line 2 (Cover Crop Fund) totals are on the missing page, which will be emailed to the committee members.
- The Wastewater Treatment Fund distribution in FY 2014 was \$ 110.6 million. Comparing this to the prior fiscal year, when the increased fee was first phased in, it was \$102 million. FY 2014 is the first full year of four quarters, and what this says is the exemption from the fee increase of the homes that are outside the Chesapeake Bay Watershed (portions of Garrett, Worchester, and Cecil Counties and hardship exemptions) have had practically no impact on the revenue.
- The missing page had the summary of the septic, Line 2. The septic distribution in Fiscal Year 2014 was about \$28 million, also essentially double that distributed before the increase. It appears that there is revenue stability for the fund.

VI. O&M Grant BPW Approval.

- Mr. Saffouri presented the status of the O&M Grants award. The Board of Public Works on August 13th 2014 approved the annual O&M grant. The handout is pages one and three of the letter, page two is missing. About \$2.6 million were approved for about 29 facilities that met the ENR effluent levels. The letters have been sent out to each of these applicants to sign and get paid. Within the next 30 days, the facilities should have their money. Seven facilities did not get the grant money because they did not meet the ENR level of treatment. Letters were also sent to those facilities.

VII. Annual Legislative Report

- Mr. Saffouri provided an update on the annual legislative report. This morning, the first draft of the report was sent to MDA, MDP, and within MDE to update their part of the report. By the end of October, an updated draft can be sent to the Committee members for review and comment before the next BRF meeting. The report needs to be completed prior to the end of the calendar year, so it can be submitted to the Legislature in January. There is nothing controversial or any new initiatives, so the report should be fairly routine.
- Mr. Leocha inquired about the Queen Anne's County Southern Kent Island project, and if it will be funded this year. The project has secured its PFA exception from the Smart Growth Coordinating Committee. It has been approved with restrictions on growth, denied access, etc. The County would like to execute the Bay Restoration Fund grant agreement by September 23rd. The way the BRF fund works, BRF funds cannot be provided until the septic system is disconnected and the sewage is discharged to the ENR plant. The way the logistics will be done for the Southern Kent Island project is they will borrow money from the state revolving fund and build the sewer system. When they start disconnecting the septic systems and connect the homes to the public sewer system, they can start to draw funds against the grant. It is not projected they will start to draw the funds until about 2020. The current commissioners want to sign the agreement to show their commitment to the sewer project. The agreement will be for 40 years and for any violation of the terms during the 40 year period, MDE will reserve the right to take the money back. It is possible however, that the next set of commissioners may choose not to do the sewer project. There is going to be no award of the revolving loan funds this year for the project, because loan funds are awarded after bids open, which may not be for another 12 to 18 months.

Next Meeting

The next meeting will take place on December 11th, a Thursday (later this was changed to December 17th).

Materials Distributed at the Meeting

- Meeting Agenda
- Previous Meeting Minutes (April 24, 2014)
- Wastewater Treatment Plants ENR Upgrade Status (September 4, 2014)
- BPW's letter dated August 13, 2014 approving MDE's Secretary's Agenda Item 7 (FY 2015 O&M Grant amounts).
- Program-to-Date BRF Fee Collection Report (through July 31, 2014)
- BRF Fee Collection Reports (through July 31, 2014)
- BRF Fee Distribution Report (through July 31, 2014)

Attendance

Advisory Committee Members or Designees Attending:

Greg Murray, Washington County, Chairman
James L. Hearn, Washington Suburban Sanitary Commission
Betty Marose, Maryland Department of Agriculture
John Leocha, Maryland Department of Planning
Fiona Burns, Department of Budget and Management
Peter Bouxsein, Chesapeake Bay Foundation
Walid Saffouri, Maryland Department of the Environment
Chris Murphy, Anne Arundel County DPW (representing Maryland Association of Counties)

Others in Attendance:

Emily Prosser Hazen and Sawyer
Andrew Gray, Maryland Department of Legislative Services
Katie Yoder, Washington County

Maryland Dept. of the Environment (MDE) Attendees:

Jag Khuman	Michael Kanowitz	Elaine Dietz
Bill Skibinski	Brian Cooper	Sunita Boyle
Cheryl Reilly	Joe Bratchie	Josh Flatley
Joseph Bieberich	Rajiv Chawla	Megan Ulrich