

# **BAY RESTORATION FUND ADVISORY COMMITTEE**

**Maryland Department of the Environment**

**Aqua and Terra Conference Rooms**

**1800 Washington Blvd.**

**Baltimore, Maryland 21230**

**January 19, 2012**

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

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## **Meeting Minutes**

### **Welcome/Introduction**

- The meeting was initially chaired by Jag Khuman, Maryland Department of the Environment, on behalf of Mr. Greg Murray, Chairman for the Bay Restoration Fund Advisory Committee, who was expected to arrive within a half hour. Mr. Murray chaired the remaining meeting upon arrival.
- Mr. Khuman welcomed the committee members and other attendees.

### **Review of Minutes**

- Previous meeting minutes from the October 13, 2011 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.
- Mr. Saffouri noted that after e-mailing the meeting minutes to the committee members, a couple of errors were discovered. These errors were corrected and are highlighted on page three of the distributed meeting minutes. In the middle of the page the word “million” was omitted. Instead of a \$385 deficit, there is a \$385 million deficit. Also, a sentence in the second paragraph was reworded to make more sense. There were no other comments or corrections to the meeting minutes.
- 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 24 facilities in operation, 19 under construction, 10 in design, 10 in planning, and 4 in pre-planning, for a total of 67 facilities.
- Delmar WWTP initiated ENR operation. A dedication ceremony was held and attended by the MDE Deputy Secretary, EPA officials, as well as elected state (Maryland and Delaware) and federal officials.

- Mr. Saffouri called attention to the percentages complete for each plant that is under construction. Seneca Creek and Patuxent's percentages are not shown since they just started construction and have not undergone inspection.
- The following facilities are ready to schedule an event, if needed.
  - Patuxent - Ready for Groundbreaking
  - Seneca Creek - Ready for Groundbreaking
  - Western Branch - Ready for Groundbreaking
  - Broadneck - Ready for Groundbreaking
  - Pocomoke City - Ready for Dedication
- Mr. Khuman mentioned to Mr. Hearn that since many WSSC facilities have initiated construction, you may want to take this opportunity to have one big ceremony. Mr. Hearn is going to check into this.

## **II. Final Annual Report**

- The final Annual Report is officially being sent to the governor and legislative individuals today per Mr. Khuman. An executive summary of the Annual Report was presented in the committee meeting handouts. The full Annual Report will be posted on the Internet in two locations: one under the committee meeting handout section and on the "Annual Reports" web page.
- Mr. Murray asked if there is a proposed date to present the report to the legislators. He asked if there would be a physical presentation or any discussion on the report in the legislative session, or is it simply mailed. Mr. Saffouri remarked that this information is part of the presentation on Chesapeake Bay that Mr. Summers gave to the legislature.

## **III. Legislative Update**

- Mr. Khuman noted that there have been newspaper articles regarding the flush fee. He said that two essential reports have been running concurrently: the BRF Advisory Committee report which recommends doubling the fee and the Septic Task Force report which suggests tripling the fee have been made public to the legislature and other officials. It is unknown who is going to introduce what bill and whether the recommendation would be to double or triple the fee.
- One option being proposed is to establish prorated fees based on consumption. In this case the average consumption per household would need to be determined. The average consumption would vary from Baltimore City to Hagerstown, for example. So, how is this number going to be determined? Some assumptions would have to be made to come up with a "median" user amount. But even then, the distribution for a single person would be far less than a family of four.
- Since the fee also applies to septic users, and they are not metered, the provision would have to be a flat fee of \$60 (if you are doubling it). So there would be a fixed component to non-metered and a variable component to metered users.

- Mr. Khuman commented that the Septic Task Force recommended that the BNR (biological nutrient aspect) of the small plants be paid from this BRF fund which right now only pays for ENR. Currently the BRF also cannot fund storm water management projects. Statutory changes would have to be made because under the current law BRF only funds ENR, septics and cover crops.
- A bill was introduced regarding the Bay Restoration Fund and the Trust Fund which would prohibit these funds from being used for other purposes other than their intended use.

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

- Mr. Khuman presented the revenue data from the fee program's inception through the end of November 2011. The Wastewater Treatment Plant (WWTP) total revenues are approximately \$375.2 million and \$87 million for septics. These are deposits prior to administrative expenses being claimed by the local governments or paid. The amount for administrative expenses claimed by local governments is very low, approximately one-half of one percent.
- The total fund distribution to date is as follows: approximately \$371.2 million to MDE Line 1 (Wastewater Fund), \$46.8 million to MDE Line 2 (Septic Fund), and \$39.9 million to MDA Line 2 (Cover Crop Fund).

#### **V. Onsite Sewage Disposal Systems (OSDS) Update**

- Mr. Khuman provided an update on the implementation of the OSDS grant awards. He briefly explained that grants are awarded at the beginning of the fiscal year to counties based on how many systems they have in critical areas. The application, the amount of money requested, the number of the septic tanks inside/outside the critical areas, and past years' performance are examined to determine how much grant money to award.
- Last June \$8.3 million was awarded for the entire year for the upgrade of the septic systems. The applicants were also given the opportunity to apply for additional monies for critical area or failing systems beyond the 2012 allocation. Five applicants came back and requested an amount anywhere from \$100,000 - \$300,000. MDE is working towards making another award to the counties that requested it.
- Due to the low number of applicants and the fact that the allocated monies were not expended, indicated that the counties were able to function within the allocated budget. Mr. Khuman noted that it will be interesting to see what happens if the amount of monies available is doubled--can the counties ramp up their program that rapidly and spend twice the amount they did in the prior year? The formula to determine the award amount will remain the same.
- Mr. Prager expects a lag in the beginning but then anticipates the demand to far exceed what is available. The need is there, but it is a challenge for some counties to implement their plan in a matter of months when what they really need is two, three or even four years.

- There is talk of potential legislation that would recommend all new septic systems statewide to include best available technology (BAT). If that legislation is passed, there will be a greater demand for funds.
- Mr. Prager commented that MDE is continuing to refine how it determines what technologies are considered BAT that could initially achieve at least 50% nitrogen reduction. Several technologies that were initially approved were taken off the list for not meeting field verification criteria. Currently there are five field-verified systems and about eight or so non-field-verified systems. The septic systems upgrades currently being installed and funded through BRF fees are the field-verified systems.

## **VI. Update on Cover Crop Activities**

- Mr. Astle provided an update on the cover crop activities. He noted that cover crops have gone extremely well. This year the planting date was extended from November 5<sup>th</sup> to November 12<sup>th</sup>, mostly due to the weather. Mr. Astle commented that Maryland Department of Agriculture has a good idea of the number of acres planted but cannot release that information at this time.
- There has been a good response from the farmers (statewide) resulting in a lot of cover crop acres being planted. Right now fall certifications are being finalized and this process will be repeated in the spring. Nutrient management compliance will also be double-checked in the spring. In order for a farmer to participate in the program, he has to be compliant with the nutrient management program. There will not be any problem using the allocated 40 percent BRF fund.
- Mr. Khuman asked when the farmers get paid out of the cover crop fund. Mr. Astle noted that if they are on the traditional side of the program, they get \$25 per acre in the fall and then the remaining portion of the payment in the spring. If they are on the commodities side of the program and elect to take the fall payment, the contract is then closed. The BRF for the year has mostly been exhausted for the cover crop program.
- Mr. Murray asked how cover crop activity is tying in with the Best Management Practice. Mr. Astle noted that based on TMDL, Bay Stat, and our goals, each county is assessed a certain number of acres. There has not been time to determine where each county stands with its particular goal for the year, but it was mentioned in the last report that we are 160 percent above the target.
- Mr. Khuman asked if the fee doubles causing the revenue to double, then what would the capacity be in terms of acreage. Mr. Astle responded that it would depend on what crops farmers were planting, and that depends on market conditions, so it is a flexible number. He projected that it could be around 600,000 acres. Mr. Khuman noted that when one looks at the dollar-amount, it could take three times what is currently available. Mr. Astle replied that the Bay Stat goal is a lot less than this, and that is why we want to remain with the 40 percent.

## **Next Meeting**

The next meeting will take place in April 2012. April 11, 18, and 19 were mentioned as possibilities. Committee members will receive a confirmation via e-mail of the meeting date.

## **Materials Distributed at the Meeting**

- Meeting Agenda
- Previous Meeting Minutes (October 13, 2011)
- Wastewater Treatment Plants ENR Upgrade Status (January 19, 2012)
- Program-to-Date BRF Fee Collection Report (through November 30, 2011)
- 2011 Tax Year Year-to-Date BRF Fee Collection Report (through November 30, 2011)
- 2011 Tax Year Quarter-to-Date BRF Fee Collection Report (through November 30, 2011)
- BRF Fee Distribution Report through November 30, 2011

## **Attendance**

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

Greg Murray, Chairman, Washington County Government  
James L. Hearn, Washington Suburban Sanitary Commission  
Norman Astle, Maryland Department of Agriculture  
Angela Butler, Maryland Department of Planning  
John Leocha, Maryland Department of Planning  
Hilary Bell, Department of Budget and Management  
Jennifer Raulin, Department of Natural Resources  
Bill Ball, Johns Hopkins University  
Don Bradley, Maryland Municipal League

### **Others in Attendance:**

Peter Bouxsein, Chesapeake Bay Foundation, sitting in for Jen Aiosa, CBF  
Julie Pippel, Washington County  
Mary Vitale, Hazen and Sawyer

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

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|-------------------|----------------|
| Jag Khuman        | Jay Prager     |
| Walid Saffouri    | Joshua Flatley |
| Rajiv Chawla      | Missy Martin   |
| Sunita Boyle      | Cheryl Reilly  |
| Susan Iaconangelo | Debbie Thomas  |