

# **BAY RESTORATION FUND ADVISORY COMMITTEE**

**Maryland Department of the Environment  
Aqua and Terra Conference Rooms  
1800 Washington Blvd.  
Baltimore, Maryland 21230  
April 25, 2013  
1:00 p.m. to 4:00 p.m.**

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## **Meeting Minutes**

### **Welcome/Introduction**

- The meeting was chaired by Mr. Greg Murray, Chairman for the Bay Restoration Fund Advisory Committee and Administrator for Washington County.
- Mr. Murray welcomed the committee members and other attendees.

### **Review of Minutes**

- Previous meeting minutes from the January 17, 2013 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.
- It was noted that on page 5 of the previous meeting minutes, Mr. Raulin should be corrected to Ms. Raulin. There were no other comments on the meeting minutes. Unless any other comments from the members are received, the approved minutes and handouts from the meeting will be posted on MDE's website.

### **Discussion**

#### **I. Cover Crops Presentation**

- Mr. Astle provided an introduction to the Cover Crops presentation. The Maryland Cover Crop Program is under the Maryland Agricultural Cost Share Program (MACS). Within the MACS program are several programs that MDA administers, the major program being the Cover Crop Program. Mr. Astle introduced Dawn Bradley to present the topic, The Maryland Cover Crop Program. Ms. Bradley gave a Power Point presentation which will be put on the Committee Website.
- Ms. Bradley provided an overview of the Cover Crop program; explaining how the program is managed and conducted. The presentation explained the expenditures and growth in the number of acres planted, the program's environmental benefits, how the program is managed with the support and technical input from various advisory groups, the certification process, the incentive program, outreach efforts, and the application process.

- Mr. Ball asked whether MDA can make the data available, on an aggregate basis such as per watershed, regarding how many crops have been planted over the years and how many acres. The data could be used to do some analyses of the cover crop management practice and its benefit. Mr. Astle responded that the MDA does track the crops on a watershed basis. It may take a while to develop the queries and extract it from the database, and MDA can inform the committee of what is available and furnish the information.

## **II. 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 27 facilities in operation, 21 under construction, 12 in design, 5 in planning, and 2 in pre-planning, for a total of 67 facilities.
- Mr. Saffouri called attention to the percentage complete for each plant that is under construction and noted they are moving forward. There are six projects that are nearing completion and are in the process of initiating and refining ENR operations. Chesapeake Beach and Marley Taylor have completed design and are expected to initiate construction by June 2013 and August 2013, respectively.
- The following facilities are ready to schedule an event, if needed: Committee members will be informed via e-mail, if an event is scheduled.

Emmitsburg – Ready for Groundbreaking  
 Damascus – Ready for Dedication  
 Thurmont – Ready for Dedication  
 Piscataway – Ready for Dedication  
 Cambridge – Ready for Dedication  
 Snow Hill – Ready for Dedication

## **III. Major-Minors Upgrade Funding Strategy**

- Mr. Saffouri referenced the ENR Status for Minor Facilities handout that includes a list of 55 facilities including major-minor and minor facilities. For each facility, the cost per pound of nitrogen removed was calculated based on a cost curve that MDE uses for the major facilities. Hence, the cost estimates are close to each other, between \$10 and \$12 million, regardless of size.
- The facilities are sorted by status and County. Some facilities are already doing either a BNR or ENR upgrade, with or without the BRF funding. MDE has received an application for funding from several facilities, and these are listed under Primary Fund Source with BRF and a question mark (“?”). Also, there are a few facilities still considering between USDA and BRF funding. Of these latter facilities, only the Greensboro facility has decided to use the BRF funding. Greensboro has already signed the ENR agreement. Two minor facilities are in operation. Boonsboro in Washington County and Worton in Kent County upgraded to ENR using BRF funding and USDA

- funding, respectively. The costs given for those two facilities are actual costs. Ms. Raulin asked if more was known about the USDA program funding for the two facilities. Mr. Khuman stated that it is the old Farmers Home Water and Sewer Program, basically for a rural area, and it's a grant/loan combination. The advantage of the loan is that the loan term is 40 years.
- Similar to the funding of the major facilities, the cost of upgrading the minor facilities is going to be limited to the existing design capacity. Most of the facilities at the top of the list (under design, planning, or pre-planning) are including an expansion and upgrades, Hence, if the grant is provided, it will be based on the existing design capacity. In cases where a failing septic tank area is being connected to a minor facility that is being upgraded, such as Goldsboro to Greensboro, the flow is small to begin with, and the facility is sensitive to a capacity increase of almost 20 percent. For that reason, for existing homes within a failing septic tank area, the flow is going to have to be added to the existing capacity and funding will be provided based on the existing flow plus the septic tank flow. MDE will fund the treatment, the connection costs are the home owner's responsibility.
- Mr. Ball asked if the nitrogen reduction included the delivery factor. Mr. Khuman responded no. Based on the last meeting, MDE wanted to bring a list of projects giving their potential, capital costs, etc. MDE's staff is looking at location and relative effectiveness on the pollution to the Chesapeake Bay. The intent being that the staff is going to probably say, the following are recommended. If a comparison of pound for pound will be tried, it will have to take into account the delivery factor aspect. Then, MDP would also like to weigh in with where there is growth pressure.
- Ms. Bell asked what the decision to fund Greensboro was based on. Mr. Khuman stated that there was a general discussion at the last meeting and the Committee decided that since Greensboro is already under design, it will be funded as the first minor and talk about others soon. Greensboro is at the top of the list of the priority at this time, because it has the highest delivery factor, and with Greensboro, it is more affordable to connect Goldsboro which is a failing septic tank area under consent order to provide public sewer.
- Another facility that might be similar to Greensboro is Sudlersville because they are connecting Barclay. Barclay is the same as Goldsboro, except they are not under consent order yet. One of the other things that plays into some of these decisions is, are all the documents in order. At Greensboro and Sudlersville all that is done, and a great deal of thought and planning has already been put into place.
- Mr. Murray stated that there is a difference between plants that want to upgrade and requiring them to do it, because plants that want to do it and are using BRF funds will be getting self-imposed restrictions. Mr. Khuman stated that many of the facilities will choose not to request BRF money. Mr. Murray said that the municipalities have to be very careful in deciding whether to upgrade and take the BRF funds. It could have a significant impact on the WIP plans that have been years in development. Mr. Murray stated that the above issues illustrate that before the committee makes any decisions, there is a lot of research, discussion, and prior planning that went into where we are now, and it is difficult to change in a short time.

- Mr. Khuman stated that from a snapshot BRF cash flow point of view, about ten facilities could be done by 2017 and get ahead of the WIP. This means planning, design, and initiate construction by 2016 or 2017, in addition to the 67 major plants. There is an opportunity to start now, and not wait until after 2017 or 2018. Also, the planning and design take a lot of time.
- Mr. Khuman stated that by the next meeting, the Committee should have each agency's position. Then, the relative effectiveness issue will be addressed.

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

- Mr. Khuman presented the fee distribution data from the fee program's inception through the end of March 2013. The total fund distribution to date is as follows: approximately \$463.7 million to MDE Line 1 (Wastewater Fund), \$63.7 million to MDE Line 2 (Septic Fund), and \$51.2 million to MDA Line 2 (Cover Crop Fund).
- Mr. Khuman stated that on Line 1 (Wastewater) the April deposit is not given, because April 20<sup>th</sup> is the day when local governments deposit the money to the comptroller. The April deposit will be seen in the May record. In October there was a big deposit of \$30.5 million, followed in January by a deposit of \$25.3 million, both a result of doubling of the flush fee. The next two quarters are expected to be about \$20 million, because Baltimore County collects the fee on the property tax bill and many Baltimore County homeowners pay the property tax bill semi-annually, one installment before September and the other prior to December. Hence, the fee from Baltimore County residents will be zero. It is still expected that the yearly total will be close to the projected annual target of \$95 to \$100 million.
- Similarly, on Line 2 (septics) there are large amounts shown for October and January. Most counties are collecting the septic \$60 fee with the property tax. In the next few months, there will be additional amounts deposited by the sewer authorities that provide water to homes on septics. The original projection for septics was about \$27 million, if the revenue doubled. There are a couple of areas that got exempted, but about \$26 million is expected to be collected.
- Ms. Bell inquired if it is known what percentage are requesting exemptions. Mr. Khuman responded that MDE does not have that data, but that every municipality has been reminded that they must have a hardship exemption plan. Many had not implemented a plan by July 1<sup>st</sup>. Some municipalities are implementing it now. MDE will probably collect that data next year.

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

- Mr. Khuman provided the update on the Onsite Sewage Disposal Systems. MDE has taken new bids from the five (5) field verified BAT manufacturers. Three (3) years ago, MDE had taken bids based solely on price so local health departments would not have to do their own procurement. The timeframe for those bids were up, and MDE issued a new invitation for bids. The new bids were evaluated not only on price, but also on cost per pound, the efficiency of the system, and the

actual field verified percentages of reduction. MDE prepared a list of three (3) vendors per region that are the lowest cost per pound. Other vendors would have the option to price match. MDE is currently informing the vendors of their standing.

- What is interesting is that based on the vendors that won the bids three years ago using price only, their new bid prices, adjusted for inflation, are \$300 - \$400 lower per unit than the current price. Mr. Ball asked how does it compare price per pound, is MDE hearing something on the order of \$10 per pound. Mr. Khuman responded not too well. Based on an annualized cost of \$13,000 and a 20 year life, it is \$80 per pound. It is expensive.
- Concurrently, MDE is developing implementation regulations. Last year prior to the fee increase, MDE had about \$8.5 to \$9 million for local governments for septic system upgrades. \$1.6 million of that was not used. The feedback from the jurisdictions was that more homeowners should qualify for a 100 percent grant. Now with the fee doubled, MDE is hearing, if we could not spend \$9 million, how can MDE expect us to spend twice as much if the program is going to be restrictive? Hence, it is going to be simplified. The current four tiered (25, 50, 75, & 100 percent) grant funding requirement, based on the homeowner's income, is being removed. It will be replaced by a two tier grant funding system of 50 and 100 percent. Homeowners with incomes under \$300,000 will get a 100 percent grant, and homeowners with incomes above \$300,000 will get a 50 percent grant. This will allow the majority of homeowners to qualify for a 100 percent grant. For businesses, it will be a flat 50 percent grant. On July 1, 2013, MDE will implement the changes as policy matter. At the same time, MDE is trying to implement the policies consistent with the regulations. We are waiting for feedback from legal.
- Mr. Ball inquired as to the incentive for homeowners to upgrade their septic systems beyond their trying to help the Bay and trying to forestall a future regulation requiring them to upgrade their system. Mr. Prager responded that current regulations require that all septic systems installed to serve new construction in the Chesapeake and Coastal Bay watersheds are required to upgrade. All repairs in the critical area are required, but not all the repairs outside of the critical area are required. However, many of the local jurisdictions are adding it on as a requirement because a lot of the repairs are to non-conforming systems. However, for existing homes it is still almost voluntary until a repair is made. This money sort of becomes an incentive, because the owner knows that the next time they try to repair the system or sell the house, the local health department may not give its approval.

## **VI. Regulations for Implementation of ENR**

- MDE is also developing regulations for implementation for ENR. There is nothing new in the regulations, they state whatever is in the statute, except it now includes the formula for O&M grants. It is essentially very similar to what is currently being done. Now, if all 67 WWTPs were upgraded, the law states that up to 10 percent of the money may be distributed as grants to the counties for anticipated higher operation costs. With ENR, this formula would essentially distribute about \$5 to \$6 million a year, similar to the current requirement. When the regulations become effective, the grant will increase to up to \$25,000 per million gallons, not to exceed \$250,000. Also, when you receive the application, you will find the amount of the O&M grant will be based on the plant's performance. That is, if the plant just meets the NPDES limit of

4 mg/L for TN, the plant will not get an O&M grant, according to the eligibility guideline. Plants that meet an annual average of 3 mg/L will receive the full allocation. The Committee can discuss this at a future meeting.

### **Other Discussion**

Mr. Hearn questioned whether it is appropriate for this Committee to discuss the fact that allocations are being borrowed, proposing to be borrowed from wastewater treatment plants to offset urban stormwater loads that will be a shortfall. Mr. Murray stated that it is probably something that should be discussed. According to Mr. Hearn there is a proposal suggesting that loads be borrowed from wastewater treatment plants to offset stormwater loads that will not be reduced by 2017. The WIP states how many pounds a year is discharging to the Chesapeake Bay, the 2017 goal, and the ultimate goal. Then it breaks it down by sector. Then by sector, there is a way to meet the State goal. The issue is meeting the interim goal and then the ultimate goal by sectors, and borrowing from one sector to meet another sector's goal. Mr. Khuman stated that Jim George can give a presentation and the Committee can have an open discussion on it. It was stated that the plan has always been to meet most of the 2017 goals by the 67 upgrades (the wastewater treatment sector), and then the other sectors will follow.

### **Next Meeting**

The next meeting will take place July 2013 on a Thursday.

### **Materials Distributed at the Meeting**

- Meeting Agenda
- Previous Meeting Minutes (January 17, 2013)
- Wastewater Treatment Plants ENR Upgrade Status (April 25, 2013)
- ENR Status for Minor Facilities (Publicly Owned) April 25, 2013.
- Program-to-Date BRF Fee Collection Report (through March 31, 2013)
- BRF Fee Collection Reports (through March 31, 2013)
- BRF Fee Distribution Report through March 31, 2013

## **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  
Peter Bouxsein, Chesapeake Bay Foundation  
William Ball, Johns Hopkins University

### **Others in Attendance:**

Julie Pippel, Washington County  
Dawn Bradley, Maryland Department of Agriculture  
Andrew Gray, Department of Legislative Services  
Ryane Necessary, Department of Legislative Services

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

Jag Khuman	Michael Kanowitz
Walid Saffouri	Kimberly Knussman
Rajiv Chawla	Jay Prager
Sunita Boyle	Debbie Thomas
Cheryl Reilly	