

BAY RESTORATION FUND ADVISORY COMMITTEE

**Maryland Department of the Environment
Aqua/Terra Conference Rooms (MDE Lobby Area)
1800 Washington Boulevard
Baltimore, Maryland 21230
March 2, 2017**

Meeting Minutes

Welcome/Introduction

- The meeting was opened by Ms. Julie Pippel of Washington County, on behalf of Mr. Greg Murray, Chairman of the Bay Restoration Fund Advisory Committee and Administrator for Washington County.
- Ms. Pippel welcomed the committee members and other attendees.

Review of Meeting Minutes

- Previous meeting minutes from the December 1, 2016 meeting were handed out to 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.
- Ms. Pippel asked if anyone had any questions, comments, or a motion to approve. The minutes were approved.

Discussion

I. Update on Major and Minor WWTPs ENR Implementation:

- Mr. Saffouri referenced the Wastewater Treatment Plants ENR Upgrade Status handout. To date there are 50 major facilities in operation, 14 under construction, 2 in design, and 1 in planning, for a total of 67 major facilities. The only status change since the last meeting is that Marlay Taylor has completed the ENR upgrade and is now in operation.
- Mr. Saffouri stated that there has not been a lot of progress for the minor facilities since the last meeting. Betterton and Oxford have opened their bids and may be in construction by the next meeting.

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

- Mr. Flatley provided a handout with the number of BAT installations to date, listed as in and outside the Critical Area, and based on MDE funded and not funded installations. Also, the handout included the number of MDE funded sewer connections.
- Also, Mr. Flatley advised the committee that a new BAT has been approved by MDE and added to the list of field verified systems.
- Mr. Khuman added that the newly verified BAT will have a chance to be included in the new bidding process for the three-year contract. The current contract is due to expire this fiscal year, and the new contract will cover fiscal years 2018, 2019, and 2020.
- Mr. Leocha asked whether funds would be recouped from those who received grants for BAT installation, and then later connect to public sewer.
- Mr. Khuman responded that the BAT installations in these situations would be considered sunk costs. In most cases sewer connections occur 10 to 12 years after the BAT installations as the case in Edgewater Beach community in Anne Arundel County, which has a total of approximately 200 homes with 10 or 12 homes with BAT installations.
- Mr. Leocha asked whether MDE has a map showing where funded BAT installations are. Mr. Flatley responded that currently we don't have it.
- Mr. Boussein asked whether MDE knows the percentage of BAT installations that replaced failing septic systems versus BATs for non-failing systems. Mr. Flatley responded that we have this information in the database, but it is not part of today's handout.
- Mr. Murphy asked whether we have a long-term monitoring for the effectiveness of the installed BATs.
- Mr. Flatley responded that MDE is working with the vendors and counties to ensure proper operation and maintenance of the systems. In addition, we are starting to work on procedures to guide and assist homeowners to prevent system failure. Mr. Khuman added that there are other factors that impact the systems effectiveness. Some systems are designed for 75% nitrogen reduction, while others are designed for 50% reduction. Also, the relative effectiveness is impacted by the location of the systems and whether it is in a Critical Area or non-critical area.
- Mr. Hearn asked why there are some non-funded BAT installations in the Critical Area.
- Mr. Flatley responded that the non-funded BAT installations in the Critical Area are very likely for new homes. While these installations are eligible for funding, they receive less funding priority than existing homes, especially those with failing septic systems.

III. Presentation on Bay Restoration Fund and Growth Analysis:

- Ms. Butler provided a presentation on MDP analysis regarding the impact of ENR upgraded facilities on growth under HB 893. The purpose of the presentation was to summarize MDP's analysis since 2009, which has been part of the committee's annual report to the legislators.
- The presentation provided a list of the studied facilities to date (completed the upgrade in 2014 or before) with the numbers of the property connections to the facilities before and after the upgrade, and with the numbers and percentages of the properties within the Priority Funding Areas (PFA). The presentation also showed the process of how the data was validated and corrected.
- In conclusion, MDP maintained the position that there is little to indicate that an ENR upgrade encourages extension of services to developments outside the PFA. In addition, analysis shows that ENR upgrades provided a significant opportunity for municipalities to continue to meet their growth goals under highly improved water quality standards.
- Mr. Murphy asked whether it is a concern that Table 2 of the presentation shows low percentage of septic hookups in the PFA at some municipalities.
- Ms. Butler agreed that it is a concern, which would lead us to focus more on these communities and validate the data. In the case of Bowie, for example, it was determined after the validation that 80% of the hookups were in the PFA instead of the originally estimated 27% in Table 2.
- Mr. Murphy asked about what would happen to the nitrogen reduction from connecting homes served by septic systems to an ENR WWTP.
- Mr. Khuman responded that MDE allowed some minor WWTPs such as Greensboro to keep some of the load credit generated from connecting Goldsboro.

IV. Update on BRF Fee Collection and Budget:

- Mr. Khuman updated the committee on the BRF fee collection using the Comptroller's report for January 31, 2017, which was provided as a handout to the committee members. Mr. Khuman advised the committee that the revenues are back to normal this year after last year's one-time adjustment by Baltimore City, which resulted in a higher amount (approximately \$13 million more) in the Wastewater (Line 1) fund.

V. Update on Legislative Session:

- Mr. Khuman provided an update on House Bill 417/Senate Bill 314. This bill, which was requested by the Governor, would expand the use of BRF to purchase cost effective nitrogen, phosphorus or sediment load. The bill would authorize up to \$4 million in FY 2018, \$6 million in FY 2019, and

\$10 million in FY 2020, and 2021. Loads cannot be purchased from the Agriculture Sector, and they must be created after July 1, 2017.

- Mr. Khuman also discussed House Bill 384, which would also expand the use of BRF to cover the BNR upgrade cost at 100% at minor treatment plants. Currently, this cost for minor plants is covered by the State BNR grants at 75% cost share. MDE estimates the impact of this bill as \$10 million more per year toward the minor treatment plant upgrades.
- Both of the above bills have significant support from the legislators and stake holders, and they are expected to pass.
- Mr. Leocha asked whether load purchasing under House Bill 417 can impact the availability of funds to be used for BNR at minor plants under House Bill 384 above. Mr. Khuman responded that this would not be the case because: (1) the law gives treatment plant upgrades priority to be fully funded before using the fund for any other purpose. (2) If needed, bonds can be issued to have more funds available for treatment plant upgrades.
- Mr. Flatley discussed House Bill 1045, which may allow the hydraulic loading rate to be increased for on-site sewage disposal systems if they are using Membrane Bioreactor (MBR) for treatment. Thus far, it appears that this bill does not have enough support to pass.
- Mr. Khuman brought up Senate Bill 266, which would require BATs statewide, thereby superseding MDE's recent regulations to require BAT only in the Critical Area. This bill may not pass either.
- Mr. Boussein asked why Back River is not receiving 100% BRF for BNR under House Bill 384. Mr. Khuman responded that they are getting approximately \$47 million, which is 50% of the eligible BNR cost based on the previous agreement. The bill will only impact projects starting construction after July 1, 2017. Back River has already started construction, which is almost complete.
- Mr. Murphy asked whether House Bill 417 would allow the Department to provide grants to local governments to purchase the loads. Mr. Khuman responded no and that the purpose of bill is to allow only the Department to purchase nutrient and sediments loads.

VI. Next Meeting

- Ms. Pippel advised the committee of the remaining meeting dates for 2017 and confirmed that the next meeting will be on June 1st. The meeting dates are:

June 1st
September 14th
December 14th

Materials Distributed at the Meeting

- Meeting Agenda
- Previous Meeting Minutes
- Wastewater Treatment Plants ENR Upgrade Status
- BAT Installations as of 3/02/2017
- Program-to-Date BRF Fee Collection Report (Comptroller Report) – Emailed after the meeting

Attendance

Advisory Committee Members or Designees Attending:

Julie Pippel, Washington County
Walid Saffouri, MDE
Jag Khuman, MDE
J.L. Hearn, WSSC
Peter Bouxsein, Chesapeake Bay Foundation
Angela Butler, Maryland Department of Planning
John Leocha, Maryland Department of Planning
Fiona Burns, Department of Budget and Management
Christopher Murphy, Anne Arundel County DPW
Gabe Cohee, Maryland Department of Natural Resources
Sara Lou Trescott, Washington County Health Department
Cheryl A. Lewis, Town of Oxford

Others in Attendance:

D.J. Wacker, RK&K
Kevin Nash, RK&K
Joe Sowinski, Hazen and Sawyer
Jacob Dorman, Contech ES

Maryland Department of the Environment (MDE) Attendees:

Rajiv Chawla	Cheryl Reilly
Teresa Wong	Sunita Boyle
Heather Barthel	Marya Levelev
Jesse Kraut	Sally Szydlowski
Linda Pryor-Polinski	Joseph Flatley