

BAY RESTORATION FUND ADVISORY COMMITTEE

**Maryland Department of the Environment
Aqua/Aeris Conference Rooms (MDE Lobby Area)
1800 Washington Boulevard
Baltimore, Maryland 21230
January 10, 2019**

Meeting Minutes

Welcome/Introduction

- The meeting was opened by Mr. Greg Murray, Chairman of the Bay Restoration Fund Advisory Committee.
- Mr. Murray welcomed the committee members and other attendees.

Review of Meeting Minutes

- Previous meeting minutes from the September 13, 2018 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.
- Mr. Murray asked if anyone had any questions, comments, or a motion to approve. The minutes were approved.

Discussion

I. Septic Stewardship Program:

- Ms. Howell provided an update on the Septic Stewardship Program and summarized the law requirements, which mainly encourage the county health departments to be creative and adopt plans that meet their specific needs.
- MDE has been reaching out to the counties and providing information about the program through the WIP (Watershed Implementation Plan) regional meetings. In addition, MDE is discussing the program with each county separately.
- To date, there has been no Stewardship Plan developed by any of the counties. However, many counties have started the process. For example, Cecil County has started the discussion with the local watershed groups to possibly start developing the plan.

- MDE is also working on the other part of the law, which involves the development of a database that maintains records of all new BAT installations with associated O&M information. Also, the database will include information on septic connections to public sewer.
- Mr. Ball asked whether the counties are offering homeowners some incentives to do the maintenance on their system since now the nitrogen reductions in the counties' watershed implementation plans would not be counted without the maintenance. Ms. Howell responded that at least one county requires maintenance and pump-out of septic tanks and BAT. Another county provides a rebate or refund independent of the Bay Restoration Fund.
- Mr. Ball asked about the current pace of BAT upgrades. Ms. Howell responded that we have a decline in upgrades since BAT is no longer required everywhere in the state. Currently, BAT upgrade is required only in the critical areas.
- Mr. Bouxsein asked whether the funding for the Stewardship Program would be provided directly by MDE or through the counties' OSDS allocation. Ms. Howell responded that funds will be coming from the counties allocation.
- Mr. Murphy asked whether the Stewardship Program is applicable to all septic systems or only BAT specific. Ms. Howell responded that it is applicable to all septic systems. Some nitrogen reduction with smaller credit can be achieved from proper maintenance of conventional septic systems.
- Mr. Murray suggested that more outreach needs to be done to make homeowners aware of the Stewardship and other OSDS programs. Ms. Howell and the committee members agreed.
- Ms. Mackert asked that since the counties are already counting the pump-outs as credits, what would be the incentive to have a Stewardship Plan. Ms. Howell responded that the plan will be required in order for the pump-outs to continue to count as credits.
- Mr. Bouxsein asked whether funds are available under the BRF-Septic to support the Stewardship Program. Mr. Saffouri responded that funds are available for this program. Ms. Howell added that MDE will be flexible in accepting the counties' plans.
- Mr. Bouxsein suggested that the committee should continue to receive regular updates on this program in future meetings. Mr. Murray agreed.

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

- Ms. Dietz updated the committee on the Onsite Sewage Disposal System (OSDS) funding in FY 2019. Between July 1, 2018 and January 7, 2019, 190 BAT upgrades and 29 sewer connections have been funded.

- Mr. Saffouri added that MDE is proposing a change to the regulations to increase the grant share for small businesses from 50% to 75%. MDE is hoping that this increase in the grants share will encourage more sewer connections and BAT upgrades.
- Mr. Murray asked for the definition of small business in COMAR 21.01.02.01 referenced in the regulations change. Mr. Saffouri answered that it is a long definition and he doesn't have this section at this time, but he can bring it to the next meeting. Ms. Pippel was able to research and find this section, and she provided the definition to the committee members.
- Ms. Mackert asked when this change in regulations will be effective. Mr. Saffouri responded that the proposed regulations are scheduled to be published on the 18th of January, followed by a comment period. So they may become final in March or April.
- Mr. Murray asked if there is any limitation on the amount of the grant other than the 75%. Mr. Saffouri responded that all the other rules are still applicable. The eligible cost of BAT or sewer connection would be funded at 75%. In addition, sewer connection still cannot exceed \$20,000 per home (or EDU).

III. Update on BRF Fee Collection and Budget

- Ms. Dietz updated the committee on the BRF fee collection using the Comptroller's report through December 31, 2018. Ms. Dietz advised the committee that the report shows the revenues of the first quarter of FY 2019. During this quarter, the Wastewater Fund (Line 1) had an additional \$36.1 million. The program grand total for Wastewater is about 1.12 billion. Under the Septic Fund (Line 2), approximately \$9.5 million were added to MDE-Septic, and \$6.4 million to MDA-Cover Crops. This brings their grand totals since the start of the program to \$162.6 million for MDE-Septic and \$117.1 million for MDA-Cover Crops.
- Ms. Dietz advised the committee that MDE is currently in its solicitation process for Fiscal Year 2021 grant and loan programs, which include the Bay Restoration Fund. In the mean time, the Governor's budget for Fiscal Year 2020 is expected to be released on January 18th.

IV. Update on Major and Minor WWTPs ENR Implementation

- Mr. Saffouri referenced the Wastewater Treatment Plants (WWTP) ENR Upgrade Status handout. Since the last meeting one additional WWTP has started construction (Hampstead). To date there are 59 major facilities in operation, 6 under construction, 1 in design, and 1 in planning, for a total of 67 major facilities. Westminster is in design, but they should start construction before the end of January. Princess Anne is listed in planning, but they may be able to optimize the operation to achieve ENR without the upgrade.

- Mr. Boussein asked about how Princess Anne would be able to achieve ENR without an upgrade. Mr. Saffouri explained that Princess Anne was upgraded to achieve ENR during the summer months only. The County is currently replacing the aeration system and mixers using a state grant under the Energy Water Infrastructure Program (EWIP). Upon completion and optimization, the plant may be capable to achieve ENR year round without any additional upgrade. If that doesn't work, the plant would then need a full ENR upgrade.
- Mr. Saffouri provided an update on minor WWTPs. Since the last meeting, Smith Island and Harbour View started construction. Galena has completed the construction and is ENR operation.

V. Update on Clean Water Commerce Act Solicitation

- Mr. Saffouri provided an update on the Clean Water Commerce Act. MDE received two proposals on August 3, 2018 in response to the FY 2019 solicitation. One proposal was received from RES to provide 6,236 linear feet of stream restoration located on the Winters Run Golf Course in Harford County. The other proposal was received from OptiRTC to retrofit existing stormwater ponds with Continuous Monitoring and Adaptive Control equipment and services. RES proposal (totaled at \$4.4 million) was selected as the most cost effective price and based on other factors specified in the regulations.
- Mr. Saffouri advised the committee that a new solicitation will be sent by MDE for the remaining FY 2019 money (\$1.6 million), and for FY 2020 (\$10 million).
- Mr. Ball asked why OptiRTC was not selected to take the remaining \$1.6 million from FY 2019. Mr. Saffouri responded that the rating process is done for each reduction (nitrogen, phosphorus and sediment) independently and you would have to have the lowest price for at least one of the reductions in order to be selected. In addition, the remaining \$1.6 million wouldn't come close to cover their proposal totaled at \$5.8 million.
- Mr. Ball stated that he understands that we are comparing the prices of the two submitted proposal, but how do both prices stand in comparison with upgrading major and minor WWTPs? Mr. Saffouri responded that minor WWTP upgrades are being done at \$50 to \$100 per pound of nitrogen. RES's proposal is slightly higher (\$105.12 per pound).
- Mr. Ball asked whether the proposals were technically reviewed by MDE and whether we are confident from the design that these reductions will be achieved. Mr. Saffouri responded that the proposals were technically reviewed and the estimated load reductions were checked using the Bay Model. However, the prices and costs were not reviewed as we are simply selecting the lowest price provided by the market.

- Mr. Ball stated that some entities could be applying to Chesapeake Bay Trust and this program for the same project. Mr. Saffouri responded yes they can apply to both programs at the same time, but if they receive funding from one program, they cannot double dip from the other program.
- Mr. Cohee asked about how RES will be paid. Mr. Saffouri responded that unlike traditional grants, which pays for the project cost as construction progresses, reductions cannot be purchased from this grant until they are achieved. Therefore, RES would have to construct the project and achieve the reductions every year, and then sell the achieved reductions to MDE every year. RES expects to be achieving these annual reductions for 20 years. MDE will be purchasing these reductions as they occur every year. If reductions do not occur in any given year for any reason, then no purchase or payment would be made for that year. In summary, the \$4.4 will be paid over 20 years.
- Mr. Bouxsein asked whether we expect to receive more proposals at the next solicitation. Mr. Saffouri responded that we may get more proposals from municipalities because some of them are asking questions. Mr. Bouxsein asked for an update this at next meeting.
- Mr. Murray suggested that the committee should recommend a change in the law to allow funds to carryover from one year to the next. Mr. Saffouri recommended that the committee should wait to see how successful the program is before recommending any changes.
- Mr. Astle asked whether the proposed practice is required to be 20 years. Mr. Saffouri responded that the period is selected by the applicant. In the rating process, they get one point for each year up to 20 points maximum for sustainability.

VI. Advisory Committee Annual Status Report – January 2019

- The executive summary of the draft report was handed out to the committee members. An electronic copy of the full report was also e-mailed to the committee members prior to the meeting. Mr. Saffouri proposed to hold the draft report for two weeks to give a chance for the committee members to make any last minute comments or edits, and then it can be sent up to the Governor's office as a final draft.
- Mr. Ball suggested that future reports should include a section for the committee recommendations in order to capture some of the ideas being proposed during the committee's discussion. For example some funding should be allowed for education and outreach efforts. Mr. Bouxsein reminded everyone that this is already authorized by the BRF law. Mr. Murray suggested that we should confirm that education is part of the legislation.
- Mr. Ball added that we should also explore the possibility of funding university research programs, which is no longer supported by EPA. Ms. Trescott asked whether some of the BRF funding can also be used for feasibility studies.

- Mr. Bouxsein asked whether MDE can provide projections for FY 2019 and FY2020 on how the BRF will be utilized. The annual report only provides the actual expenditures in FY 2018.

VII. Update on Cover Crops Activities

- Mr. Astle provided an update on the Cover Crops Program. So far this year, MDA has certified over 350,000 acres. Certifications probably will not be as strong as last year, during which 395,000 acres were certified.
- The normal planting season was extended from November 5th to November 12th in an attempt to capture more acres. Between November 15th and December 1st, farmers can plant under a new program called “Healthy Soil Biomass Pilot Program.” This pilot program is different from the current traditional cover crops program. Crops have to remain until May 1st instead of March 1st, thereby capturing the spring nutrients uptake instead of the fall uptake. Also, the pilot program is performance based. If nothing grows, nothing is paid to the farmer. In the traditional program, payments are based on meeting the conditions of the contract.
- Mr. Ball expressed his support to the new pilot program and stated that the performance based reporting would make the accounting for the BMPs in the Bay Model more accurate.
- Mr. Bouxsein asked whether the information about the new program is available on MDA website. Mr. Astle responded that the information is not available on MDA website yet because the program has just been developed. Also, no press release was issued regarding the new program.
- Mr. Bouxsein asked about who is keeping track of the commodity cover crops since they are not funded. Mr. Astle responded that the credits for commodity cover crops are being reported in the Bay Model through the Farm Service Agency.

VIII. Mr. Murray reminded the Committee members that the next meeting will be on April 11, 2019.

Materials Distributed at the Meeting

- Meeting Agenda
- Previous Meeting Minutes
- Wastewater Treatment Plants ENR Upgrade Status
- Program-to-Date BRF Fee Collection Report (Comptroller Report)
- Septic Stewardship Program (House Bill 1765)
- Proposed change to COMAR 26.03.13 (Bay Restoration Fund Implementation)
- BRF Septic Program Funded Installations (July 1, 2018 – Jan 7, 2019)
- Clean Water Commerce Act of 2017 – FY 2019 Proposals
- Bay Restoration Fund Advisory Committee – Draft Annual Report (January 2019)

Attendance

Advisory Committee Members or Designees Attending:

Greg Murray, BRF Advisory Committee Chairman
Walid Saffouri, Maryland Department of the Environment
Elaine Dietz, Maryland Department of the Environment
Naomi Howell, Maryland Department of the Environment
Bob Buglass, Washington Suburban Sanitary District
Sara Trescott, Environmental Health Directors
Gabe Cohee, Department of Natural Resources
Bill Ball, Johns Hopkins University
Norman Astle, Maryland Department of Agriculture
Deborah Sward, Maryland Department of Planning
Peter Bouxsein, Chesapeake Bay Foundation
Cheryl Lewis, Town of Oxford (MML)
John Dinkel, DBD, LLC
Julie Mackert, Harford County Health Department
Chris Murphy, Anne Arundel County DPW

Others in Attendance:

Teresa Wong, Mott MacDonald
Mary Vitale, Hazen and Sawyer
Steve Tarallo, Dewberry
Joe Sowinski, HDR
Julie Pippel, Lanco-Pennland

Maryland Department of the Environment (MDE) Attendees:

Sunita Boyle	Steve Alfaro
Janice Outen	Cheryl Reilly
Heather Barthel	