BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment
Aqua & Terra Conference Room
1800 Washington Blvd.
Baltimore, Maryland 21230

Meeting Minutes
March 24, 2005
1:00 p.m. to 4:30 p.m.
Mr. Robert Warfield, Chair

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Welcome

- Dr. Summers welcomed the committee and other attendees and thanked the committee for their work on this important program.

Review of Minutes

- Minutes from the January 6, 2005 meetings were approved.
  All of the information from the meetings will go up on the web access.

Discussion

Presentation #1: Update on legislative session (BRF presentations and report submittal, MDE positions on proposed SB 96, HB 997 and HB 1003) –
Bob Summers & Committee Members

- Dr. Summers has given two briefings to both the House Environmental Matters Committee and the Senate Education, Health and Environmental Affairs Committee on the Senate side regarding the activities of this group, the report that was submitted on January 15, and the status of the program in general. The briefings were very well received.

- There have been two ground breakings, one at Easton and one at the Kent Narrows facility, the Governor attended both was very pleased with the progress.

- There has been one agreement dedication ceremony that the Governor also attended in the St. Michaels area. Progress on the wastewater treatment plant upgrades is moving along well.

- MDE has been receiving some, but not overwhelming, complaint letters regarding the fee and we have been responding reasonably.

- As far as the legislative session goes, there were a number of bills, (see handout Summary of Proposed 2005 Legislation). Senate Bill 96, House Bill 997, and House Bill 1003 were all defeated in their Committees. Senate Bill 996 was withdrawn.

- Other legislative update issues - the legislative analyst from Department of Legislative Services recommended a $3 million reduction in the Department's Biological Nutrient Removal (BNR) grant program. BNR is the foundation and necessary precursor to any ENR project. This fund pays for the upgrades to achieve 8 mg/l total nitrogen before the ENR fund kicks in to the upgrade from 8 to 3 mg/l. We argued that those cuts would be detrimental to the ENR program and the overall Bay Restoration efforts.

- Arguments were not successful in the House.

- In the Senate there was better success, although they haven't had their decision hearing yet.

Presentation #2: Continuing the work on identifying OSDS users for billing – Jay Prager & Committee Members

- The Committee Report to the Legislature was submitted. The report explained generic ways of identifying onsite systems using different layers of data. The general idea is to subtract the properties with public water or sewer from the total set of improved properties in order to obtain the properties served by onsite systems. This method appears real easy in words, but it may be more difficult in practice. The report stated some of the obstacles in using this method. Also, the report listed the available databases and how they may be used to achieve this objective.

- Update on the Chairman's letter to the counties – To date, we have not received any verbal or written response from Allegheny, Queen Anne, Somerset and Worcester Counties.

- As a goal the system should be in place or we should know what every County is doing by the October 1 date.

- In the past committee meetings, there have been discussions on whether there should be a statewide inventory or a statewide GIS, and the answer is, yes. MDE is currently in the process of working through several avenues to see how it can be accomplished. The first step would be to work with each county and setup their individual databases and inventories.

Discussing some raised issues regarding OSDS billing – Jag Khuman, Thad Russell & Committee Members

- A handout of Frequently Asked Questions for Septic Fee Billing was distributed and discussed. It consists of basically some questions that were raised by counties and/or by the onsite workgroup/subcommittee.

- The main issue is that the BFR fee goes into effect on October 1, 2005, and most counties would like to include the BRF billing with their property taxes. However, they have missed the July 1, 2005 cycle and may have to wait until July 2006.

- Comptroller's Office and MDE presented some options for consideration:

  Option 1(Recommended):   After October 1, the counties can have a special one-time fee of $22.50 to cover the three quarters before the new fiscal year begins on July 1, 2006. After this special fee, regular billing of $30 per year can resume every July as part of the property taxes.

  Option 2 (Proposed by Baltimore County):   Under this option the BRF fee will be billed on calendar year basis, even though the property tax is collected on fiscal year basis. Accordingly, Baltimore County is proposing to bill $37.50 ($7.50 for one quarter in calendar year 2005 + $30 for the entire 2006 calendar year). The usual bill of $30 per year will be assessed every July thereafter. The key problem with this option is that during properties transfer only outstanding bills are prorated between the sellers and buyer and this bill, which is effective on October 1, 2005, would not be outstanding until July 2006. Therefore, any property transfer between October and July will not allow for appropriate proration, and the buyer would be unfairly responsible for the seller's portion of the fee. While this may not become an issue for home transfer because the fee is small, it may cause some dispute during some business transfers because the fee may be calculated based on many equivalent dwelling units.

  Option 3:   Some counties are proposing to have the BRF fee strictly follow the property tax billing cycle. The July 1, 2005 date is missed. Therefore, on July 1, 2006, homes and businesses would be billed $52.50 ($22.5 for three quarters between October 2005 and June 2006 + $30 for fiscal year 2007). $30 will be assessed thereafter for future fiscal years. The main problem with this option would be the sticker shock and possible hardship to some fee payers. Also, revenue delayed for the program, and the property transfer situation as explained in Option 2 could be additional disadvantages.

  Option 4:   Create a new billing system for the Bay Restoration Fund septic fee separate from the property tax billing and any other system. This option may be very expensive because an entirely new billing system is being created.

Option 5 (Proposed by the Committee):   The Committee offered a fifth option to allow the counties to send the first bill of $22.50 (from Option 1) on July 1, 2005 during the regular billing cycle. However, the fee would not be due until October 1, 2005. Then in July 2006 the regular billing of $30 per year can commence. This option can be less expensive than Option 1 (a special one-time fee) and Option 4 (a new billing system) and it eliminates the disadvantages in Options 2 and 3.

- It has come to MDE's attention that there's a very good possibility that a trailer park may be identified on the property tax as a single property but may be serving 30 homes or more and using more than one septic system. The Septic Fee should be charged for every tank. Community systems with 5,000 gallons per day (~20 connected homes) or more usually have a discharge permit from MDE and would be considered a wastewater treatment plant. However, some of the old systems are not permitted by MDE.

- The counties need to be informed of this, and should be asked to flag trailer parks and ask the question of how many tanks exist.

- **Action Item: MDE agreed to obtain a legal advice from the Attorney General Office on whether or not the approach under Option 5 is allowable. After which, the handout (Frequently Asked Questions for Septic Fee Billing) will be revised to include the new option, if acceptable, and emailed to the committee so it can be discussed in the next meeting.**

Presentation #3: Summary of the BAT Workgroup meeting of February 16, 2005 - Jay Prager & Committee Members

- Basic goals of the BAT workgroup were to develop a procedure for identifying which of the technologies are grant eligible and to develop or propose or recommend policies and regulation that's necessary to ensure the long-term operation of these technologies, basically management.

- Management is very important to ensure the success of these technologies. If not properly installed and maintained, these technologies would fail and we would be throwing our money away.

- EPA has taken a very strong position on the management of systems, and they produced a document, which is the basis of onsite systems management.

- Examples of systems used to verify performance of advanced technology onsite systems were presented including systems implemented in Massachusetts, Virginia, Pennsylvania and New Jersey

- A maintenance contract may cost ~$300 a year.

- It may be possible to implement onsite management systems as grant conditions under the Bay Restoration Fund, or to establish a new a regulatory framework for management. Regardless of which option we select, it is critical to require a management system to protect the investment we would be making under the Bay Restoration Fund grants. Also, training should be required to be familiar to maintain the system.

Update on MDE Discussions with Federal Facilities Regarding the BRF Fee – Dr. Summers & Committee Members

- Nancy Young, Assistant Attorney General, was unable to attend the meeting. Dr. Summers provided an update on MDE discussions with the federal facilities. A handout summarizing the issues was distributed. There is, however, a 12-page legal opinion letter that was sent to a group of lawyers from Department of Defense at the beginning in early March.

- Attorneys from the federal facilities have committed to response to MDE's legal opinion by the end of March.

Future Meetings

The sixth meeting will be held on April 28, 2005 @ 1:00 in the Aqua & Aeris Conference Rooms – Lunch for members @ 12:00

Adjournment

Dr. Summers thanked the members of the Advisory Committee and all guests, for their participation.

Materials Distributed at the Meeting

- Minutes of the January 6, 2005 Meeting.
- Meeting Agenda
- BRF Summary of Proposed 2005 Legislations
- BRF Identifying OSDS Users (ppt.)
- BFR Fee Frequently Asked Questions
- BRF BAT Work Group (ppt.)
- BRF and the Department of Defense Summary

Attendance

Advisory Committee Members Attending:
Robert M. Summers, Ph.D.   Maryland Dept. of the Environment
James T. Noonan   Maryland Dept. of Planning
William P. Ball, Ph.D.   Johns Hopkins University

Charles Evans	Dept. of Natural Resources
Veronica L. Chenowith	Harford County Council
James L. Hearn	Washington Suburban Sanitary Commission
Gregory B. Murray	Director, Washington Co. Dept. of Water Quality
Leland D. Spencer, M.D.	Maryland Assoc. of Co Health Officers
	Health Officer for Kent & Caroline County
Karen Harris Oertel	W.H. Harris Seafood
William Bryan Icenhower, M.D.	St. Mary's Co. Health Dept.
Thomas H. Stoner	Trustee of the Chesapeake Bay Foundation
David Bancroft	Executive Director, Alliance for Chesapeake Bay

Committee Members Absent:

Robert E. Warfield	Chairman
Bernie Marczyk	Policy Advisor to Governor Ehrlich
Mayor Kevin Dayhoff	Mayor of Westminster
Senator Paula C. Hollinger	Maryland Senate
Ron Crites	Dept. of Budget & Management
Delegate Barbara Frush	Maryland House of Delegates
E. Keith Menchey	Maryland Dept. of Agriculture
Represented by Doug Scott	

Others in Attendance:

Ron Guns	Dept. of Natural Resources
Theresa Bruton	RK&K
John Martin	Baltimore City, DPW
Ron Hartman	Anne Arundel County
Bonnie Kranzer	Consultant
Julie Pippel	Washington County
Thad Russell	Dep. Director Revenue Adm.
Robert Ensor	Dept. of Agriculture
Janice Carroll	Hazen and Sawyer
Steve Hinkel	Baltimore County Public Works
Peter Thompson	Maryland Environmental Committee
Douglas H. Wilson	Director, Adm., Dept of Ag
Joseph D. Lilly	Chief Fiscal Svs. Dept. of Ag
Deborah M G Weller	Bayland Consultants
Beverly G.Warfield	PG County

Maryland Dept. of the Environment (MDE) Attendees:
Jag Khuman
Walid Saffouri
George Keller
Jay Prager
Don Wilson
Janet Hamilton