

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Aqua & Terra Conference Room

1800 Washington Blvd.

Baltimore, Maryland 21230

June 2, 2008

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

Meeting Minutes Summary

Welcome/Introduction:

- Dr. Summers welcomed the committee members and other attendees.

Review of Minutes

- Previous meeting minutes from the April 9, 2008 meeting were handed out to the committee members for their review and comments. No changes were suggested or made to the meeting minutes by the committee members.
- The minutes and handouts from the meeting will be posted on MDE's website.

Discussion

I. Update on ENR Implementation and Upcoming Events:

- Dr. Summers informed the committee members that Walid Saffouri has been promoted to his new role at MDE as the manager of the Water Quality Infrastructure Program and asked Mr. Saffouri to provide an update on the status of the 66 plants targeted for ENR upgrade.
- Mr. Saffouri informed the committee that since the last meeting Denton has initiated planning and that all projects in construction with the exception of Crisfield and Chestertown are on schedule and should complete construction on time. Chestertown is addressing problems with the plant's lagoon, while Crisfield is attempting to fix the problem with its plant's blowers.
- To date, there are 8 facilities in ENR operation, 10 under construction, 17 are in design, 24 are in planning, and 7 are in pre-planning.
- Construction at Brunswick Wastewater Treatment Plant is complete, and punch-list items are being addressed. Final inspection will also be conducted soon.

- The following facilities may be ready to schedule an event:
 1. Federalsburg – Ready for Groundbreaking
 2. George's Creek - Ready for Groundbreaking
 3. Kent Island – Ready for dedication
 4. Brunswick - Dedication in July
 5. Chestertown - Dedication in July
 6. Crisfield - Dedication in July

II. BRF Fee Collection and Budget

- Mr. Khuman presented the program to date, year-to-date, and 1st Quarter through May 30, 2008, fee collection amounts, which are approximately \$214.7 million, \$14 million, and \$14 million respectively.
- The total fund distribution to date is as follows: Approximately \$177 million to MDE Line 1 (Wastewater Fund), \$21 million to MDE Line 2 (Septic Fund), and \$14 million to MDA Line 2 (Cover Crop Fund).
- The Comptroller's expenses are expected to increase slightly, as they audit records. The Comptroller's office has sent delinquent notices to property owners who are subject to BRF fee per MDE's records, but have never paid. As part of the audit, the Comptroller's office will also compare any variations in year-to-year payments from owners currently paying BRF fees.
- Mr. Khuman informed the committee that MDE's Water Quality Financing Administration would begin issuing its Bay Restoration Fund (BRF) revenue bonds for a total amount of \$50 million on June 11, 2008 for retail orders. The bond received an AA2 rating from Moody's on the inaugural issue, which is a very good rating for this type of bond and is underwritten by Citi. The interest rate for this bond issue is expected to be in the range of 4 percent.
- Mr. Khuman announced that House Bill 628 passed and was signed by the Governor in May 2008, and will become effective October 1, 2008. This bill requires minority business participation on BRF and other state grants involving funding of \$500,000 or more. Most big borrowers and grantees implementing ENR are already familiar since this is currently a requirement for the State Revolving Fund (SRF) loan. All municipalities and borrowers will be updated on this new requirement effecting state grants. Implementation of the legislation is unlikely to effect the grants for the septic system upgrades, since most of these costs are well below \$500,000 threshold, unless a County was to hire installers through a Request for Proposal (RFP) to install a number of these throughout the County.

III. Update on Proposed Regulations For ENR Upgrades

- Mr. Sakai informed the committee that most of the comments received on the proposed Bay Restoration Fund regulations have been addressed and that MDE will go through a promulgation process and hopes to have the regulations in place by early August. Mr. Sakai asked Walid Saffouri to provide a brief summary and highlights of the significant comments received on the proposed regulations.
- Mr. Saffouri provided the committee with a summary of comments received from various municipalities and MAMWA and briefed the committee members on MDE's actions and proposed responses to address these comments.
- The proposed BRF Regulations do not incorporate House Bill 581, which pertains to ENR upgrade of septic systems. ENR upgrade for septic systems may be included in later regulations.
- In their comments, MAMWA raised the concern that proposed BRF regulations incorrectly state that ENR eligibility is done by MDE in its sole discretion, since MDE's grant funding determinations are subject to administrative / judicial review rather than exempt from such review as the "sole discretion" language suggests. MDE will provide these and other comments received from MAMWA to the Attorney General's Office, which is reviewing the regulations to ensure consistency with the law.

IV. Proposed Reporting for House Bill 893 and Revised O&M Grant Applications

- Mr. Saffouri informed the committee that changes to the O&M grant application for ENR have been made based on the comments received from committee members at the last meeting. The changes made to the application include treatment facility's nutrient removal information for nitrogen and phosphorus, classification of equivalent dwelling units (EDU) as residential and non-residential, and number of EDUs previously served by septic systems before connecting to a sewer system. The application will also include a line to indicate consistency of added EDUs in the service area with County Water and Sewer Plan, local Land Use Plan and Priority Funding Area. "Priority Funding Area" in this section will replace the proposed verbiage "Smart Growth".

V. Onsite Sewage Disposal Systems (OSDS) Update

- Mr. Prager provided an update on OSDS upgrades. A total of 226 upgraded systems have been installed equating to 232 EDUs.
- MDE is working with Maryland Office of Planning on methodology to expedite the State Clearinghouse process for implementing ENR upgrade of the Septic Systems.
- MDE expects OSDS expenditures to exceed or be equal to the revenues by 2009.

- Mr. Prager updated the committee on the progress of the GIS system, which is expected to be completed by July 2008. The GIS system will be multilayered and will show features such as location of properties with septic system and concentration of septic systems within a critical area.
- The GIS system currently displays approximately 390,000 septic systems as opposed to Maryland Department of Planning's estimate of 420,000. Based on the total fees collected for septic systems, the total number of septic systems should be little bit over 400,000 systems. Although this is well within the margin of error, efforts will be made to reconcile the GIS data with the billing database, and keep the GIS system being developed as precise as possible.

VI. Update on Cover Crops Activities

- Representative from the Maryland Department of Agriculture was not present at the meeting to update the committee on Cover Crop Activities.

VII. Next Meeting:

Next meeting will be scheduled in August.

Materials Distributed at the Meeting:

- Meeting Agenda
- Previous Meeting Minutes (April 9, 2008)
- Proposed BRF Regulations
- Summary of Comments on the proposed BRF Regulations
- BRF Grant Application for ENR Operation and Maintenance (O&M) Form
- Wastewater Treatment Plants ENR Upgrade Status (June 2, 2008)
- Bay Restoration Fund Revenue Bonds News Release
- Program-to-Date BRF Fee Collection Report (through May 30, 2008)
- 2008 Tax Year Year-to-Date BRF Fee Collection Report (through May 30, 2008)
- 2008 Tax Year First Quarter BRF Fee Collection Report (through May 30, 2008)
- BRF Fee Distribution Report (as of May 30, 2008)
- Primary Basin Lower Eastern Shore Map showing Septic Systems in Critical Area

Attendance

Advisory Committee Members or Designees Attending:

Robert M. Summers	Maryland Department of the Environment
Jay Sakai	Maryland Department of the Environment
James L. Hearn	Washington Suburban Sanitary Commission
Larry Fogelson	Maryland Department of Planning
Jenn Aiosa	Chesapeake Bay Foundation
Beverly Stinson	Metcalf & Eddy

Others in Attendance:

Andrew D. Gray	Department of Legislative Services
Theresa Burton	Hazen & Sawyer
Steve Kullen	

Maryland Dept. of the Environment (MDE) Attendees:

Ray Anderson	T.J. Huang
Jay Prager	Jag Khuman
John Boris	Andrew Sawyers
Rajiv Chawla	Janice Outen
Elaine Deitz	Cheryl Reilly
Waid Saffouri	Wendy Summerfield
Joshua Flatley	