

BAY RESTORATION FUND ADVISORY COMMITTEE

**Maryland Department of the Environment
Aqua and Terra Conference Rooms
1800 Washington Blvd.
Baltimore, Maryland 21230
May 20, 2010
1:00 p.m. to 4:00 p.m.**

Meeting Minutes Summary

Welcome/Introduction

- The meeting was chaired by Dr. Robert Summers, Deputy Secretary, Maryland Department of the Environment, and Advisory Committee Chairman.
- Dr. Summers welcomed the committee members and other attendees. He introduced a new committee member Ms. Linda Busick from Worcester County appointed within the last month.

Review of Minutes

- Previous meeting minutes from the January 21, 2010 meeting were handed out to the committee members for their review and comments. Also, an electronic copy of the meeting minutes was e-mailed to the committee members prior to the meeting.
- There were no comments on the meeting minutes. The approved minutes and handouts from the meeting will be posted on MDE's website.

Discussion

I. Update on ENR Implementation and Upcoming Events

- Mr. Saffouri provided an update on the status of the 67 plants targeted for ENR upgrade. To date there are 13 facilities in operation, 1 facility (Salisbury) in corrective action, 15 under construction, 25 in design, 9 in planning, and 6 in pre-planning, for a total of 67 facilities.
- Poolesville is expected to complete construction by June 2010, and Crisfield has been working on getting their DO control to work, but is expected to complete construction by August 2010.
- All the percentage completions for the facilities under construction have increased, most to the 90 and 80 percentiles. The Cox Creek WWTP just started construction in April 2010.
- A dedication ceremony for the Elkton WWTP was held on April 30, 2010.

- The following facilities are ready to schedule an event, if needed.
 1. Havre De Grace - Dedication
 2. Patapsco - Ready for Groundbreaking
 3. Mount Airy - Ready for Groundbreaking
 4. Pocomoke City - Ready for Groundbreaking
 5. Cox Creek- Ready for Groundbreaking

II. BRF Fee Collection and Budget

- Mr. Khuman presented the revenue data for fiscal years 2005-2009 and fiscal year 2010 through the end of January 2010. The Wastewater Treatment Plant revenues for fiscal years 2005-2010 are as follows: \$7.0 million, \$57.7 million, \$69.1 million, \$54.7 million, \$53.3 million, and \$32.3 million, respectively. The revenue for this fiscal year is expected to be in the \$54 million range with two more quarters of deposits to collect.
- The septics revenues for fiscal years 2005-2009 and 2010 through January 2010 are \$260 thousand, \$7.97 million, \$13.5 million, \$14.1 million, \$15.8 million, and \$10.8 million, respectively. Sixty percent (60 %) of the money goes to MDE and 40% to the Department of Agriculture. The item to note is that there is a one year formula change for fiscal year 2010, where MDE will only be getting 22.4% and the Department of Agriculture will get 77.6 %. The future deposits the next two quarters are expected to be about \$3 million, resulting in \$13.5 to \$14 million for the fiscal year.
- The total fund distribution to date is as follows: approximately \$274.2 million to MDE Line 1 (Wastewater Fund), \$33.4 million to MDE Line 2 (Septic Fund), and \$29.1 million to MDA Line 2 (Cover Crop Fund).

III. BioMag Technology Presentation

- Mr. Greg Murray introduced the BioMag technology that has been pilot tested in Washington County. This technology basically allows ENR facilities to achieve really good nitrogen removal, low effluent TP and TSS using existing tankage without the benefit of post denitrification filters, which cuts a tremendous amount of costs off the existing tankage, as well as operating expense (life cycle costs, chemical costs, etc.). This technology does not change the chemistry of ENR, but facilitates the treatment process. Mr. Murray introduced Mr. Steve Woodard, Chief Technology Officer, Cambridge Water Technology, who gave the presentation for the BioMag Technology.
- Mr. Murray stated that Washington County is very pleased with the results. MDE will also evaluate the BioMag Technology for two other plants. RK&K is conducting a life cycle cost analysis at the Washington County Winebrenner WWTP.

IV Options to Address Fund Shortfall

- Mr. Khuman provided an update on the options to address the fund shortfall. The total estimated cost to complete the ENR upgrade of the 67 facilities is about \$1.476 billion based on their estimated ENR costs, and the likely schedule of award of those monies.
- Given the revenues coming in each year, the anticipated awards, and expenditures, the projected cash flow is close to \$950 million at the current fee structure of \$30.00 per year. With \$1.476 billion in ENR costs and \$950 million cash flow, this results in a shortfall of about \$530 million.
- The Budget Reconciliation Act passed in the last budget takes \$200 million over two years from the Bay Restoration Fund and provides back to the Fund \$200 million in General Obligation Funds. The end result is that we may lose about \$4 million to \$6 million of interest earnings over the two year period.
- Mr. Khuman also provided various scenarios of fee increases and their impacts on ENR funding. At 50% fee increase the funding shortfall is cut down to \$222 million. At 60% it would be cut to \$142 million. At 70%, it's down to \$72 million. The break even point is 80%, meaning the fee would increase from the current \$30.00 to \$54.00. An increase of 100% results in a fund surplus of \$150 million. The above scenarios assume issuance of 15-year bonds. With some 30-year local bonds, breakeven scenario can be achieved at 60% fee increase.
- Other funding options including a combination of both a fee increase and local bonds at 15 and 30 years were explored. However, the 30- year bond option was not approved by the legislature. There was legislative language that essentially states that it is the intent of the committees that a funding plan to eliminate the ENR funding deficit be implemented during the 2011 legislative session.
- Mr. Summers reminded everyone that there were other options listed in the Committee's annual report. At this time there are two legitimate options for dealing with the deficit on the table; increasing the fee, or reducing the amount of money to fund the upgrades. Other options, postponing some of the upgrades on some facilities or eliminating the \$5 million in operating costs (the legislature cut the operating funds) no longer appear feasible. The committee will decide on the level of fee increase to present to the legislature.

V Onsite Sewage Disposal systems (OSDS) Update

- Mr. Khuman provided an update on the implementation of the OSDS program. MDE is transitioning from a program where applications were taken directly from homeowners in non-participating counties, to a completely county driven program. Last February, applications were taken from the counties, and all applied, except Somerset, Prince George's, and Howard. Since Howard County does not have any critical areas, it may be the only county that is not participating because Calvert County is working to implement the program on behalf of Prince George's County, and Worcester is willing to work out a system to implement it for Somerset County. Both Prince George's and Somerset Counties have critical areas. Applications received totaled \$13 million in funding requests, while there is only \$8 million to award in any given year.

- MDE is allocating the monies on a prorated basis. All counties that applied will receive money, but not to the extent they requested. The counties have been notified of their allocation, and the amounts will become public on June 9, 2010, when MDE sends them to the Board of Public Works for recommendations.
- MDE House Bill 62 mandates that for calendar years 2010, 2011, and 2012 the Bay Restoration Septic Fund will provide a 100 percent grant for failing systems in critical areas. For these systems means testing will not be required. All other failing systems, outside the critical area, whether in a critical area county or any other county, will get an allocation based on means testing. The scale goes from 25 percent grant to a 100 percent grant based on the owner's taxable income.
- MDE did a request for bids from vendors for some of the approved technologies. The bids were opened last week, and MDE by July 1st, will be providing to the counties the two lowest priced vendors for the four regions of the state. There are 12 overall approved technologies and four field-verified technologies. Bids were taken from the four field-verified technologies. The selected vendors will be notified.

VI Update on Cover Crop Activities

- Mr. Astle provided the update on the cover crop activities. Over \$4 million has been spent to date on last year's (this past winter's) program. About one-third of the contracts have been completed, which will result in about \$11 to \$12 million range spent for the year when all contracts are completed.
- Last year over 330,000 acres were signed up, 205,000 acres were certified. The weather conditions in the fall and spring limited the number of acres that were able to be planted. There were over 1,200 applications for cover crop of which 1,043 participated, resulting in a good level of participation.
- For next year's program, the previous acreage cap has been dropped. There are no acreage caps for individual farmers which will allow approximately 325,000 acres of planted cover crops.
- The Federal program has already started to sign up acres for this coming fall. This indicates the federal agency is really working with the state and it appears their sign up has gone very well.
- In fiscal year 2011 there will be \$15.3 million, \$9.5 restricted in 2010 Trust Fund money and \$5.8 million in BRF funds.
- Mr. Andrew Gray, of the Department of Legislative Services stated that the Trust Fund monies are to be disbursed and then the BRF money. Whatever is not used by June 1, 2011 would then be eligible for wastewater allocation.

Next Meeting

The next meeting will take place in late July Committee members will be informed via e-mail of the meeting date.

Materials Distributed at the Meeting:

- Meeting Agenda
- Previous Meeting Minutes (January 21, 2010)
- Wastewater Treatment Plants ENR Upgrade Status (May 20, 2010)
- Program-to-Date BRF Fee Collection Report (through January 31, 2010)
- 2009 Tax Year Year-to-Date BRF Fee Collection Report (through January 31, 2010)
- 2009 Tax Year Fourth Quarter BRF Fee Collection Report (through January 31, 2010)
- BRF Fee Distribution Report through January 31, 2010
- ENR Program Projected Grant Awards update (April 2010)
- BRF WWTP Upgrade Cashflow Projection (not including septic) April 2010
- BRF Fee Increase & ENR Funding Impact (WWTP) April 28, 2010 draft

Attendance

Advisory Committee Members or Designees Attending:

Robert Summers, Maryland Department of the Environment
James L. Hearn, Washington Suburban Sanitary Commission
Jeff Horan, Department of Natural Resources
Norman Astle, Maryland Department of Agriculture
Jenn Aiosa, Chesapeake Bay Foundation
John Leocha, Maryland Department of Planning
Greg Murray, Washington County
William Ball, Johns Hopkins University
Linda Busick, Worcester County Commissioner

Others in Attendance:

Steve Woodard, Cambridge Water Technology
Julie Pippel, Washington County
Kevin Nash, RK&K
Andrew Gray, Department of Legislative Services
Matthew Klein, Department of Legislative Services
Steve Kullen, Calvert County

Maryland Dept. of the Environment (MDE) Attendees:

Jag Khuman
Walid Saffouri
Andrew Sawyers
Rajiv Chawla

Elaine Dietz
Cheryl Reilly
Sunita Gupta
Linda Cross

Michael Kanowitz
Jay Prager
Debbie Thomas
Joshua Flatley