

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Aqua & Terra Conference Room

1800 Washington Blvd.

Baltimore, Maryland 21230

October 28, 2009

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.

Review of Minutes

- Previous meeting minutes from the June 9, 2009 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. No changes were suggested or made to the meeting minutes by the committee members.
- 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 11 facilities in operation; 10 under construction, 25 in design, 14 in planning, and 7 in pre-planning, for a total of 67 facilities.
- Facilities located in Bowie, Cumberland and Delmar are now under construction. Construction contracts have been awarded to Ballenger Creek, Mount Airy, Poolesville and Pocomoke City. These projects are expected to proceed to construction within a month.
- Baltimore City rejected all construction bids for Patapsco WWTP due to their internal procurement issues and decided to rebid the construction contract. Construction is now expected to start in December 2009.
- Facilities located in Crisfield, Elkton, and Federalsburg are expected to complete construction by December 2009.

- The pilot study for the denitrification filter at Back River WWTP has been completed and is being reviewed and discussed with Baltimore City. The pilot study compares the hydraulic loading rates published in MDE guidelines as well as nitrogen loading to the filter. Based on the results of the study, MDE guidelines may be revised to reflect these parameters. A special technical group meeting will be scheduled to discuss the pilot study and recommendations will be presented to the committee.
- Another new type of technology (Biomag) is currently being piloted at the Winebrenner facility in Washington County. This new technology may result in savings of up to 30 percent in construction costs. After the study is completed in early spring 2010, another technical group meeting will be scheduled to present recommendations to the committee.
- The following facilities may be ready to schedule an event:
 1. Indian Head - Ready for Dedication
 2. Brunswick - Ready for Dedication
 3. St. Michael's - Ready for Dedication
 4. Hagerstown - Ready for Groundbreaking
 5. Delmar - Ready for Groundbreaking
 6. Cumberland - Ready for Groundbreaking
 7. Bowie - Ready for Groundbreaking

II. Update on BRF Operation Grants and Upcoming Events

- Mr. Saffouri provided an update on the Operation and Maintenance (O&M) Grants. On October 7, 2009 the Board of Public Works gave approval for the facilities that are currently in operation with ENR. Letters were sent to all the approved facilities asking them to submit their payment request. They have yet to respond.
- A list of ENR operational facilities eligible for O&M grants in FY 2011 was generated. The total estimated FY 2011 O&M proposed allocation is \$515,800. Solicitation letters will be sent to the new facilities, including the previous ones, requesting them to submit grant applications.
- The process of establishing the upper funding limit for the O&M grants was described. Several means to determine the limit were evaluated. These included; cost to operate, the EPA cost curve, and the plant design capacity. Ultimately, it was decided that the cap limit should be set at 12 MGD, with an allocation of \$18,000 per MGD, establishing the maximum annual funding limit at \$216,000 for any given ENR operational plant.

III. BRF Fee Collection and Budget

- Mr. Khuman presented the revenue data for fiscal years 2005-2009. The Wastewater Treatment Plant revenues for fiscal years 2005-2009 are as follows: \$7.0 million, \$57.7 million, \$69.1 million, \$54.7 million, and \$53.3 million, respectively. The large variance in FY 2007 is due to

an added extra quarter as a result of a change in the accounting system. Otherwise, revenues are averaging \$54 million to \$55 million per year on the wastewater side.

- The septic revenues for fiscal years 2005-2009 are \$260 thousand, \$7.9 million, \$13.5 million, \$14.1 million, and \$15.8 million, respectively. Sixty percent (60 %) of the money goes to MDE and 40% to the Department of Agriculture. The septic revenues have been averaging between \$14 and \$15 million, about \$2 million higher than expected. 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 % for cover crops.
- The total fund distribution to date is as follows: approximately \$241 million to MDE Line 1 (Wastewater Fund), \$31 million to MDE Line 2 (Septic Fund), and \$20.7 million to MDA Line 2 (Cover Crop Fund).

IV. Update BRF Budget and Projected Deficit and BRF Annual Legislative Update Report

- Mr. Khuman provided an update on the BRF Budget and Projected Deficit. The total estimated projected cost for the 67 facilities is approximately \$1.5 billion. From FY 2006 through the end of FY 2009, the total cumulative awards to the ENR program and the sewer program together was \$136 million. The total award for FY 2010 is expected to be about \$250-\$280, about twice the previous four years total, with authorized funding up to \$332 million.
- All projects through FY 2011 that are expected to go to construction can be fully funded. From FY 2012 onwards, a funding shortfall of about \$659 million is projected. The primary reasons for the shortfall are the 15 year term limit for bond issuance and higher ENR costs. The issue is how will the FY 2012 and beyond projects be financed, especially the costly larger plants.
- Last year, the Committee evaluated four options without making any recommendations. The four options were: a.) increasing the Bay fee, b.) reducing the ENR grant from 100% of eligible costs, c.) reprioritizing the upgrade of the 67 ENR projects, while delaying some WWTP ENR upgrades and not upgrading other WWTPs, d.) statutory changes that allow local governments to issue bonds for 30 year term.
- Option a. requires legislative approval and MDE may not support it unless it is needed after implementation of the cost share program. Option b. will address most of the deficit and provides incentive for cost containment. Option c. may not be feasible, because all 67 plants have nutrients in their discharge permit. Option d. is easy to implement and is being discussed internally. Option d. alone will not offset the shortfall.
- MDE is considering putting together a legislative proposal for Option d., which would allow BRF fees to make debt service payment on bonds issued by local governments for ENR eligible cost. The committee concurs with having this option available to MDE and local governments even if it isn't used.

- A formal recommendation was not made, but the Committee will be discussing all the options further. Reducing the O&M subsidy was presented as an additional option and will be added to the other options for further evaluation.
- MDE supports Senator Cardin’s proposed Bay Ecosystem Restoration Act, which, if passed, would authorize \$80 million a year toward Bay restoration activities including watershed improvements and monitoring.

V. Onsite Sewage Disposal Systems (OSDS) Update

- Mr. Prager provided an update on OSDS system upgrades. There are now over 1,800 individual upgraded septic systems. MDE has a waiting list of Bay Restoration Fund applicants of over 2,800, not just limited to critical areas. Close to \$5 million have been spent so far this fiscal year. Averages of about 200 septic system upgrades per month are occurring in this fiscal year. At a funding level of 100%, about 600 upgrades can be done in a year, therefore, about a year’s worth was done in the first quarter.
- There is \$2.3 million uncommitted for this year and that will be upgrading about 187 failing systems in the critical area.
- The counties and the state have been directed to put a hold on awarding grants outside the critical area. The counties that have grant money; Charles, Calvert, Cecil, Harford, and Wicomico have more than enough money to handle their failing systems in the critical area. The counties and MDE are honoring awards that have already been made. Systems with commitments have been given a deadline to the end of October to complete the upgrades. Extensions, however, have been given due to the wet weather, where reasonable.
- MDE still has a goal of transitioning to counties that want to have grants. St. Mary’s, Anne Arundel, Montgomery, Frederick, Washington, Kent, Talbot, Caroline, Dorchester and Worcester Counties have all requested funds to implement county programs.
- Since October 1st, MDE received 26 applications, including those forwarded by Anne Arundel County. Assuming that is typical, that’s 260 between October 1st and July 1st. If MDE funds 187 of the total, then MDE has sufficient funds for the counties that have not received any grants.
- To prevent individuals from taking advantage of the program, MDE has defined a failing septic system. A failing septic system is defined as “a system where there is really the potential for direct human contact with sewage.” The Bay Restoration Fund law is clear that the highest priority for the septic system portion is to upgrade failing systems in the critical area.
- MDE has a two-year goal of upgrading 3,000 septic systems and that goal is expected to be met.
- Anne Arundel County conducted studies that show it will cost approximately \$38,000 per connection to connect septic systems to ENR sewage treatment plants. There are places in the

state where this may make sense.

- MDE has developed regulations, currently under internal review, to establish means for testing if septic systems are failing.

VI. Update on Cover Crops Activities

- Mr. Astle from the Maryland Department of Agriculture (MDA) provided an update on cover crop activities. MDA signed 330,000 acres for the cover crop program. Due to the wet spring, the crops got planted late, and a lot of crops were not harvested in time for the fall planting of cover crops after the harvest.
- The wet weather the past month added to the problem of harvesting crops, and therefore planting cover crops are behind schedule. On October 27, MDA extended the date to November 16, to get cover crops into the ground.

Next Meeting

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

Materials Distributed at the Meeting:

- Meeting Agenda
- Previous Meeting Minutes (June 9, 2009)
- Wastewater Treatment Plants ENR Upgrade Status (October 28, 2009)
- Board of Public Works, Secretary's Agenda (October 7, 2009)
- O&M Annual Grant Request FY-2011
- BRF FY 2011 Budget (June 2009 Draft)
- Program-to-Date BRF Fee Collection Report (through August 31, 2009)
- 2009 Tax Year Year-to-Date BRF Fee Collection Report (through August 31, 2009)
- 2009 Tax Year Second Quarter BRF Fee Collection Report (through August 31, 2009)
- BRF Fee Distribution Report through August 31, 2009 (Revised September 24, 2009)
- Potential Funding Gap and Recommended Action: (MDE/WQFA)

Attendance

Advisory Committee Members or Designees Attending:

Robert Summers, Maryland Department of the Environment
James L. Hearn, Washington Suburban Sanitary Commission
Norman Astle, Maryland Department of Agriculture
Jenn Aiosa, Chesapeake Bay Foundation
Beverly Stinson, Metcalf & Eddy Engineers
Greg Murray, Washington County

Others in Attendance:

Evan Issacson, Maryland Department of Legislative Services
Kevin Nash, RK&K
Moalie Jose, Hazen & Sawyer
Julie Pippel, Washington County

Maryland Dept. of the Environment (MDE) Attendees:

Jag Khuman	Cheryl Reilly
Walid Saffouri	Jay Apperson
Andrew Sawyers	Marya Levelev
Rajiv Chawla	Janice Outen
Jay Prager	Barry Glotfelty
John Boris	Michael Kanowitz